

Economic and Rural Development Committee

2010 INTERIM REPORT



New Mexico State Legislature
Legislative Council Service
411 State Capitol
Santa Fe, New Mexico

December 2010
www.legis.state.nm.us

Economic and Rural Development Committee 2010 Interim Summary

During the 2010 legislative interim, the Economic and Rural Development Committee (ERDC) focused on issues that are critical to the state's economic health, particularly in rural areas. The challenge of developing avenues of job creation was of particular importance and was the main focus of a number of presentations heard by the committee. The topics covered in the presentations included transportation infrastructure; emerging economic sectors and methods of attracting new businesses and cultivating existing ones; the federal American Recovery and Reinvestment Act of 2009; tourism initiatives; Spaceport America; the Las Cruces tax increment development district; the New Mexico Rural Development Response Council's work to increase rural broadband and youth entrepreneurship; the ongoing work of the New Mexico Small Business Development Center; and vocational education aimed at preparing students for jobs that are created in the state.

The ERDC also spent a good deal of energy assessing how oversight of industry is best handled. The committee heard a discussion regarding the authority of the Construction Industries Division of the Regulation and Licensing Department over local building inspectors. The ERDC also looked at the development of genetically modified seeds and whether laws are necessary to protect local farmers from them, particularly with respect to genetically modified chile seeds.

The topics of energy and infrastructure were prevalent during this interim's presentations and included discussions of Qwest, SunZia, rural electric cooperatives and water usage in the *colonias*. The ERDC also heard presentations regarding public notice, a new model guaranty law and credit reports.

**2010 APPROVED
WORK PLAN AND MEETING SCHEDULE
for the
ECONOMIC AND RURAL DEVELOPMENT COMMITTEE**

The Economic and Rural Development Committee (ERDC) was created by the New Mexico Legislative Council on May 12, 2010.

Members

| | |
|--|-----------------------------|
| Rep. Mary Helen Garcia, Chair | Rep. Dianne Miller Hamilton |
| Sen. Bernadette M. Sanchez, Vice Chair | Sen. Clinton D. Harden, Jr. |
| Rep. Andrew J. Barreras | Sen. Timothy M. Keller |
| Sen. Mark Boitano | Rep. Patricia A. Lundstrom |
| Rep. Ernest H. Chavez | Sen. Richard C. Martinez |
| Rep. Nora Espinoza | Sen. Howie C. Morales |
| Sen. Mary Jane M. Garcia | Rep. Debbie A. Rodella |
| Rep. William J. Gray | Sen. William E. Sharer |

Advisory Members

| | |
|---------------------------|-----------------------------|
| Sen. Rod Adair | Rep. Antonio "Moe" Maestas |
| Sen. Sue Wilson Beffort | Sen. George K. Munoz |
| Rep. Zachary J. Cook | Rep. Andy Nuñez |
| Rep. Nathan P. Cote | Rep. William "Bill" R. Rehm |
| Sen. Dianna J. Duran | Sen. John M. Sapien |
| Rep. John A. Heaton | Rep. Shirley A. Tyler |
| Rep. Sandra D. Jeff | Sen. David Ulibarri |
| Sen. Carroll H. Leavell | Rep. Richard D. Vigil |
| Rep. James Roger Madalena | |

Work Plan

During the 2010 interim, the ERDC proposes to:

1. provide guidance and recommendations to the Government Restructuring Task Force (GRTF) by examining the programs and missions of the agencies overseen by the committee with an eye toward making those agencies more efficient and cost-effective, including ranking programs in terms of criticality to the core functions of those agencies. The ERDC hopes to receive a report from the GRTF about the task force's proposals for restructuring that affect the ERDC at its July 29-30 meeting in Santa Fe;

2. address the concern that the lack of a well-trained work force is often cited as one of the barriers to business recruitment. The committee plans to receive a status update on the efforts of Senate Bill 46 (2009) to develop high school pre-apprenticeship programs and examine additional statewide opportunities in vocational education and the needs of New Mexico's job market;

3. receive a report from the Economic Development Department (EDD) on existing tax increment development districts (TIDDs), the new TIDD in Las Cruces and potential future TIDDs;
4. receive a presentation from the EDD on its current initiatives, including the economic development impact of infrastructure for colonias, an accounting of how the colonias are using the funding they receive and issues regarding domestic water in the colonias. The ERDC would also like to receive a report on the economic and rural development issues related to frontier communities;
5. oversee the various business incentives the EDD uses to attract economic activity to New Mexico and assess the return on investment for tax credits encouraging economic development, including film, energy and the job-training incentive program; and receive reports from specific companies that received tax credits to assess what works and what does not work;
6. receive a report from the Tourism Department on the effects of the ailing economy on New Mexico tourism and tourism initiatives with Mexico and study the potential for promoting "adventure/eco-travel";
7. examine the revised model state Administrative Procedure Act (2008), assess its impact on business and develop an approach to improving regulatory processes;
8. evaluate emerging economic sectors in New Mexico, identify incentives to attract new business and investment and examine methods to cultivate opportunities for existing business;
9. explore the need for a Farmers' Protection Act and receive a report from the various stakeholders to determine whether fears of genetically modified seeds are well-founded;
10. explore the economic development impact of the transportation infrastructure and review the impact of the trucking tax on New Mexico; and receive an update from the Department of Transportation (DOT) on House Memorial 9 and the sustainable transportation fund;
11. hear from the New Mexico Municipal League, the New Mexico Association of Counties and the Attorney General's Office; and work with print, broadcast and electronic media outlets to expand public access to and transparency of government operations;
12. discuss resource planning in New Mexico at the state, county and city levels;
13. explore the possibility of amending Article 42 of the New Mexico Insurance Code, the Life and Health Insurance Guaranty Law, to conform to a current model law developed by the National Association of Insurance Commissioners and as proposed by Senate Bill 75 (2009);

14. study homeowners association regulations and laws and their effectiveness and study the statutory and regulatory powers of homeowners associations and, conversely, the rights of members;

15. consider the economic and rural development impact of the federal stimulus package and other publicly funded projects and the percentage of out-of-state contractors used on those projects;

16. examine the authority of the Construction Industries Division of the Regulation and Licensing Department to oversee local inspectors;

17. explore the economic and rural development impact of small business development centers — how and where colleges use the \$5.4 million annual appropriation they receive and what kind of oversight exists for the colleges and the recipients of the incubator funding;

18. receive reports from various industries — including nuclear energy and waste disposal, oil and gas, mining, agriculture, conservation and recycling, renewable energy and health care — and angel investors to assess what must be done to bring jobs to the state; and

19. evaluate the economic impact of the wine industry and microbreweries, determine what needs to be done to support these industries, receive a report from the Regulation and Licensing Department on beer and wine licenses versus liquor licenses and determine whether policy changes are necessary to support the industry better.

**Economic and Rural Development Committee
2010 Approved Meeting Schedule**

| <u>Date</u> | <u>Location</u> |
|-----------------|-----------------|
| June 16 | Santa Fe |
| July 29-30 | Santa Fe |
| September 20-21 | Las Cruces |
| November 18-19 | Santa Fe |
| December 1 | Santa Fe |

AGENDAS

Revised: June 14, 2010

**TENTATIVE AGENDA
for the
FIRST MEETING
of the
ECONOMIC AND RURAL DEVELOPMENT COMMITTEE**

**June 16, 2010
Room 322, State Capitol**

Wednesday, June 16

- 1:00 p.m. **Call to Order**
- 1:05 p.m. **Interim Committee Protocols — Agency Efficiency Assessment**
—Raúl E. Burciaga, Director, Legislative Council Service (LCS)
- 1:20 p.m. **2010 Legislation — Summary**
—Peter Kovnat, Staff Attorney, LCS
- 1:50 p.m. **2010 Interim Work Plan and Meeting Schedule Development**
—Peter Kovnat, Staff Attorney, LCS
- 3:00 p.m. **Adjourn**

Revised: July 28, 2010

**TENTATIVE AGENDA
for the
SECOND MEETING
of the
ECONOMIC AND RURAL DEVELOPMENT COMMITTEE**

**July 29-30, 2010
Room 322, State Capitol**

Thursday, July 29

- 10:00 a.m. **Call to Order**
- 10:05 a.m. **The Economic and Rural Development Impact of the Transportation Infrastructure, the Trucking Tax's Impact on New Mexico and House Memorial 9 (2010), the Sustainable Transportation Fund**
—Gary Girón, Secretary, Department of Transportation
- 12:00 noon **Lunch**
- 1:00 p.m. **The Economic Development Department's Current Initiatives, Emerging Economic Sectors and Methods of Attracting New Businesses and Cultivating Existing Businesses. What Has Been the Return on Investment for the Business Incentives Used to Attract Economic Activity to the State, Including Film, Energy and Job Training? What Works and What Does Not?**
—Fred Mondragón, Secretary, Economic Development Department
- 2:30 p.m. **The Federal American Recovery and Reinvestment Act of 2009 — Jobs for New Mexico**
—Former Governor Toney Anaya, Executive Director, New Mexico Office of Recovery and Reinvestment
- 4:00 p.m. **Resource Planning in New Mexico at the State, County and City Levels**
—Lou Baker, A.I.C.P., Lobbyist, American Planning Association, New Mexico Chapter
- 5:00 p.m. **Recess**

Friday, July 30

- 9:00 a.m. **Call to Order**

- 9:05 a.m. **Effects of the Ailing Economy on New Mexico Tourism, State Tourism Initiatives with Mexico, the Potential for Promoting "Adventure/Eco-Travel" and the Use of House Bill 189 (2010) as a Funding Source**
—Jennifer Hobson, Deputy Secretary, Tourism Department
- 10:00 a.m. **Article 42 of the New Mexico Insurance Code Versus the National Association of Insurance Commissioners Model Law; Senate Bill 75 (2009)**
—Michael Batte, Administrator, New Mexico Life Insurance Guaranty Association
- 11:00 a.m. **Public Notice under the Open Meetings Act; House Bill 895 (2009) and Senate Memorial 19 (2010)**
—Arthur Melendres, Attorney, Modrall Sperling
—William Fulginiti, Executive Director, New Mexico Municipal League
—Joy Esparsen, Intergovernmental Relations Director, New Mexico Association of Counties
—Joe Guillen, Executive Director, New Mexico School Boards Association
—Philip Lucey, Executive Director, New Mexico Press Association
—Paula Maes, President and Chief Executive Officer, New Mexico Broadcasters Association
- 12:00 noon **Adjourn**

Revised: September 13, 2010

**TENTATIVE AGENDA
for the
THIRD MEETING
of the
ECONOMIC AND RURAL DEVELOPMENT COMMITTEE**

**September 20-21, 2010
Barbara Hubbard Room, New Mexico State University
Las Cruces**

Monday, September 20

- 8:00 a.m. **Call to Order**
- 8:05 a.m. **Whistlestop Tour of Spaceport America**
—Rick Homans, Executive Director, Spaceport Authority
- 12:30 p.m. **Lunch at the Truth or Consequences Civic Center**
- 1:00 p.m. **Spaceport America Update**
—Rick Homans, Executive Director, Spaceport Authority
—George T. Whitesides, Chief Executive Officer, Virgin Galactic
—Mark Lautman, Chief Executive Officer, Lautman Economic Architecture
—Dr. Patricia Hynes, Director, New Mexico Space Grant Consortium
- 3:00 p.m. **Leave Truth or Consequences. Return to Las Cruces**
- 4:30 p.m. **Recess**

Tuesday, September 21

- 9:00 a.m. **Call to Order**
- 9:05 a.m. **Welcome to New Mexico State University (NMSU)**
—Ben Woods, Senior Vice President for External Relations, Chief of Staff,
NMSU
- 9:10 a.m. **Need for a Farmer Protection Act — Report from Various Stakeholders to
Determine Whether Fears of Genetically Engineered Chile and Other Seeds
Are Well-Founded**
—Dr. David Thompson, Associate Dean, College of Agriculture, Consumer and
Environmental Science, Director, Agricultural Experiment Station,
NMSU
—Dino Cervantes, General Manager, Cervantes Enterprises, Inc.
—Diane Albert, The Law Office of Diane Albert, Chair, Intellectual Property

Law Section Board of the State Bar of New Mexico
—Isaura Andaluz, Advocate, Save New Mexico Seeds Coalition

10:30 a.m. **Economic Development Impact of Infrastructure for Colonias; Domestic Water Usage in Colonias; How Colonias Are Using the Funding They Receive**

—Silvia Sierra, Director, Doña Ana County Health and Human Services Department

—Sue Padilla, Assistant County Manager, Doña Ana County

—Chuck McMahon, Director, Community Development Department, Doña Ana County

11:15 a.m. **New Las Cruces Tax Increment Development District Update**

—William Sletton, Downtown Development Coordinator, City of Las Cruces

12:00 noon **Adjourn**

Revised: November 17, 2010

**TENTATIVE AGENDA
for the
THIRD MEETING
of the
ECONOMIC AND RURAL DEVELOPMENT COMMITTEE**

**November 18-19, 2010
Room 317, State Capitol**

Thursday, November 18

- 10:00 a.m. **Call to Order**
- 10:05 a.m. **Constructions Industries Division of the Regulation and Licensing
Department and Local Inspectors: Questions of Oversight**
—Kelly O'Donnell, Superintendent, Regulation and Licensing Department
—Chris Williams, Chair, New Mexico Council of Code Officials
- 11:00 a.m. **New Mexico Rural Development Response Council: Status Update, Rural
Broadband and Youth Entrepreneurship**
—Ed Burckle, Executive Director, New Mexico Rural Development Response
Council (NMRDRC)
—Kathy Keith, President, NMRDRC
- 12:00 noon **Lunch**
- 1:00 p.m. **Qwest Status and Merger with CenturyLink**
—Loretta A. Armenta, President, Qwest New Mexico
—Leo Baca, Director, Public Affairs, Qwest New Mexico
—Randy Hall, Area Operating Manager, New Mexico CenturyLink
- 2:00 p.m. **The New Mexico Small Business Development Center Statewide
Organization and Its Impact on Economic and Rural Development**
—Michael Mykris, Interim State Director, New Mexico Small Business
Development Center (SBDC)
—Don Bustos, Director, Las Vegas SBDC
—Ray Garcia, Director, Albuquerque SBDC
—Dr. Sandra Taylor-Sawyer, Director, Clovis SBDC
- 3:00 p.m. **Status Update on Senate Bill 46 (2009), Statewide Opportunities in
Vocational Education and the Needs of New Mexico's Job Market**
—Dr. Melissa Lomax, Bureau Chief, Career-Technical and Workforce Education
Bureau, Public Education Department
- 4:00 p.m. **Public Comment**

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

Friday, November 19

9:00 a.m. **Call to Order**

9:05 a.m. **Everything You Ever Wanted to Know About Credit Reports**
—Roman Maes, Chief Executive Officer, New Mexico Public Relations LLC
—Eric Rosenberg, Director of State Government Relations, Transunion

10:00 a.m. **The SunZia Southwest Transmission Project and Its Economic Impacts**
—David Getts, General Manager, SouthWestern Power Group
—Dr. Anthony V. Popp, Professor Emeritus, Department of Economics and
International Business, College of Business, New Mexico State University

11:00 a.m. **Economic Impact of Rural Electric Cooperatives on the New Mexico
Economy**
—Dr. Christopher Erickson, Associate Professor of Economics, New Mexico
State University
—Keven Groenewold, Executive Vice President and General Manager, New
Mexico Rural Electric Cooperative Association

12:00 noon **Adjourn**

Revised: November 30, 2010

**TENTATIVE AGENDA
for the
FIFTH MEETING
of the
ECONOMIC AND RURAL DEVELOPMENT COMMITTEE**

**December 1, 2010
Room 322, State Capitol**

Wednesday, December 1

- 10:00 a.m. **Call to Order**
- 10:05 a.m. **Local Food Purchasing Requirement**
- 10:20 a.m. **In-State Preference for State Contracts**
- 10:40 a.m. **Create a Consistent Agency Rulemaking Process**
- 11:00 a.m. **Limited Liability for Space Flight Manufacturers**
- 11:20 a.m. **Student Launch Program Scratch-Off Lottery**
- 11:40 a.m. **Time Frames for License Applications**
- 12:00 noon **Lunch**
- 1:00 p.m. **Public Notices on Broadcaster Web Site**
- 1:20 p.m. **Border Trucking**
- 1:40 p.m. **Limit Agency Authority to Make Rules**
- 2:00 p.m. **Life and Health Insurance Guaranty Law**
- 2:20 p.m. **Joint Resolution for Constitutional Amendment for Legislative Veto of Rules**
- 2:40 p.m. **Flexibility for Local Building Inspectors**
- 3:00 p.m. **Electric Utilities Infrastructure Cost Recovery**
- 3:20 p.m. **Adjourn**

MINUTES

**MINUTES
of the
FIRST MEETING
of the
ECONOMIC AND RURAL DEVELOPMENT COMMITTEE**

**June 16, 2010
Room 322, State Capitol**

The first meeting of the Economic and Rural Development Committee (ERDC) was called to order as a subcommittee by Senator Bernadette M. Sanchez, vice chair, at 1:20 p.m. on Wednesday, June 16, 2010, in Room 322 of the State Capitol in Santa Fe.

Present

Rep. Mary Helen Garcia, Chair
Sen. Bernadette M. Sanchez, Vice Chair
Rep. Nora Espinoza
Sen. Mary Jane M. Garcia
Rep. William J. Gray
Sen. Clinton D. Harden, Jr.
Rep. Patricia A. Lundstrom
Rep. Debbie A. Rodella

Absent

Rep. Andrew J. Barreras
Sen. Mark Boitano
Rep. Ernest H. Chavez
Rep. Dianne Miller Hamilton
Sen. Timothy M. Keller
Sen. Howie C. Morales
Sen. George K. Munoz
Sen. William E. Sharer

Advisory Members

Rep. Zachary J. Cook
Rep. Nathan P. Cote
Rep. John A. Heaton
Sen. Carroll H. Leavell
Rep. James Roger Madalena
Sen. Richard C. Martinez
Rep. Andy Nuñez
Rep. Shirley A. Tyler
Sen. David Ulibarri
Rep. Richard D. Vigil

Sen. Rod Adair
Sen. Sue Wilson Beffort
Sen. Dianna J. Duran
Rep. Sandra D. Jeff
Rep. Antonio "Moe" Maestas
Rep. William "Bill" R. Rehm
Sen. John M. Sapien

Staff

Peter Kovnat
Sandy Mitchell

Guests

The guest list is in the meeting file.

Wednesday, June 16

Interim Committee Protocols — Agency Efficiency Assessment

Raúl E. Burciaga, director, Legislative Council Service, told the committee that he would

shorten his presentation because all of the members had already heard the full presentation at other interim committee meetings. He reminded the committee that the New Mexico Legislative Council had asked all committees to meet in Santa Fe and that they should provide justification for any requests to meet elsewhere. Representative Lundstrom requested that a member of the Government Restructuring Task Force report back to the committee. Mr. Burciaga was asked whether the Government Restructuring Task Force would be examining commissions and boards in addition to state agencies, and he affirmed that it would. Senator Sanchez requested a list of all the commissions and boards that have influence on economic development. Mr. Burciaga said he would provide a list. Senator Sanchez asked about the Regulatory Reform Subcommittee. Mr. Burciaga said it was re-created at the last New Mexico Legislative Council meeting and that Mr. Kovnat would work with Senator Sanchez to get the subcommittee set up. Senator Sanchez said she wants the subcommittee to meet in July so that it could report its findings to the ERDC. Mr. Burciaga was asked whether legislators would still be permitted to attend a number of committee meetings of which they are not a member. Mr. Burciaga said they would be allowed four additional meeting days, but that the legislators would still need to request approval to do so.

Summary of 2010 Legislation

Mr. Kovnat provided a summary of legislation from 2010 that related to economic development, including legislation endorsed by the ERDC. The committee endorsed 11 substantive measures, of which one was ultimately enacted. The committee-endorsed measure that passed was Senate Bill 9, which related to informed consent of space flight participants. ERDC-endorsed bills that did not pass included the following:

- House Bill 107 — telecommunication relocation costs to customers;
- Senate Bill 37 — Public Regulation Commission jurisdiction over certain telecommunications rates;
- Senate Bill 14 — in-state business procurement preference;
- Senate Bill 36 — triple bottom line accountability study;
- Senate Bill 131 — Water Quality Control Commission members;
- HJR 4 — nullification of executive rules; and
- SJM 30 — wind turbine regulation working group.

Several members stressed the importance of regulatory reform and of again endorsing HJR 4 and SB 131 from the 2010 legislative session. Senator Harden requested that agency secretaries appear before the committee to discuss regulatory reform. Senator Sanchez said that the secretaries will be appearing before the Regulatory Reform Subcommittee when it meets in July.

2010 Interim Work Plan and Meeting Schedule Development

Mr. Kovnat presented the following work plan items for the committee's consideration:

1. provide guidance and recommendations to the Government Restructuring Task Force by examining the programs and missions of the agencies overseen by the committee with an eye

toward making those agencies more efficient and cost-effective, including ranking programs in terms of criticality to the core functions of those agencies;

2. address the concern that the lack of a well-trained work force is often cited as one of the barriers to business recruitment. The committee plans to receive a status update on the successes and failures of 2009's Senate Bill 46 to develop high school pre-apprenticeship programs and examine additional statewide opportunities in vocational education and the needs of New Mexico's job market;

3. receive a report from the Economic Development Department (EDD) on existing tax increment development districts (TIDDs), the new TIDD in Las Cruces and potential future TIDDs;

4. receive a presentation from the EDD on its current initiatives;

5. oversee the efforts of the EDD to attract economic activity to New Mexico and assess the return on investment for tax credits encouraging economic development, including film, energy and the job-training incentive program; and receive reports from specific companies that received tax credits to assess what works and what does not work;

6. receive a report from the Tourism Department on the effects of the ailing economy on New Mexico tourism and study the potential for promoting "adventure/eco-travel";

7. examine the new model Administrative Procedures Act, assess its impact on business and develop an approach to improving regulatory processes;

8. evaluate emerging economic sectors in New Mexico, identify incentives to attract new business and investment and examine methods to cultivate opportunities for existing business;

9. explore the need for a Farmers' Protection Act and receive a report from the chile industry and alfalfa growers to determine whether fears of genetically modified seeds are well-founded;

10. explore the economic development impact of the transportation infrastructure and review the impact of the trucking tax on New Mexico;

11. explore the possibility of streamlining the Regulation and Licensing Department's process to grant business licenses in one stop;

12. receive a report on resource planning in New Mexico at the state, county and city levels;

13. explore the economic development impact of infrastructure for colonias and receive a status update;

14. explore the possibility of amending Article 42 of the New Mexico Insurance Code to conform to a current model law developed by the National Association of Insurance Commissioners. Senate Bill 75, introduced in the Forty-Ninth Legislature, First Session (2009), proposed to do so, and while it passed the senate, the bill died in the House Judiciary Committee;

15. study homeowners association regulations and laws and their effectiveness and study the statutory and regulatory powers of homeowners associations and, conversely, the rights of members;

16. consider the federal stimulus package and other publicly funded projects and the percentage of out-of-state contractors used on those projects;

17. examine the authority of the Construction Industries Division of the Regulation and Licensing Department to oversee local inspectors; and

18. explore the economic and rural development impact of small business development centers. How and where is the \$5 million appropriation being spent?

Committee Discussion on Proposed Work Plan

During committee discussion on Item (1), members discussed the meeting dates of the Government Restructuring Task Force and a suggestion was made that the task force provide an update to the committee in July.

A request was made to discuss tourism with Mexico when Item (6) is dealt with by the committee.

With regard to Item (9), committee members requested presentations from the New Mexico department of agriculture, New Mexico State University and small farmers when the topic is brought before the committee. The members agreed to expand the topic to cover other types of crops and all industries that are impacted.

In regard to Item (10), Representative Lundstrom requested an update on HM 9 concerning sustainable transportation.

The committee agreed to strike Item (11) from the work plan, as it would be better handled by the Regulatory Reform Subcommittee.

Committee discussion on Item (12) included a request that the New Mexico Association of Counties or the New Mexico Municipal League discuss using radio or more modern technology for providing notices and that the committee look at expanding the sunshine portal legislation to municipalities. Senator Sanchez advised the committee that it should disregard the language in Item (12) about receiving a report. Instead, the committee would be looking at a proposal of legislation.

With regard to Item (13), committee members stressed the importance of getting a report on where all the money is going. Several members indicated that there are reports available on how the money is being spent.

Senator Leavell explained the legislation cited in Item (14). He said that the language concerning the Insurance Guaranty Fund needs to be updated and the monetary amounts need to be increased. He said it would have no impact on the state budget.

With regard to Item (18), committee members stressed the importance of oversight and of looking at where the money is being spent. A point was also made that access to the small business development centers needs to be improved.

The committee discussed additions to the work plan. A request was made that the committee evaluate the business incentives that the state provides. A request was also made to examine job creation in the state. Representative Heaton said that he would like to see specific industries come before the committee to talk about expanding their industries and about how the legislature can help move them forward. He cited the nuclear industry as an example, as well as oil and gas, mining, agriculture, wind energy and health care. He said the committee needs to ask people who create jobs how to create them. Representative Lundstrom suggested that perhaps the gubernatorial candidates could come in to talk about their job creation ideas. There was some discussion as to whether it would be considered campaigning and, therefore, not permissible to have them appear before the committee. Representative Garcia said the committee would look into whether it would be permissible. Other committee members discussed industries they would like to appear before the committee concerning job creation. Additional requests were made to hear from the nuclear industry, including Urenco, which is located in New Mexico, and the mining industry. Representative Lundstrom requested that an update on federal regulations and coal mining cleanup be part of the nuclear industry presentation. Requests were also made to hear from the wine industry and microbreweries, the conservation and recycling business, and alternative energy.

A request was made by Representative Nuñez that the Regulatory Reform Subcommittee hold its meeting on July 28.

At 2:40 p.m., Senator Ulibarri was appointed by the president pro tempore as a voting member for the purposes of this meeting only.

The proposed work plan as amended was adopted by the committee without objection.

The committee adjourned at 2:45 p.m.

**MINUTES
of the
SECOND MEETING
of the
ECONOMIC AND RURAL DEVELOPMENT COMMITTEE**

**July 29-30, 2010
Room 322, State Capitol
Santa Fe**

The second meeting of the Economic and Rural Development Committee (ERDC) was called to order as a subcommittee by Representative Mary Helen Garcia, chair, at 10:04 a.m. on Thursday, July 29, 2010, in Room 322 of the State Capitol.

Present

Rep. Mary Helen Garcia, Chair
Sen. Bernadette M. Sanchez, Vice Chair
Rep. Andrew J. Barreras
Sen. Mark Boitano
Rep. Ernest H. Chavez (7/30)
Rep. Nora Espinoza
Sen. Mary Jane M. Garcia (7/29)
Rep. William J. Gray
Sen. Clinton D. Harden, Jr.
Sen. Timothy M. Keller
Rep. Patricia A. Lundstrom
Sen. Richard C. Martinez

Advisory Members

Sen. Rod Adair (7/30)
Sen. Sue Wilson Beffort
Rep. Nathan P. Cote
Sen. Carroll H. Leavell
Rep. Andy Nuñez
Rep. Shirley A. Tyler
Sen. David Ulibarri
Rep. Richard D. Vigil

Absent

Rep. Dianne Miller Hamilton
Sen. Howie C. Morales
Rep. Debbie A. Rodella
Sen. William E. Sharer

Rep. Zachary J. Cook
Sen. Dianna J. Duran
Rep. John A. Heaton
Rep. Sandra D. Jeff
Rep. James Roger Madalena
Rep. Antonio "Moe" Maestas
Sen. George K. Munoz
Rep. William "Bill" R. Rehm
Sen. John M. Sapien

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

Staff

Peter Kovnat
Sandy Mitchell

Guests

The guest list is in the meeting file.

Handouts

Handouts and other written materials are in the meeting file.

Thursday, July 29

Economic and Rural Development Impact of the Transportation Infrastructure, the Trucking Tax's Impact on New Mexico and House Memorial 9 (2010), the Sustainable Transportation Fund

A panel of presenters from the Department of Transportation (DOT), including Gary Giron, secretary, William E. Mueller, chief economist, Max Valerio, deputy secretary of programs and infrastructure, and Domingo Sanchez, III, deputy secretary, Office of Business Support, provided an update on the DOT's revenues, operations and budget.

Secretary Giron explained how the current economic situation is affecting the DOT. He explained that the DOT receives no general fund support for roads. Federal funds are received on a reimbursement basis; therefore, money from the State Road Fund must first be expended. The downturn in the economy has led to a reduction in State Road Fund revenues in fiscal year 2008 that, in turn, has led to over \$120 million in budget and spending reductions in the past three years. Long-range planning is hampered because of the uncertainty as to the amount of federal funds the DOT will receive in the future.

The presenters provided a chart showing construction program trends. With Governor Richardson's Investment Partnership (GRIP) coming to end and federal American Recovery and Reinvestment Act of 2009 (ARRA) funds winding down, construction projects are expected to level out at \$142 million and stay there through 2015. A chart was also provided showing the trends in the "big four" revenues for the DOT: gasoline tax, special fuels tax, weight/distance tax and vehicle registration fees. Beginning in 2008, the troubled economy led to a drop in the demand for goods, which resulted in a decline in shipping across the state and decreased revenues to the state. Revenues are not expected to return to 2007 levels until 2014. The loss of revenues and slow recovery mean that the DOT will not have the funds it needs to perform maintenance. This may lead to an increase in liability for tort claims. The DOT is also considering closing highway rest areas.

Secretary Giron reported on the DOT's actions in response to the decrease in State Road Fund revenues. The DOT has reduced the rollover of budgeted encumbrances to preserve cash balances, implemented strategic budget cuts, engaged in aggressive employee outreach to seek cost-savings ideas and voluntarily reduced its work force by about 10%.

Mr. Mueller discussed how investment in transportation drives economic growth. He also provided an overview of the weight distance tax and explained that New Mexico is one of only four states that has it. As trucks cross the state, they are charged a tax based on weight and

how far they drive across the state. The tax is collected quarterly. Revenue from the weight distance tax has declined because of a decline in truck traffic.

An alternative to the weight distance tax is a higher registration fee. New Mexico's registration rate is lower than other states because the state collects money on the weight distance tax. The New Mexico system taxes truck drivers in proportion to their usage of the roads, which is something the federal government has been advocating.

Secretary Giron discussed the correlation between the gasoline tax and the price of gas at the pump. He said there is very little correlation. He also discussed the revenue that could be raised from a tax increase. Every \$.01 increase in the tax on gasoline raises \$8.34 million. Every \$.01 increase in the tax on special fuels (diesel) raises \$4.3 million.

Secretary Giron also discussed the actions taken in response to House Memorial 9 that was passed in 2010. He said that the DOT is doing public surveys on revenue-enhancement mechanisms. By October, the technical committee created pursuant to the memorial will recommend alternative funding strategies for use by decision-makers to aid in addressing sustainable transportation systems for New Mexico.

Members of the ERDC complimented the DOT and its staff on the quality of the roads in New Mexico. Several members expressed concern over the potential closing of rest areas. A suggestion was made that perhaps funds could be diverted from the Tourism Department for the rest areas.

Questions were raised concerning the effect of ARRA projects ending, including the effect on unemployment in the state. Secretary Giron said there will be an impact on private contractors, but he did not have the figures on potential job losses. It was suggested that the Association of Contractors might have information concerning job losses that will result when ARRA funds end. Secretary Giron said he would provide that information to the committee. A question was raised as to how many out-of-state contractors are hired by the DOT. Secretary Giron stated that most (90% to 92%) of the road construction is done with New Mexico contractors.

In response to questions concerning the maintenance of roads, the presenters explained that there is no federal money for it. The State Road Fund is the only source of funding for maintenance. Questions were also raised on the reductions that were made to the work force. The presenters said they would provide the trend rate in vacancies to the committee.

The presenters were asked to explain how they prioritize what cuts to make to road maintenance. The presenters explained that each district is having to tackle it individually. Decisions are made by district engineers, in collaboration with leadership in the department.

Economic Development Department (EDD) Initiatives, Emerging Economic Sectors and Methods of Attracting New Businesses and Cultivating Existing Businesses

Fred Mondragon, secretary, EDD, provided an overview of the state's economy. The unemployment rate is 8.2% in New Mexico, which is the same rate as in Texas and lower than the rates in California and Arizona. The unemployment rate is 8.6% in Albuquerque and 6.7% in Santa Fe. The eastern part of the state is doing well. The southwestern area of the state (Luna and Grant counties specifically) is not doing as well, partly due to layoffs in the mines.

Secretary Mondragon outlined the EDD's economic development priorities. They are: rural economic development, small business support programs, community development and capacity building, technology-based economic development, film and media expansion, international trade and foreign direct investments, Spaceport America, tribal economic development and private and public partnerships. Emerging economic sectors include green energy, oil and gas and uranium. New Mexico has had a 62% increase in green jobs from 1995 to 2007.

Toni Balzano, deputy secretary, EDD, described rural activities conducted by the department. The Main Street Program is celebrating its twenty-fifth anniversary. There are 23 member communities.

Ms. Balzano described how the department works with its community partners. Over the last year, the EDD has conducted economic summits and meetings with local economic development officers and community leaders across the state. She described how the department has changed its financial development team's priorities. The financial development team visits three to five new businesses a week to discuss the current status of business, job retention and expansion opportunities.

Secretary Mondragon described the state's business incentives, including its most popular program, the Job Training Incentive Program (JTIP). Other incentives include the high-wage jobs tax credit, the rural jobs tax credit, New Mexico 9000 (a certification program that allows businesses to sell to the federal government), the manufacturing investment tax credit, the alternative energy product manufacturers tax credit, the renewable energy production tax credit and the angel investment tax credit. The angel investment tax credit is due to expire in July 2012. Rural businesses that have qualified for some of these incentives include Marietta Biscuit in Alamogordo, Sunland Peanuts in Portales, Southwest Cheese in Clovis, AerSale in Roswell and Urenco in Lea County.

Secretary Mondragon described some of the regional competition New Mexico faces for jobs. Arizona has a new \$10 million program for marketing and loans. Colorado has an incentive fund. Texas provides a sales tax refund on equipment installed, no corporate income tax and an enterprise fund of \$397 million that has been a real challenge for the EDD. Secretary Mondragon introduced two guests, one from Pre-check and one from Southwest Cheese, who described how the incentives that New Mexico offers encouraged them to locate in the state.

Questions were raised concerning regulations placed on the dairy industry, including a proposed rule to subject containers that store milk to oil spill rules. Ms. Balzano said the EDD is

looking at being a liaison to overcome some of these issues for the industry. Committee members discussed other regulations that affect business in the state.

Committee members asked about the amount of money devoted to tax credits, whether companies are receiving more than one incentive and how the EDD determines what incentives are working. Secretary Mondragon reported that companies can receive more than one incentive. He said the EDD performs surveys on a yearly basis to determine which incentives are working to draw businesses to the state. Secretary Mondragon was asked whether he has a summary of all the incentives and which ones are most successful. He said a narrative was provided to the Revenue Stabilization and Tax Policy Committee, and he offered to forward it to the ERDC.

Secretary Mondragon was asked about whether there is a proven value for business incentives and if there are any benchmarks set for a return on investment. Secretary Mondragon said the minimum benefit would be a three-to-one return, with a cost of no more than \$5,000 to \$10,000 per job created. Secretary Mondragon was asked whether the department can do a cost-benefit analysis or develop a formula that can be applied to every tax credit. He said the EDD is doing an analysis on every new incentive. For existing tax credits, he can provide a general analysis that is not company-specific.

Lisa Strout, director, New Mexico Film Office, EDD, discussed the film industry and the film tax credits offered by the state. The estimated economic impact of film and digital media productions in fiscal year 2009 was \$786 million. Ten thousand direct and indirect jobs were created in the state by the film industry. Two hundred nine of the television and film locations used between 2008 and 2010 were in rural locations or pueblos.

Ms. Strout was asked whether the job figures include just day jobs. She said the film office does not include work as "extras" in its job totals. Ms. Strout was asked about collaboration with the Workforce Solutions Department and the universities to develop worker skills. She said the EDD works closely with both. She said the EDD has worked on retraining to help those hurt by the downturn in the construction field, and there was a great response from the community. Ms. Strout was asked about helping veterans enter the film industry. She said she had just heard about this idea a few days ago and would be happy to pursue it further. Ms. Strout was asked whether a person needs to be a part of a union to get hired in the industry. She replied that the industry is a union industry. The state does not impose union requirements.

At 1:20 p.m., Senate President Pro Tempore Timothy Z. Jennings appointed Senator Ulibarri and Senator Beffort as temporary voting members for the purpose of taking action as a committee.

On a motion seconded and adopted, the minutes from the June 16, 2010 meeting were approved.

ARRA — Jobs for New Mexico

Former Governor Toney Anaya, executive director, New Mexico Office of Recovery and Reinvestment (NMORR), discussed the impact of the ARRA on New Mexico. New Mexico's share of ARRA money was \$4.77 billion. He reported that more than 14,500 New Mexicans were put to work through a portion of these funds. The state general fund was boosted by more than \$534 million. Education received almost \$500,000,000. He said the multi-billion dollar infusion averted a much bigger recession in New Mexico.

Governor Anaya provided an overview of the ARRA, a list of projects funded by the ARRA and new financing options provided by it. He reported that the ARRA has spurred more than \$190 million in loans to 419 recipients in New Mexico. He reported that the ARRA will deliver more than \$1.45 billion for more than 500 infrastructure projects. He provided a list of some of the recipients of funds for local infrastructure projects. He provided information on the jobs created by the ARRA. The top four categories of jobs created were education, transportation, environment and the New Mexico Finance Authority (NMFA) for drinking water projects.

Governor Anaya explained that the NMORR does not fund projects. It is a small office that tracks the ARRA money coming into the state. It has a web site (recovery.state.nm) that is ranked as one of the best recovery web sites in the country. It has spreadsheets categorized by county. Contracts are posted on the site. The office is attempting to provide 100% transparency.

Governor Anaya concluded by saying that the ARRA has had an impact that can be seen on the general fund and on jobs. He said he is thankful that these funds have been made available, and he is pleased to see the end results. He said his office will continue to see that the money gets out and that reporting requirements are followed.

Governor Anaya was asked to provide details on various projects mentioned in his handout. He told the committee he would provide more information on the Superfund grant in Cibola County. He was asked whether there is a deadline to spend all of the ARRA money. He said yes, but different programs have different time limits. Generally, the funds need to be spent within two years. If the money is not spent, it goes back to the federal government.

Committee members discussed how unemployment could rise when these funds run out. Governor Anaya was asked about the types of jobs created in education. Beth Savage, deputy director, NMORR, reported that they were mostly classroom teacher jobs, but because the Office of Management and Budget did away with the distinction between created and retained jobs, most of the classroom teacher jobs were probably retained, not created.

In response to questioning, Governor Anaya explained the application process for receiving funds. He described how, as state agencies started evaluating applications for funding, they had to prioritize those that were shovel-ready. That process hurt a lot of local governments because they ended up at the back of the line. Governor Anaya was asked whether any entities decided not to take advantage of the funding. He said yes, some decided against it because of the red tape involved.

Resource Planning in New Mexico at the State, County and City Levels

Lou Baker, lobbyist, American Planning Association, New Mexico Chapter, discussed resource planning in the state. She detailed some of the history of planning in the state and some of the various statutory changes that have taken place over the years. In 2005, a report by the governor's task force advocated the creation of a state planning office.

Ms. Baker discussed the need for a state planning and community design office. She said state agencies often operate independently and are unaware of each other's data and assumptions, forecasts, policies, plans and priorities. She explained that state planning is a growth management plan. It allows the state to look at where it wants to be in 10 or 20 years.

Ms. Baker discussed some of the legislative efforts concerning state planning in recent years, including HJM 76 in 2009 and SB 300 and HJM 40 in 2010. HJM 40 was the only one that passed.

Ms. Baker was asked why the state planning office was abolished. She said that she has heard rumors about it, but does not know for sure. Ms. Baker was asked if she could provide a copy of the governor's task force report. She said she will try to get an electronic copy of it to committee staff to distribute it to those members who want it. A suggestion was made that perhaps the NMFA could play a role in state planning, given the role it currently plays with financing. A suggestion was also made that the Department of Finance and Administration (DFA) could possibly play a role in state planning.

The committee recessed at 4:55 p.m.

Friday, July 30

The meeting was reconvened at 9:19 a.m. by Representative Garcia.

Mr. Kovnat, staff attorney, Legislative Council Service, announced the agenda items for the September 20-21 ERDC meeting, which will include a whistle-stop tour of Spaceport America.

Representative Lundstrom announced that the Government Restructuring Task Force, as part of its reorganizing efforts, has recommended the creation of a department of commerce. She said that the ERDC may want to make recommendations regarding the creation of this department.

Senator Sanchez announced that the ERDC needs to get its suggestions on reorganization completed soon. She asked Mr. Kovnat to provide a copy of the chart showing the organization of state boards and commissions to the members. Mr. Kovnat asked the committee members to provide him with their recommendations for reorganization.

Committee members discussed the process that will take place after recommendations are

made to the task force, whether the changes will be made administratively or statutorily and whether dollar figures will be attached to the proposed changes.

Effects of the Ailing Economy on New Mexico Tourism, State Tourism Initiatives with Mexico, the Potential for Promoting "Adventure/Eco-Travel" and the Use of House Bill 189 (2010) as a Funding Source

Jennifer Hobson, deputy secretary, Tourism Department, started her presentation by stating that it is important for the department to have a cabinet-level designation and not be consolidated with other agencies. She then provided statistics on the tourism industry from 2009. Tourism in New Mexico was down 5.8% from 2008. While business travel was up 2.2%, leisure travel was down 6.7%. Hotel occupancy declined from 61.5% in 2008 to 56.3% in 2009. All major markets saw decreases in occupancy, with Albuquerque down from 62.1% to 57.0% and Santa Fe down from 61.6% to 56.7%. For the first quarter of 2010, occupancy was flat at 50.9%. Ms. Hobson provided anecdotal information on local conditions throughout the state, including information on gross receipts collections, restaurant business and lodger's tax collections.

Ms. Hobson discussed tourism initiatives with Mexico. Mexico was second only to Canada among the top international countries in 2008 in terms of credit card holder transactions in New Mexico. She said that Mexicans tend to buy newspapers on Sundays, so the department plans to continue to saturate that market. The department has conducted an aggressive marketing campaign in Mexico, employing every facet of media, including radio and television interviews, presentations to government officials and travel agencies, magazine articles and web site exposure.

Ms. Hobson discussed the potential for promoting adventure travel and eco-tourism in the state. She explained how there is a huge trend in international travel toward eco-tourism. She said New Mexico should take advantage of this form of travel and focus on rural areas. Visitors could do activities such as meeting with local pottery makers. She said the Tourism Department is acting as a portal for information on eco adventures and has a web site with information (newmexico.org/ecotourism).

Martin Leger, advertising manager, Tourism Department, discussed the need for a dedicated source of revenue for advertising. He stated that New Mexico is losing market share to its competitors. New Mexico is spending \$2.1 million on its advertising contract in fiscal year 2011. Neighboring states all spend considerably more: \$14.4 million in Colorado, \$6.95 million in Utah, \$25 million in Texas and \$2.2 million in Arizona. He explained that legislation introduced last year (HB 189) provided for a surtax of one-fourth of one percent on certain restaurant receipts to be dedicated for advertising. The tax would generate revenues of \$6.5 million. Similar legislation is planned to be introduced during the 2011 session.

Committee members asked questions concerning how and where the department conducts its advertising, its efforts to promote parks and trails in the state and its initiatives concerning promotion of the space industry and New Mexico's role in space travel. The pros and cons of a

restaurant tax were also discussed. Members asked questions about how the revenue would be used and what would be considered a restaurant for purposes of the legislation. Concern was expressed over increasing taxes during difficult economic times.

Article 42 of the New Mexico Insurance Code Versus the National Association of Insurance Commissioners (NAIC) Model Law; Senate Bill 75 (2009)

Michael Batte, administrator, New Mexico Life Insurance Guaranty Association, explained how life and health insurance policies are insured by the New Mexico Life Insurance Guaranty Association and that if an insurer cannot meet its obligations, the association steps in and pays the claim. He said the funds used to provide coverage come from assets of failed insurers, special deposits held by the Insurance Division of the Public Regulation Commission and assessments paid by member insurance companies. None of the money comes from state funds, directly or indirectly. Since 1977, the association has paid out over \$24 million on behalf of New Mexicans who had insurance policies with impaired or insolvent insurers.

Mr. Batte discussed the need to amend New Mexico law to make it consistent with the current model law developed by the NAIC. New Mexico's law is based on the 1981 version of the model act. He explained that the purpose of updating New Mexico law to the current model law is to permit the New Mexico Life Insurance Guaranty Association to work more efficiently with other state guaranty associations and state receivers to ensure that policyholders of impaired or insolvent insurers are protected. The proposed legislation would also increase the coverage from the current \$100,000 to \$250,000 consistent with increases in coverage for bank deposits.

Senator Leavell explained that last session he sponsored legislation on this issue (SB 75). He said the bill was overwhelming in size, but the goals of the legislation were simple — to protect consumers. He intends to introduce legislation on this issue again next session.

Public Notice under the Open Meetings Act; House Bill 895 (2009) and Senate Memorial 19 (2010)

A panel of presenters, including Arthur Melendres, attorney, Modrall Sperling, Regina Romero, New Mexico Municipal League, Joy Esparsen, intergovernmental relations director, New Mexico Association of Counties, Joy Guillen, executive director, New Mexico School Boards Association, Philip Lucey, executive director, New Mexico Press Association, and Paula Maes, president and chief executive officer, New Mexico Broadcasters Association, discussed the methods of providing notice under the Open Meetings Act.

Mr. Melendres said there is a need for clarity in the law on what is proper notice under the Open Meetings Act. He wants there to be a clear option to use radio broadcasts rather than newspapers as a way of providing public notice. He said that broadcasters plan to download the notices that are read over the airwaves onto a web site so that anyone can find them.

Ms. Romero discussed how municipalities feel about this issue. She said that municipalities have to post notices in the newspaper unless the area does not have access to a

newspaper. In that case, the municipality may post notices in six places. She said that the New Mexico Municipal League has adopted resolutions supporting other options for providing public notice, but it does not want to lose the options it currently has. Municipalities do not want to have to incur more costs in this area.

Ms. Esparsen said that the New Mexico Association of Counties does not have a position on this initiative, but county managers will be looking at it soon.

Ms. Maes said that the New Mexico Broadcasters Association is working with school boards on resolutions to provide announcements over the radio.

Mr. Lucey said that the New Mexico Press Association supports the laws that are currently in effect. It opposes changes that would allow notices by radio broadcasting. The advantages of notices by newspaper are that the notices are archiveable and retrievable and they can be read at leisure. The notices are also accessible for free on newspapers' web sites. He argued that newspapers have held or gained circulation in the past decade and no other media format has the permanence level of newspapers.

Ms. Guillen said that the New Mexico School Boards Association supports using radio broadcasts as an alternative means for providing notices by school boards.

Committee members discussed the advantages and disadvantages of providing public notice by either newspaper or radio broadcast. Concern was expressed that newspapers may not be reaching certain rural areas of the state. There was also concern expressed that radio broadcasts might not be appropriate for all types of notices, especially those that are particularly long.

Mr. Melendres was asked whether notices are required to be given in a language other than English. He said yes, but notices could be broadcast on both Spanish and English radio stations.

The panel was asked about the costs involved. Ms. Maes said rates will have to be determined and that federal law mandates that the lowest rate be provided for public announcements. She said the rates will vary from city to city; it cannot be a uniform rate. Mr. Melendres was asked how radio stations would be chosen. He said the entity placing the notice would choose the radio station to use. Senator Harden asked how an entity would know what the market is for a particular radio station. Ms. Maes said there are Arbitron ratings for each radio station. She said she could provide rating numbers for Clovis stations to Senator Harden. Ms. Romero was asked about the six places where a municipality can post notice. Ms. Romero said she would provide the list of places to the committee.

The committee adjourned at 11:55 a.m.

**MINUTES
of the
THIRD MEETING
of the
ECONOMIC AND RURAL DEVELOPMENT COMMITTEE**

**September 20-21, 2010
Barbara Hubbard Room, New Mexico State University
Las Cruces**

The third meeting of the Economic and Rural Development Committee was called to order as a subcommittee by Representative Mary Helen Garcia, chair, at 8:00 a.m. on Monday, September 20, 2010, in the Barbara Hubbard Room at New Mexico State University (NMSU) in Las Cruces.

Present

Rep. Mary Helen Garcia, Chair
Sen. Bernadette M. Sanchez, Vice Chair
Rep. Andrew J. Barreras (9/20)
Sen. Mark Boitano
Rep. Ernest H. Chavez
Rep. Nora Espinoza
Rep. Dianne Miller Hamilton
Sen. Richard C. Martinez
Sen. Howie C. Morales (9/21)
Rep. Debbie A. Rodella

Advisory Members

Sen. Rod Adair (9/20)
Rep. Zachary J. Cook (9/20)
Rep. Nathan P. Cote
Rep. Sandra D. Jeff (9/20)
Rep. Andy Nuñez
Rep. Shirley A. Tyler
Sen. David Ulibarri

Guest Legislator

Sen. Mary Kay Papen

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

Staff

Peter Kovnat

Absent

Sen. Mary Jane M. Garcia
Rep. William J. Gray
Sen. Clinton D. Harden, Jr.
Sen. Timothy M. Keller
Rep. Patricia A. Lundstrom
Sen. William E. Sharer

Sen. Sue Wilson Beffort
Sen. Dianna J. Duran
Rep. John A. Heaton
Sen. Carroll H. Leavell
Rep. James Roger Madalena
Rep. Antonio "Moe" Maestas
Sen. George K. Munoz
Rep. William "Bill" R. Rehm
Sen. John M. Sapien
Rep. Richard D. Vigil

Adan DelVal

Monday, September 20

Whistlestop Tour of Spaceport America

Rick Homans, executive director, Spaceport Authority, explained that the residents of New Mexico own Spaceport America and that it is the world's first purpose-built commercial spaceport. Mr. Homans explained that it was built for economic development, tourism and education and should be complete in late 2010 or early 2011. He stated that flight operations will begin as soon as everything is ready and safe. New Mexico Spaceport America's leadership consists of Lieutenant Governor Diane Denish, Casey Luna, Gary Whitehead, Jerry Stagner, Pat Beckett, Toots Green, Kent Evans, Mr. Homans and Ben Woods. Mr. Homans stated that many southern New Mexico firms were hired for Spaceport work. Construction accounts for approximately 25 percent of current jobs at the Spaceport; construction companies include: Zia Engineering & Environmental Consultants; Molzen Corbin & Associated; Advanced Testing; G.D. General Contractors; La Calerita Construction; AUI, Inc.; Enoch; CMC Construction; Smithco; and ASAP Excavation. Firms that have been hired for non-construction work include the following: Wilson Binkley Advertising & Marketing; Hubert and Hernandez, LLP; Miller Stratver Law; New Mexico Spaceport Authority; and Honey Pot. Mr. Homans also explained that the contracting process follows the Procurement Code. Moreover, he stated that New Mexico contractors have won 12 of 13 construction contracts awarded so far. The growth in Sierra County from December 2009 through June 2010 is approximately 72 percent; and the average annual growth from September 2003 to December 2009 is approximately 11 percent.

Dr. Patricia Hynes, director, New Mexico Space Grant Consortium (NMSGC), NMSU, announced to the committee that Space Week in New Mexico will be October 19-22, 2010. Dr. Hynes indicated to the committee that the NMSGC is funded by Congress and administered by NASA. The NMSGC is partnered with other academic institutions such as NMSU; the University of New Mexico (UNM); the New Mexico Institute of Mining and Technology; New Mexico Highlands University; San Juan College; Doña Ana Community College (DACC); Central New Mexico Community College; and Southwestern Indian Polytechnic Institute. In addition to higher education institutions, there are many pre-college school district partners throughout the state. The NMSGC has many components, including the scholarship program (NASA research and faculty relationship required); internship program (NASA and industry facilities); aerospace associates program at DACC; aerospace engineering program at NMSU (curriculum development and start-up packages); reduced gravity student flight opportunities; student launch program — annual access to space for student experiments (fly from Spaceport); summer of innovation: 138 teachers and 3,000 students (middle school students launch experiments); and Space Week in New Mexico. The student launch program is the only program in the world offering annual access to space for New Mexico students' experiments; the next launch is scheduled for April 1, 2011 at Spaceport America. According to Dr. Hynes, the NMSGC has proven to be a great success for public schools as well as for higher education institutions.

Mark Lautman, chief executive officer, Lautman Economic Architecture (LEA), introduced George T. Whitesides, chief executive officer, Virgin Galactic. Mr. Lautman stated that the mission of LEA is "maximizing state and local return on investment in the Spaceport requires the development of a regional economic development organization". Mr. Whitesides stated that there are four areas for regional economic opportunity: 1) local contract opportunities for local economic development organizations (EDOs), the Chamber of Commerce, small business development corporations, and industry and trade associations; 2) launch industry and supply-chain opportunities for local EDOs, the Economic Development Department and the commercial space committee; 3) tourism industry opportunities for NMSU/Virgin, NMSU Hospitality and Arrowhead, the Chambers of Commerce and Colonias Promoters Association; and 4) research and development opportunities for NMSU, New Mexico Tech and the national laboratories. Mr. Lautman also stated that there are four areas to work on developing further:

1. **Local Contractor Outreach and Development Progress:** Includes operational contracts of approximately \$2 million for the pre-operational phase; phase II construction includes approximately \$50 million; CSRED community outreach program — partner EDOs; and local employment development programs — partner EDOs.
2. **Economic Development Services Progress:** Gap analysis; prospect sharing and management protocols (includes four steps: initial team formed; lead-sharing underway; lead qualifying and management protocols developing; and design of prospect management system); marketing — lead generation; and local contractor program delegation, management and metrics.
3. **Tourism and Experience Development Progress:** Needs analysis; major facility and services must make site selection and identification of major gaps; and entrepreneurial development program.
4. **Research and Development:** Major players include: the NMSGC, NMSU Arrowhead, NMSU Physical Science Lab, White Sands Missile Range, New Mexico Tech, UNM, Sandia National Laboratories, Los Alamos National Laboratory and the Air Force Research Laboratories. Major opportunities include small satellite manufacturing, satellite preparation services, satellite contingency programs, space weather prediction and satellite verification and monitoring.

Upon inquiry from the committee, Mr. Whitesides stated that there are well over 100 jobs currently performing detailed planning on operational requirements. He also indicated that once initiated, there will be one flight per week and, with time, flights will increase. The committee also indicated that although the Spaceport primarily deals with commercial space flights, it is doing things that are related to education. Upon questions by the committee, Dr. Hynes stated that funding for the student programs has been through grants and that no funding has been received from the state. The latest information indicates that 360 individuals put down a deposit for flights; the actual cost to fly is \$200,000, and some individuals have already paid in full. Moreover, Mr. Whitesides indicated that there is currently a waiting list for flights in the future.

The meeting recessed at 3:00 p.m.

Tuesday, September 21

Welcome to NMSU

Mr. Woods, senior vice president for external relations, chief of staff, NMSU, welcomed the committee to NMSU on behalf of President Couture and the board of regents. Mr. Woods presented the committee with a video about the research that NMSU is currently working on. The video noted that research provides leadership expertise and technology development in many different areas. An example of research being conducted at NMSU is in developing clean and renewable energy sources. Forty-four million dollars was provided to commercialize algae as a biofuel. In four years, New Mexico's pecan exports to China went from 60,000 pounds to 15 million pounds.

Upon a motion by Senator Sanchez, seconded by Senator Martinez, the minutes for the second meeting of the Economic and Rural Development Committee were approved with no objection.

Need for a Farmer Protection Act — Report from Various Stakeholders to Determine Whether Fears of Genetically Engineered Chile and Other Seeds Are Well-Founded

Dr. David Thompson, associate dean, College of Agriculture, Consumer and Environmental Science (ACES), and director, Agricultural Experiment Station (AES), NMSU welcomed the committee to NMSU. He indicated that he has been the associate dean for the ACES for approximately three months. Dr. Thompson stated that as a land grant institution, NMSU funds programs differently. This year, NMSU was able to successfully double state appropriations to conduct research within the ACES. Dr. Thompson indicated that the role of the AES is to be a research arm of the ACES. Funding for 2010 includes state appropriations of approximately \$15 million; grants and contracts of approximately \$16 million; and federal appropriations of approximately \$2 million. Dr. Thompson indicated that research is driven by the needs of New Mexicans from urban and small farms to large-scale commercial farms. Some of the efforts by the AES include sustaining agriculture and conserving natural resources. Protecting and managing natural resources includes water, soils, rangelands and forests in both rural and urban settings. The AES also fosters sustainable and profitable production of animals and plants and their products. Furthermore, the AES develops effective methods of protecting animals and plants from pests and diseases along with the development of technology related to food safety. The AES also enhances New Mexico's community and economic development by improving agricultural markets, trade and economic/business development. Research is also a good investment to develop human capital; it has improved the health and well-being of New Mexicans. The AES also conducts chile research. Currently, 22 faculty members work on fertilization, irrigation, pest management, plant quality and harvesting; two faculty members are dedicated to economics; and three faculty members work on food science. The 22 faculty members conducting research on chile have been working on breeding chile for good taste, cultural significance, ornamental qualities, drought tolerance, herbicide resistance and disease resistance. Dr. Thompson explained that conventional breeding is making deliberate crosses between two parents, and plant genetic engineering (GE) is introducing genes of desired traits

into recipient plants by methods other than sexual crosses. Some of the concerns that have been addressed with regards to GE crops are that there are no scientifically valid demonstrations that food safety issues of foods containing GE ingredients are greater than foods that do not contain them. Also, pests do evolve to resist synthetic pesticides or GE crops. In addition, another concern is that there is a potential of horizontal and vertical gene transfer from transgenic organisms to others. Finally, the percentage of GE crops will continue to increase as economic and environmental benefits are realized.

Dino Cervantes, general manager, Cervantes Enterprises, Inc., stated that New Mexico is the leader in chile production. Even though there was a peak in the mid-1990s, a decrease was seen. Mr. Cervantes stated that chile is a cultural crop and that is what identifies New Mexicans. He also stated that most of the chile companies in New Mexico are family-owned and -operated and provide a number of jobs in the state. There are different types of chiles that are being grafted; grafting is taking the branch of one chile plant and attaching it to another to grow as one. Mr. Cervantes stated that there are currently many crops that are considered genetically modified crops, including corn and cotton. According to Mr. Cervantes, 93 percent of cotton is genetically modified.

Diane Albert, the Law Office of Diane Albert, chair, intellectual property law section board, stated that patents are legally protected by the U.S. Constitution. Patents promote the progress of science and useful arts by securing for a limited time authors' and inventors' exclusive rights to their respective writings and discoveries. According to Ms. Albert, a patent is a set of exclusive legal rights granted by a state to an inventor for a limited period of time in exchange for a public disclosure of an invention (20 years from the date of first filing). The utility patent is granted when three requirements are met: 1) the invention is new or novel; 2) the invention is useful or utilitarian; and 3) the invention is not obvious. Moreover, Ms. Albert explained that patents protect whoever invents or discovers any new and useful process, machine, manufacture or composition of matter, or any new and useful improvement thereof. However, a thing occurring in nature, which is substantially unaltered, is not a manufacture.

Isaura Andaluz, advocate, Save New Mexico Seeds Coalition, informed the committee how contamination by GE seeds and crops affects farmers' freedom to farm and save seeds. Ms. Andaluz commented that GE seed requirements are as follows: enter into seed contracts called "technology use agreements"; the seed cannot be saved; industry herbicide products must be used; access to all farm property must be provided, such as farm records and in some cases even internet providers; and plant refuge to prevent superbug creation, which requires additional acreage. Ms. Andaluz stated that the main issue in regards to GE chile is contamination. The biotech industry acknowledges that contamination is inevitable. The big problem is that only industry and the GE farmer know where the GE crops are planted; therefore, there is a loss of farmer-to-farmer trust. It is also considered a loss of integrity of native and heirloom seeds, leading to further food insecurity. GE chile contamination issues in New Mexico include seeds from "landraces" that are saved annually, the seeds are acclimated to specific regions and contribute to genetic diversity, the seeds are drought-tolerant and contain genes desired by industry and "landraces" have a unique and distinct flavor. Moreover, farmers do not want these

seeds or genetic material in their fields or gardens. New Mexico farmers need protection from contamination by GE seeds and plant material.

Upon inquiry from the committee, Dr. Thompson suggested using pollination cages to prevent cross-breeding of the chile. For those communities that do not use pollination cages, a solution would be not to plant the patented chile. The committee questioned the case of Monsanto suing farmers for the cross-pollination of chile. Ms. Albert stated that Monsanto had the right to trespass onto property because the farmers were potentially using the patent chile without proper consent. A sign has to be posted in order to claim that someone has trespassed onto property.

Economic Development Impact of Infrastructure for Colonias; Domestic Water Usage in Colonias; How Colonias Are Using the Funding They Receive

Silvia Sierra, director, Doña Ana County Health and Human Services Department; Sue Padilla, assistant county manager, Doña Ana County; and Chuck McMahon, director, Community Development Department, Doña Ana County, presented before the committee. Ms. Sierra discussed colonias in Doña Ana County. She stated that colonias are rural communities located within 150 miles of the United States-Mexico border. Colonias often lack the basic necessities most Americans take for granted such as running water, electricity and paved roads. These mostly unincorporated communities began to be developed in the 1950s and have continued to exist for a variety of reasons such as poor land use regulations. The colonias are without safe, sanitary and affordable housing, drinkable water, sewers and drainage systems. Colonias struggle with issues often associated with third world countries. In 1990, Doña Ana County recognized the existence of 37 colonias. In 2003-2004, Doña Ana County began resolving infrastructure problems such as roads, drainage, wastewater and water. Doña Ana County partnered with NAD Bank and BECC for public sewers to get cesspools and septic tanks off-line. In addition, in the case of the Vado area, stimulus money was used to build a flood wall in addition to a master plan for improvements to flood-prone areas. From 2004 to 2010, 19 Doña Ana County colonias have improved, according to the "A through E" rating each colonia is given. Most of the improvements in these colonias have been seen in the southern region, with 13 colonias improving their ratings. Success has been seen in the colonias. Doña Ana County seeks assistance from DACC, La Clinica and Ben Archer to offer services to residents and mandates that 35 percent of these services be located within Doña Ana County community centers. The MVEDA and Arrowhead Research Center identified the need for jobs, educational opportunities and transportation issues. The South Central Regional Transit District analyzed regional transit in the southern part of the county. Ms. Sierra mentioned that the colonias are currently facing infrastructure, social and economic challenges.

New Las Cruces Tax Increment Development District Update

William Sletton, downtown development coordinator, City of Las Cruces, indicated that the Main Street downtown area of Las Cruces has undergone many renovations. Work on North Main Street began on June 28 of this year; the project includes the roundabout in front of the new city hall. Infrastructure improvements within the district include reopening Main Street (north and south), costing approximately \$6.2 million; Water Street and Church Street

conversion to two-way traffic, costing approximately \$3.1 million; Las Cruces and Griggs avenues between Church and Alameda streets, costing approximately \$2.6 million; and Organ, Court, Hadley and May streets, costing approximately \$3.1 million. In addition, revitalization projects in Doña Ana County include city hall, costing approximately \$32 million; the federal courthouse, costing approximately \$83 million; workforce housing, costing approximately \$10 million; the marketplace, costing approximately \$500,000; streets and utilities, costing approximately \$10.8 million; museums, costing approximately \$4.5 million; and private property improvements, costing approximately \$2 million.

There being no further business before the committee, the third meeting of the Economic and Rural Development Committee adjourned at 11:48 a.m.

**MINUTES
of the
FOURTH MEETING
of the
ECONOMIC AND RURAL DEVELOPMENT COMMITTEE**

**November 18-19, 2010
Room 317, State Capitol
Santa Fe**

The fourth meeting of the Economic and Rural Development Committee (ERDC) was called to order by Representative Mary Helen Garcia, chair, at 10:00 a.m. on Thursday, November 18, 2010, in Room 317 of the State Capitol.

Present

Rep. Mary Helen Garcia, Chair
Sen. Bernadette M. Sanchez, Vice Chair
Rep. Andrew J. Barreras
Sen. Mark Boitano (11/18)
Rep. Ernest H. Chavez
Sen. Mary Jane M. Garcia (11/18, by telephone)
Rep. William J. Gray
Rep. Clinton D. Harden, Jr. (11/18)
Sen. Timothy M. Keller
Rep. Patricia A. Lundstrom
Sen. Richard C. Martinez
Sen. Howie C. Morales
Rep. Debbie A. Rodella
Sen. William E. Sharer

Absent

Rep. Nora Espinoza
Rep. Dianne Miller Hamilton

Advisory Members

Rep. Zachary J. Cook (11/18)
Rep. Nathan P. Cote
Rep. John A. Heaton
Rep. Sandra D. Jeff
Rep. James Roger Madalena
Rep. Andy Nuñez
Rep. William "Bill" R. Rehm
Sen. David Ulibarri
Rep. Richard D. Vigil

Sen. Rod Adair
Sen. Sue Wilson Beffort
Sen. Dianna J. Duran
Sen. Carroll H. Leavell
Rep. Antonio "Moe" Maestas
Sen. George K. Munoz
Sen. John M. Sapien
Rep. Shirley A. Tyler

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

Staff

Peter Kovnat

Jennifer Rabinowitz

Guests

The guest list is in the meeting file.

Handouts

Handouts and other written materials are in the meeting file.

Thursday, November 18

Construction Industries Division (CID) and Local Inspectors: Questions of Oversight

Kelly O'Donnell, superintendent, Regulation and Licensing Department (RLD), and Chris Williams, chair, New Mexico Council of Building Officials, discussed the current state of dialogue between the New Mexico branch of the International Code Council (ICC) and the RLD regarding the regulation of inspection officials. Mr. Williams described dissatisfaction among building officials in New Mexico with existing certification practice. The CID certifies inspectors on a jurisdictional basis, making it difficult for inspectors to work outside their jurisdiction. The ICC suggests that certification be on a statewide basis instead. The ICC also considers the CID's practice of certifying inspectors in only one area to be inefficient and suggests that inspectors be certified in multiple areas, which Mr. Williams said is a common practice in most other states. He said it is inefficient to have three people do what one person can, particularly as inspectors have to travel to remote parts of the state. The ICC also suggests that inspectors be authorized to inspect public and municipal buildings, which is presently done by CID personnel.

Superintendent O'Donnell urged a more efficient use of agency resources, such as using the CID as a training and support resource to local inspectors rather than as a certification body. She requested that the legislature clarify the CID's inspection mandate in statute and offered to the committee draft rules collaboratively created by the CID and ICC. The draft rules allow local building departments to share inspectors through memoranda of understanding; authorize inspectors to have multiple certifications; address uniformity of inspector qualifications, which Superintendent O'Donnell suggested could be achieved through a mentoring program with experienced inspectors; and permit certified local inspectors to inspect public buildings. Superintendent O'Donnell said that under the current system, the CID is charged with inspecting public buildings, which perpetuates a misperception that the CID is not subject to its own rules. Superintendent O'Donnell described the draft rules as a way to achieve greater efficiency of agency resources, to aid the growth of construction and to strengthen the New Mexico economy.

Committee members asked if the new rules drafted by the CID and the ICC had the support of the New Mexico Association of Counties and the New Mexico Municipal League. Superintendent O'Donnell answered that the New Mexico Municipal League has been very involved in drafting the rules. The committee next discussed instituting an appeals process for denied certifications. Superintendent O'Donnell replied that the CID is already 25% understaffed. Committee members inquired about the balance of power between localities and

the CID and wondered if localities can override CID regulations. Superintendent O'Donnell said the CID enforces the Construction Industries Licensing Act, with a major piece of its rulemaking authority focused on statewide building codes. The CID is not authorized to administer municipal codes, as stated in an opinion letter by the attorney general. Committee members asked if a statute would be needed to limit the scope of the CID's rulemaking authority. Superintendent O'Donnell said that a statute was unnecessary but that the act, which has been amended many times, needed greater "bright line" guidance to the CID in administering the law. Committee members expressed concern about the accountability of contract inspectors. Committee members asked whether New Mexico's building code is different from Colorado's or Arizona's. Superintendent O'Donnell said that most of the New Mexico code is exactly the same as the codes of other states. It differs from other states in being responsive to local conditions, such as climate. Superintendent O'Donnell suggested that the code be revised so that it better reflect construction industry needs and the economic development needs of New Mexico. The committee concluded by publicly thanking Superintendent O'Donnell for her valuable service to New Mexico. It further agreed that shifting building inspections to localities was a good idea. The committee established a working group to draft suggested legislation based on proposed rules drafted by the CID and the ICC.

New Mexico Rural Development Response Council: Status Update, Rural Broadband and Youth Entrepreneurship

Ed Burckle, executive director, New Mexico Rural Development Response Council (NMRDRC), and Kathy Keith, president, NMRDRC, discussed efforts to assist the economic development of rural businesses. The NMRDRC applies for grants from the federal regulatory agencies on behalf of rural communities. It then administers and allocates the federal funds. The NMRDRC provides rural businesses with the technical assistance to grow and prosper. Since 1992, the NMRDRC has provided services to more than 50 rural communities in New Mexico. The NMRDRC's youth entrepreneur program targets junior high and high school students to become entrepreneurs in their local communities. The NMRDRC also organizes a yearly entrepreneur conference and a competition in which youths submit business plans on promising business ideas. The winner is awarded funds to start a business of his or her own.

Currently, the NMRDRC is undertaking an initiative to enhance broadband access in rural areas. The program was launched four years ago with an internet site to connect business activities in rural communities throughout New Mexico. For example, rural business entrepreneurs can have virtual meetings to discuss challenges, gain peer support, peruse an online business library or look for grant opportunities. The organization is also helping rural businesses achieve greater energy efficiency. Mr. Burckle and Ms. Keith thanked the legislature for its past support, which they said is critical to leveraging federal funds.

Committee members asked what appropriations the NMRDRC is requesting. The NMRDRC is requesting \$200,000. It was not given appropriations last year. A committee member asked about the NMRDRC's outreach to Native Americans. A representative of a pueblo serves on the NMRDRC's board. Additionally, the NMRDRC has partnered with 18 Navajo communities to help them understand and utilize its services. The NMRDRC

acknowledges a great need for business development services among Native American communities. A committee member expressed support for the NMRDRC's work and suggested that an appropriations request be made to assist rural communities.

Qwest Status and Merger with CenturyLink

Loretta Armenta, president, Qwest New Mexico; Leo Baca, public affairs director, Qwest New Mexico; and Randy Hall, area operating manager, New Mexico CenturyLink, updated the committee on efforts to merge Qwest and CenturyLink. Both companies described the merger as benefiting rural and urban New Mexicans by advancing the merged company's ability to roll out products and provide services. The merger will also establish a fairer environment in which the merged company can compete. At present, they said, their competitors operate in an unregulated environment, which places Qwest at a competitive disadvantage. Both companies said they are working on legislation to be presented to the Science, Technology and Telecommunications Committee that is similar to House Bill 107, introduced in 2010. Among other things, House Bill 107 would have allowed a telecommunications company required to relocate its network facilities due to federal, state or local projects the ability to recover relocation costs up to \$1 million. While the companies are not asking for the committee's endorsement of a 2011 bill, they said they will be asking for assistance.

Committee members asked whether the proposed merger would run afoul of the Hart-Scott-Rodino Antitrust Improvements Act of 1976. Ms. Armenta replied that the required waiting period under Hart-Scott-Rodino, in which regulatory agencies evaluate a proposed merger, expired on July 15, 2010. Committee members inquired about the number of New Mexico employees the company would have after the merger. The presenters replied that any transition involves an evaluation of staffing, but that at this time it appears there will be minimal change. They were less sure about changes to the merged company's leadership. Committee members asked about plans to extend or establish services in Navajo country. The companies are looking to consolidate existing areas and then evaluate future expansion, but this will not take place in the immediate future. The committee next turned to anticipated earnings and inquired about land lines as a challenge to earnings. Members asked whether the proposed expansion would result in a positive balance sheet or would simply be a stopgap measure that ratepayers get stuck paying. CenturyLink is operating with zero debt. The merged company would be assuming Qwest's debt level.

The New Mexico Small Business Development Center's Impact on Economic and Rural Development

Michael Mykris, interim state director, New Mexico Small Business Development Center (NMSBDC); Ray Garcia, director, NMSBDC of Albuquerque; and Sandra Taylor-Sawyer, director, NMSBDC of Clovis, discussed their efforts to provide education and assistance to new and existing small businesses in New Mexico. They underscored the value of small businesses to New Mexico's economy. The NMSBDC serves the entire state and has operations in both urban and rural communities. The NMSBDC is a federally chartered program with oversight from the U.S. Small Business Administration and the State of New Mexico through the state's Higher Education Department. The NMSBDC is hosted by 18 institutions of higher education

throughout New Mexico. In 2010 alone, the NMSBDC assisted clients in securing more than \$25 million in debt and equity investments; helped to establish 185 new businesses; created 844 new jobs; and saved 256 jobs in New Mexico. It had 3,812 clients and hosted 497 business-focused events. The NMSBDC is also working with New Mexico clients in the area of federal contracting, the Procurement Technical Assistance Program (PTAP), which is federally chartered with oversight from the Defense Logistics Agency of the U.S. Department of Defense. In fiscal year 2010, the NMSBDC facilitated over \$42 million in federal contracts through the PTAP.

Committee members asked about the NMSBDC's future leadership. The panel replied that the president of Santa Fe Community College (SFCC) is the hiring authority for the position. Committee members inquired about educational and professional requirements for leadership at NMSBDC offices. A minimum requirement is a master of business administration degree and/or business ownership. However, the exact requirements are at the discretion of each hosting college. Committee members asked about SFCC's role at the NMSBDC. SFCC's oversight is primarily budgetary and not programmatic. SFCC administers distribution of appropriations to local offices, which then prepare an accounting report to SFCC on a monthly and quarterly basis. Committee members asked whether the NMSBDC anticipated a reduction in its 2011 budget. At present, the Higher Education Department has appropriated a 14.7% reduction to the NMSBDC's 2010 budget, or \$4.6 million. Approximately one-eighth of NMSBDC's budget comes from the federal government. Committee members asked how the NMSBDC would adjust to appropriations cuts, should they occur. The plan is to consolidate some of its business centers. Committee members asked about notification to the NMSBDC of companies considering moving operations to New Mexico. The NMSBDC is not chartered to solicit business from outside the state. However, it does get leads. The committee expressed support for the work of the NMSBDC and suggested that it have a more prominent place in local communities.

Status Update on Senate Bill 46 (2009), Statewide Opportunities in Vocational Education and the Needs of New Mexico's Job Market

Melissa Lomax, bureau chief, Career Technical and Workforce Education Bureau, Public Education Department (PED), gave a status update on high school pre-apprenticeship programs (Senate Bill 46 from the 2009 session) and the Apprenticeship Assistance Act, which make credit-bearing vocational education and apprenticeships available to students at New Mexico high schools. The PED's priority is to build and expand partnerships among New Mexico public secondary and post-secondary schools, trades and industries and state agencies. Dr. Lomax stated that students who get involved in academics with a career-focused curriculum tend to have higher grades and higher graduation rates than their peers. Students receiving vocational training have the skills, abilities and competencies needed to participate in, and contribute to, the New Mexico economy. However, schools still need to be made aware of the availability of vocational training.

Committee members said it is critical to make school counselors and administrators aware of the vocational training program and the opportunities for students to gain credit under it. It was observed that with even one year of vocational training, students can earn money for

their skills. Dr. Lomax said that schools are aware of career pathways, but they often do not know that a program is available to them. Committee members asked whether the industries that students are being trained in are union or non-union. Both union and non-union industries are eligible to participate in the program. Committee members observed that the program's vocational training is primarily in the construction trades. Dr. Lomax said the PED is looking to training outside the construction industry. Committee members asked whether charter schools are participating in the program. Dr. Lomax will get back to the committee with an answer. Committee members expressed concern that youths are leaving the state for jobs elsewhere but said the program is a great model to follow to help New Mexico communities. Further, not all youths choose to go to college. The program gives those young people a future. Committee members asked whether students in the program are eligible for money from the federal Perkins loan program. Dr. Lomax replied that school districts must meet a minimum threshold in enrollment and certain socioeconomic factors to be eligible for Perkins funds.

The committee recessed at 4:55 p.m and reconvened the following day at 9:17 a.m.

Friday, November 19

Everything You Ever Wanted to Know About Credit Reports

Roman Maes, chief executive officer, New Mexico Public Relations LLC, and Eric Rosenberg, director of state government relations, TransUnion, discussed the role of credit scoring agencies in the current economic climate and the need to establish greater accuracy in gathering information to assist lenders in the decision-making process. Mr. Rosenberg described the current economic situation as one in which demand for credit is greater than supply. He said that responsible lending is a critical factor to loosening the tight credit market. The accuracy of information on a person's creditworthiness is key to achieving that objective. In turn, greater access to credit avails the American public of opportunities to establish or expand their own businesses, small businesses being essential to the overall recovery of the American economy. He described people as disillusioned with the idea of long-term employment, saying that they see entrepreneurship as a necessity, not a luxury. People are increasingly using their credit cards to finance start-up businesses or expand existing businesses. For lenders to free up capital, they need accurate, timely information on potential borrowers. TransUnion encourages legislative initiatives to require the use of alternative data sources in lending decisions. Mr. Rosenberg said that less hedging by lenders means that financial instruments do not need to be inflated. TransUnion urged the legislature to require income reporting and substantiation on credit reports. He said the extra information would give borrowers a "second look" by lenders and might help consumers overcome a spotty credit history. The information would thereby assist the freeing up of capital, helping small businesses and consumer spending alike.

Committee members said they see a big problem in public confidence in the economy, with small businesses lacking access to credit and consumers unwilling to spend money. While banks want to free up money, today's regulations require that lenders know more about their customers. Today's lenders no longer look only at credit scores but are required to use other sources. Committee members opined that income verification would greatly help the lending

process. Lenders could subsequently offer consumers more attractive rates. Committee members asked whether financing small businesses on personal credit cards is a good or bad development. Mr. Rosenberg replied that it is both a good and a bad thing. People out of work are trying to start businesses. On the other hand, he said, they are out of work and needing an income. Committee members asked what percentage of the lending market microlending organizations have? Mr. Rosenberg said he would need to get back to the committee with the answer. He said that microloan lenders and mainstream banks are complementary, but microloans take longer to approve. Committee members expressed concern about the disproportionate impact of credit scores on lower income people, as well as the use of the data by insurers or by employers in hiring decisions. TransUnion gets its income from charging banks for access to collected data, credit-scoring products and anti-fraud products (for businesses). Experian and Equifax are the two other credit-scoring companies in the United States. The sharing of data between the companies is conducted on a voluntary basis, which is why each may have a dissimilar score for the same consumer.

The SunZia Southwest Transmission Project and Its Economic Impacts

David Getts, general manager, SouthWestern Power Group (SPG), and Dr. Anthony V. Popp, professor emeritus, Department of Economics and International Business, College of Business, New Mexico State University (NMSU), discussed the SunZia project and plans to transport energy derived from renewable resources. SPG is owner, investor and manager of the SunZia project and has submitted an environmental impact statement (EIS) to the federal Bureau of Land Management (BLM) to develop transmission lines for the purpose of transporting energy as far away as California. Consumer demand for renewable energy is the driver of the project, but SPG will give access to any kind of power plant seeking to transport energy over SunZia's transmission lines. It anticipates that a majority of its customers will be wind and solar companies. SPG is seeking approval from the BLM for right-of-way access for placing the transmission lines, and it anticipates no problems in obtaining additional permits from the Public Regulatory Commission. SPG acknowledged that people do not like transmission lines in their backyard and that there is some environmental impact. The proposed route is primarily on public lands. The typical right-of-way width is 200 feet per line and up to 1,000 feet for two lines. The typical structure is 130 feet to 160 feet high, with 1,300 to 1,500 feet between structures. SunZia hired NMSU to provide an economic impact assessment of the New Mexico-based transmission lines. Dr. Popp estimates that the project will create approximately 570 jobs (130 of which are construction jobs over a one-and-a-half-year construction period).

Committee members expressed concern over the high cost of renewable versus other energy sources. They said that nuclear power was cleaner and cheaper and that gas generation should be built into SunZia's cost model, which New Mexico consumers will have to pay in the final analysis. How can the New Mexico ratepayer afford to go from \$.10 to \$.26 and how can the state keep a viable economy? Cost is a serious factor. Further, the number of jobs gained from the SunZia project is anemic compared to the amount of capital being invested. Committee members said that when the tax credits go away, the SunZia project will be a noncompetitive power source. Mr. Getts responded that he did not have an answer to those charges; SunZia is a transmission project, not a generation project, and its success will depend on generating

customers, some of whom will be producing energy from nonrenewable resources. The vast amount of electric generation traveling over its wires will go west, with Arizona and California likely to be most interested in buying renewables. Mr. Getts also said that natural gas or nuclear energy would be a possibility if somebody wants to site them. Committee members asked how many wind turbines would be required for 3,000 megawatts of power. Mr. Getts responded that one turbine produces 1.5 megawatts. He confirmed to the committee that turbines kill birds. Mr. Getts touched upon the problem of barriers to interstate commerce. He said that SPG would like to have the power of eminent domain but that it is a sensitive issue for private landowners. SPG has suggested ways in which New Mexico could assist the eminent domain process. In the interim, SPG will have to negotiate with landowners to obtain rights of way. SPG needs to secure 60% to 70% of capacity through long-term contracts to make the project economically viable. Finally, committee members asked whether the transmission lines would interfere with military operations. Mr. Getts said SPG is in extended discussions with White Sands Missile Range and Fort Bliss regarding routing plans. Routing issues are discussed in the EIS, which is being evaluated by the BLM. The committee encouraged SPG to continue engaging in dialogue with the military.

Economic Impact in New Mexico of Rural Electric Cooperatives

Christopher A. Erickson, associate professor of economics, NMSU, and Keven Groenewold, executive vice president and general manager, New Mexico Rural Electric Cooperative Association, gave a macro-view of the role of electric cooperatives in New Mexico. New Mexico has 16 rural electric cooperatives operating in 32 counties. The cooperatives serve more than 200,000 rural customers and maintain more than 44,000 miles of transmission lines. They provide a vital service to rural communities that otherwise would not receive power or would have to pay higher rates than their urban counterparts. New Mexico's electric cooperatives have 789 full-time employees. Cooperatives are exempt from corporate income tax at the state and federal levels because of their nonprofit status. However, they are subject to sales, property and other taxes. New Mexico's electric cooperatives are actively seeking to improve the environment through energy conservation education and by using renewable energy resources. The cooperatives also give academic scholarships to youths within their consumer bases. In 2008, for example, they awarded more than 459 scholarships to youths, totaling over \$570,000. The scholarship program has awarded over \$5.2 million since its inception. Electric cooperatives in New Mexico serve the communities in which they operate and have become a major contributor to New Mexico's economy.

The committee commended New Mexico's electric cooperatives for the benefits to consumers achieved by their conservation programs. Committee members asked about projects to develop solar energy in New Mexico. A representative from the Energy, Minerals and Natural Resources Department stated that a solar park is being built in Hatch, New Mexico. It will be the largest solar facility in the state. The committee recognized the electric cooperatives for their good work and for the money they bring to rural communities in the state.

The meeting adjourned at 4:54 p.m.

**MINUTES
of the
FIFTH MEETING
of the
ECONOMIC AND RURAL DEVELOPMENT COMMITTEE**

**December 1, 2010
Room 322, State Capitol
Santa Fe**

The fifth meeting of the Economic and Rural Development Committee (ERDC) was called to order by Senator Bernadette M. Sanchez, vice chair, at 10:25 a.m. on Wednesday, December 1, 2010, in Room 322 of the State Capitol.

Present

Sen. Bernadette M. Sanchez, Vice Chair
Rep. Andrew J. Barreras
Sen. Mark Boitano
Rep. Ernest H. Chavez
Rep. William J. Gray
Sen. Clinton D. Harden, Jr.
Sen. Timothy M. Keller
Rep. Patricia A. Lundstrom
Sen. Richard C. Martinez
Rep. Debbie A. Rodella
Sen. Nancy Rodriguez
(appointed for this meeting)

Absent

Rep. Mary Helen Garcia, Chair
Rep. Nora Espinoza
Sen. Mary Jane M. Garcia
Rep. Dianne Miller Hamilton
Sen. Howie C. Morales
Sen. William E. Sharer

Advisory Members

Sen. Carroll H. Leavell
Rep. Andy Nuñez
Sen. David Ulibarri

Sen. Rod Adair
Sen. Sue Wilson Beffort
Rep. Zachary J. Cook
Rep. Nathan P. Cote
Sen. Dianna J. Duran
Rep. John A. Heaton
Rep. Sandra D. Jeff
Rep. James Roger Madalena
Rep. Antonio "Moe" Maestas
Sen. George K. Munoz
Rep. William "Bill" R. Rehm
Sen. John M. Sapien
Rep. Shirley A. Tyler
Rep. Richard D. Vigil

Staff

Peter Kovnat
Jennifer Rabinowitz

Minutes Approval

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

Guests

The guest list is in the meeting file.

Handouts

Handouts and other written materials are in the meeting file.

Wednesday, December 1**Local Food Purchasing Requirement**

Senator Keller testified on a bill he is sponsoring to establish local procurement requirements for food purchased by state government. The bill requires that by 2016, 10 percent of all food purchases by state government must be from New Mexico producers and processors and removes exemptions from this requirement for prisons, hospitals, schools and the governor's mansion. Private prisons are not subject to the requirement. Senator Keller said that the bill will benefit both big and small growers in New Mexico, which are experiencing economic challenges. The bill does not pertain to distributors, only food producers and processors.

Committee members sought clarification on who local producers are. Senator Keller said the bill would benefit big and small agricultural operations in the state, including dairy farmers, pecan growers and the smaller farms that sell to farmers' markets. Committee members inquired whether New Mexico is purchasing food from out-of-state producers. Senator Keller replied that there may be long-standing purchasing arrangements with out-of-state producers. The committee asked how the 10 percent would be measured by agencies. The percentage would be based on an agency's budget. By way of example, Senator Keller described an agency flagging in-state and out-of-state purchases so as to ensure that, in the aggregate, the 10-percent quota was met. The aggregate 10 percent would be inclusive of all purchases (beef, pecans, milk, etc.). The committee expressed concern that a quota would serve to increase the price for state-purchased food. Senator Keller said the bill is not a "preference" and does not address price at all; at what price an agency purchases food is totally open to the agency. He acknowledged that smaller producers can be more expensive.

Committee members asked how the bill addresses noncompliance. Senator Keller said there is no enforcement language in the bill and that enforcement would have to take place through the courts. Committee members revisited the issue of pricing and purchasing restrictions under the Procurement Code. The Procurement Code requires the state to purchase goods and services from the lowest bidder. Purchases above \$20,000 are required to be bid on;

purchases under \$20,000 are at the discretion of the agency. Committee members opined that the bill may be in conflict with the current Procurement Code. Senator Keller agreed and offered to withdraw the bill until such time as the Procurement Code purchasing issue could be studied. Committee members agreed not to take any further action on the bill.

In-State Preference for State Contracts

Senator Keller testified on a bill he is sponsoring to require a preference for New Mexico contractors in the awarding of state contracts, including construction contracts. Senator Keller said that the bill had been thoroughly vetted among construction industry stakeholders. He said that this committee endorsed the bill in the last legislative session, as did two other committees. However, he said, the House Business and Industry Committee tabled the bill because the committee could not agree on what weight to give the preference (from zero to 10 percent). The original recommendation was to maintain a weight of five percent, which Senator Keller's bill does not change. Senator Keller's current bill is modeled on Nevada law, which better addresses issues of enforcement and loopholes. By way of example, Senator Keller said current law has no enforcement provisions and only requires that a company have an office in New Mexico to avail itself of the in-state preference. There are carve-out provisions for New York-headquartered companies and telecommunications companies. Additionally, carve-out provisions exempt professional services such as architectural services. Senator Keller opined that so many exemptions currently exist that the intent behind the preference is essentially ineffective. The current law does not benefit New Mexico companies at all. Senator Keller's bill will require a company to have residency in New Mexico for five years. Its enforcement mechanisms require a company to submit within 30 days of bidding on a contract an affidavit signed by a certified public accountant that validates the company as an in-state company. The bill exempts entrepreneurs, as long as they have been based in New Mexico for five years, and companies that relocate, as defined by 80 percent of their work force being based in New Mexico, which would be eligible for the preference right away. The bill only pertains to public works contracts and does not affect the private sector. Committee members asked for comments from the audience. Representatives from New Mexico's sheet metal, electric, subcontractor and building and maintenance sectors of the construction industry expressed their support for the bill.

Upon a motion by Representative Lundstrom, seconded by Senator Harden, the committee endorsed the bill without objection.

Create a Consistent Agency Rulemaking Process

This bill is intended to address minute points in the rulemaking process. Kelly O'Donnell, superintendent of the Regulation and Licensing Department, chaired the Model State Administrative Procedures Task Force (MSAPTF) to address how administrative rules are created under the Administrative Procedures Act. The draft bill is a unanimous consensus bill of the task force's disparate members. New Mexico is the only state that does not follow a uniform Administrative Procedures Act. Rather, in New Mexico, agencies have rulemaking discretion. This bill would apply to every rulemaking agency and provide for uniformity in the creation and application of rules, in posting public notices and in recording and tracking results of meetings.

Committee members asked about the fiscal impact of the bill. The bill will not create a new agency. Committee members asked Mr. Kovnat to write a summary of the Regulatory Process Subcommittee's deliberations on rulemaking and the bill. Mr. Kovnat stated that the issue of rulemaking was discussed by the Regulatory Process Subcommittee in its two hearings. The initial idea was for the MSAPTF to examine legislative oversight of agency rulemaking, specifically where the legislature's powers versus the executive's powers begin and end relative to rulemaking. The MSAPTF also authored a bill creating the Office of Administrative Hearings, which was subsequently heard by the Government Restructuring Task Force. While neither of these bills addresses the separation of powers issue, it is a common area of concern to the legislature, and it is addressed by other legislation that the committee would consider for endorsement during the meeting.

Committee members asked whether the legislature has any oversight over the rulemaking process discussed in the immediate bill, and they wondered whether the bill provides sufficient public notice. The bill requires public notice in all of the following venues: an agency's district field offices, in newspapers and, for those districts without newspapers, on radio and television. It also requires notice to the Legislative Council Service. Committee members felt that the language pertaining to public notice was unclear, so they asked that the language be reviewed by a lawyer. Members also felt that the phrase "provide to the public" was defined differently in two places in the bill.

Mr. Kovnat clarified the language, saying that the "and" makes it clear that all public notice venues are required. Committee members recommended that Senator Keller review the Open Meetings Act.

Upon a motion by Senator Rodriguez, seconded by Senator Boitano, the committee endorsed the bill without objection.

Joint Resolution for Constitutional Amendment for Legislative Veto of Rules

Representative Chavez is sponsoring a joint resolution to propose a constitutional amendment to provide the legislature with veto power of agency rules. The proposed constitutional amendment would give legislative oversight over rulemaking by agencies by a veto of a majority of each house.

Committee members asked whether other state legislatures have the authority to override the executive branch. Representative Chavez said that four years ago, a similar bill providing legislative veto power was brought before the New Mexico Senate. The governor vetoed the bill. This resolution will support amending the Constitution of New Mexico and will be brought to New Mexico's voters.

Upon a motion by Representative Lundstrom, seconded by Representative Barreras, the committee endorsed the bill without objection.

Limit Agency Authority to Make Rules

This is a bill to require agencies to cite specific statutory authority when making rules. Committee members described the bill as taking out the loopholes and providing greater clarity on the legislative authority for rulemaking, restricting agencies to creating administrative procedures instead of policies.

Mr. Kovnat said that the bill changes language in enabling clauses from "reasonable" and "procedures" to "reasonable procedural". The bill narrows the authority of agencies to interpret legislative intent.

Upon a motion by Senator Rodriguez, seconded by Representative Lundstrom, the committee endorsed the bill without objection.

Limited Liability for Space Flight Manufacturers

This is a bill to extend limited liability for space flight entities to include manufacturers. The bill is modeled on Florida law. The Senate Judiciary Committee, the only committee to consider the bill previously, did not pass it.

Committee members opined that the limited liability issue is a trial lawyer issue. Tom Horan, who will be registered as a lobbyist for Virgin Galactic, said that last year's bill immunized operators. However, it did not immunize Boeing, which is the manufacturer of the space craft. This legislation would immunize suppliers and manufacturers alike. Last year's bill only pertained to operators. If passed, the legislation would mean that New Mexico's limited liability laws are similar to Virginia's and Florida's. The intent of the bill is to put the businesses that work with flight entities in the same position as the operator.

Committee members asked whether the bill would affect the state's liability. The bill does not contain language regarding the liability of the state. Mr. Horan said that the state would not be liable, just as when a plane crashes at Albuquerque Sunport, the airport facility is not liable unless, for example, a truck is left on the tarmac. The Tort Claims Act requires a greater nexus. Committee members suggested that the bill be evaluated by the New Mexico Finance Authority Oversight Committee. Committee members unanimously agreed to withdraw the bill.

Scratch-Off Lottery for Student Launch Program

Senator Ulibarri testified on a bill to create a lottery game to fund the student launch program, a math and science education program for New Mexico youth. Committee members asked whether the proposed funding mechanism would involve establishing a new lottery fund. Senator Ulibarri said the designated lottery fund would not divert money from the general lottery fund for education because people would be purchasing a lottery card specifically designated for the student launch program. Committee members asked whether the Spaceport would consider partnering with existing science and math education programs, such as the "Explore" program that operates in all 33 counties in New Mexico. Senator Ulibarri said that funding mechanisms for the Spaceport education program are still at the conceptual stage but that anything the legislature can do to advance the education of New Mexico children should be supported.

Additionally, federal matching funds are available for the science and math education program at the Spaceport. Committee members said they are hesitant to create a new lottery program that would compete with the existing lottery's general fund for education. They opined that establishing a lottery designated to a specific education program establishes a dangerous precedent by diluting potential incoming lottery money from the general fund at a time in which the fund is financially challenged.

Committee members suggested that a line item be built into the Spaceport's budget, as determined by the Legislative Finance Committee, and that it also be submitted to the Legislative Education Study Committee. Senator Ulibarri agreed to withdraw the bill and submit it to both committees.

Time Frames for License Applications

Senator Ulibarri testified on a bill that will require agencies to set response times when people apply to agencies for permits or licenses. Senator Ulibarri said that agencies sometimes take upwards of 18 months to respond to a request for permits. This bill mandates that agencies establish, by rule, time frames in which they are obligated to respond to permit or license applications.

Upon a motion by Representative Lundstrom, seconded by Senator Martinez, the committee endorsed the bill without objection.

Public Notices on Broadcaster Web Sites

This bill will require broadcasters to post on their web sites any public notices for which an agency has purchased air time. The purpose of the bill is to publicize public notices better, particularly in communities that lack a local newspaper.

Committee members said they had discussed in a previous hearing the issue of broadcasting legal notices. At the time, they determined that it would be better to read a public notice than to hear one. Members further discussed that there is limited internet access in many rural localities in New Mexico. Mr. Kovnat replied that a web site has been created to serve as a centralized location for public notices, which the bill would make the responsibility of broadcasters to oversee. Committee members asked whether the requirement would have any fiscal impact on the state; it appears that it will not. They opined that a web site serving as a repository of public notices is a good idea and imperative. Committee members asked the audience for its objections. Mr. Horan and Philip M. Lucey, executive director of the New Mexico Press Association (NMPA), said that a web site for public notices already exists to which all New Mexico newspapers automatically upload public notices. Seventeen states have similar web sites. Mr. Lucey said a concern of the NMPA is those instances in which a notice fails to be posted; for example, a foreclosure notice. Committee members said that they understand that concern.

Upon a motion by Senator Martinez, seconded by Senator Boitano, the committee endorsed the bill without objection.

Border Trucking

This bill, which was presented to the New Mexico Finance Authority Oversight Committee, would relax permit requirements for overweight vehicles within six miles of the New Mexico/Mexico border. The bill also imposes penalties for operating within that six-mile radius if the weight of the load surpasses 86,400 pounds. The bill was presented to the legislature by the Border Authority.

Upon a motion by Representative Lundstrom, seconded by Senator Martinez, the committee endorsed the bill without objection.

Flexibility for Local Building Inspectors

This bill will allow municipalities to share building inspectors so as to avoid duplication. The bill will enable jurisdictions to share inspectors and will allow inspectors to have multiple certifications.

Committee members asked if the bill would allow state inspectors to do city inspections, and vice versa. The purpose of the bill is to give local jurisdictions the same tools that the state has in inspecting buildings. Committee members noted that cities and counties already have agreements with the Construction Industries Division (CID) of the Regulation and Licensing Department to do the inspections themselves. A committee member said that due to budget shortfalls, the CID is short of staff. Therefore, a bill of this kind is needed to help the construction industry realize cost efficiencies and, in doing so, to aid New Mexico's economic growth.

Committee members asked for objections from the audience. Steve Crespín, who sits on the board of the Construction Industries Commission and who represents the Licensed Mechanical Contractors Association, said that he could not comment on the bill until he has an opportunity to review it. Additionally, he said the commission's executive director, Lisa Martinez, had been directed not to attend today's hearing. Mr. Crespín said that the biggest concern of the association is the need to adjust to a patchwork quilt of building codes across the state, especially on the commercial side. He said that the bill has not had input from contractors and other trades, just from the inspectors' side of the process. He felt that as a result, the bill would hinder economic development.

Committee members disagreed with Mr. Crespín, saying that it is important that the bill would not create a patchwork quilt of codes. It is designed to do the opposite; that is, to create uniform codes throughout the state. The bill would repeal the Construction Industries Licensing Act and change the CID's management of local inspectors. The CID would otherwise retain the same authority and obligations. The committee members asked for a show of hands in support of the bill. Among others, those that supported the bill included the Association of Contractors of New Mexico, the New Mexico Conference of Building Officials, the Council of Code Officials, the American Subcontractors Association, which supported the bill in concept, and building officials from Rio Rancho, Las Cruces, Hobbs, Clovis, Bernalillo, Angel Fire, Taos and Corrales.

Mr. Crespin was in opposition to the bill.

Upon a motion by Senator Boitano, seconded by Senator Harden, the committee endorsed the bill without objection.

Bill Inspector Sharing Among Municipalities

This bill would amend and repeal the CID's authority over municipal inspectors.

Upon a motion by Senator Rodriguez, seconded by Senator Martinez, the committee endorsed the bill without objection.

Life and Health Insurance Guaranty Law

This bill raises the financial guarantees for life and health insurance policies. The bill would guarantee on a state level up to \$300,000 for long-term care, \$250,000 for annuities and \$300,000 for life insurance. The increase will be funded through assessments on insurance companies doing business in New Mexico. The insurance companies then pay into a fund that is operated by the insurance industry to cover insolvencies. The fund provides a safety net to the industry, increases coverage and increases uniformity among insurance companies. Almost every state has a guaranty fund. The insurance industry supports the increase and the assessment. Committee members asked how the assessment would affect policy premiums, as many New Mexicans are struggling to meet their premiums. The premium increases would depend on the number of insolvencies that occur in the future, but New Mexico law restricts increases to two percent of premium costs. Committee members asked how many insurers have gone bankrupt in New Mexico. Two companies doing business in New Mexico, but not based in New Mexico, have gone bankrupt. The bill was also presented to the Legislative Health and Human Services Committee and Courts, Corrections and Justice Committee, both of which saw the subject matter as outside their purview.

Upon a motion by Senator Martinez, seconded by Senator Harden, the committee endorsed the bill without objection.

Electric Utilities Infrastructure Cost Recovery

Senator Harden testified on a bill permitting cost recovery for the building of electrical transmission lines. Sonya Phillips of Xcel Energy testified that the Public Regulation Commission permits utilities to recover utility line costs. A rate rider allows utility companies to recover costs, and rate riders are done in several states. The rate riders are an incentive to utility companies to build more transmission lines.

Committee members asked for objections from the audience. Karen Foster, lobbyist for Shell Energy, who partners in the SunZia transmission project, said that a rate rider would give an unfair advantage to utility companies. She suggested that the bill require utilities to clear their queue instead and that there is a transmission line bureaucracy. She said she looks forward to working with the sponsor of the bill but reiterated that there needs to be a level playing field and a clearing of existing roadblocks. Ms. Phillips replied that Shell is a for-profit company,

whereas Xcel is a regulated utility. As a result, there will never be a level playing field. For example, unlike Shell, Xcel pays for construction costs up front and then recovers its costs.

Upon a motion by Senator Ulibarri, seconded by Representative Gray, the committee endorsed the bill without objection.

Broadband Appropriation and Youth Entrepreneurship

This is a bill to appropriate \$200,000 from the Public Project Revolving Fund to the Economic Development Department for expenditure in fiscal year 2012 to enhance broadband access and to support youth entrepreneurship in rural areas.

Committee members said that a federal grant for the same purpose had already been directed to develop broadband access in rural New Mexico. They opined that while they are not opposed to encouraging youth entrepreneurship, they are hesitant to endorse a new appropriation.

Upon a motion by Representative Lundstrom, seconded by Senator Martinez, the committee endorsed the bill, as amended. Senator Boitano, Representative Gray and Senator Harden opposed endorsement of this bill.

Minutes

Upon a motion by Senator Boitano, seconded by Senator Martinez, the committee approved without objection the minutes of the September 20-21, 2010 and November 18-19, 2010 meetings of the ERDC.

Adjourn

There being no further business before the committee, the fifth and final meeting of the 2010 interim ERDC was adjourned at 2:30 p.m.

ECONOMIC AND RURAL DEVELOPMENT COMMITTEE — 2010 ENDORSED LEGISLATION

#1

202 File # .182573.5 **Sponsor** **Appropriation**

| | | |
|--|-----------------------|-------------|
| <p>Procurement Code — Modifies the preference advantage for in-state business; changes the definitions of "resident business" and "resident contractor"; changes the process for obtaining certification as a resident business or resident contractor, including the requirement to obtain an affidavit from a certified public accountant, and verifying the certification qualifications of the resident business or resident contractor; eliminates preferences for resident manufacturers, New York state businesses and recycled content goods; removes the \$5 million ceiling for a preference; and provides a penalty of \$50,000 for each violation of the preference advantage.</p> | <p>Senator Keller</p> | <p>None</p> |
|--|-----------------------|-------------|

#2

202 File # .183193.1 **Sponsor** **Appropriation**

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|---|-----------------------|-------------|
| <p>An outgrowth of Senate Joint Memorial 7 from 2010, introduced by Senator Timothy M. Keller and Representative W. Ken Martinez, the Lieutenant Governor's Model State Administrative Procedures Act Task Force bill creates an open, consistent rulemaking process.</p> | <p>Senator Keller</p> | <p>None</p> |
|---|-----------------------|-------------|

#3

202 File # .183214.1 **Sponsor** **Appropriation**

| | | |
|---|-----------------------------|-------------|
| <p>Requires agencies to set time frames for license applications.</p> | <p>Senator Ulibarri</p> | <p>None</p> |
|---|-----------------------------|-------------|

#4

202 File # .183285.1

Sponsor

Appropriation

| | | |
|---|---------------------|------|
| Option for public notices to be published on a broadcaster-maintained web site. | Senator Ulibarri | None |
|---|---------------------|------|

#5

202 File # .182588.2

Sponsor

Appropriation

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|---|--|------|
| Exempts trucks within six miles of a port of entry from the United States/Mexico border from special permit requirements. Creates penalties for violations for going beyond the six-mile limit. | Representative Mary Helen Garcia | None |
|---|--|------|

#6

202 File # .183042.2

Sponsor

Appropriation

| | | |
|---|-------------------------------------|------|
| Limits agency authority only to make procedural rules regarding the agency itself. For all other rules an agency adopts, the agency must cite the specific statutory provision warranting the rule. | Senator Bernadette M. Sanchez | None |
|---|-------------------------------------|------|

#7

202 File # .183290.1

Sponsor

Appropriation

| | | |
|--|--------------------|------|
| Increases life and health insurance policy coverage limits, adds two members to the Guaranty Association Board and revises the Life and Health Insurance Guaranty Law to be consistent with model guaranty acts. | Senator Leavell | None |
|--|--------------------|------|

#8

202 File # .183408.1

Sponsor

Appropriation

| | | |
|--|-------------------------|------|
| Joint resolution proposing a constitutional amendment giving the legislature the power to nullify an executive agency rule by a majority vote of the house of representatives and of the senate. | Representative Nuñez | None |
|--|-------------------------|------|

#9

202 File # .183137.1

Sponsor

Appropriation

| | | |
|---|-----------------------------|------|
| Allows municipalities the ability to adopt their own building codes, although doing so also requires designating a chief building official. Changes the Construction Industries Commission authority over municipal inspectors. Provides flexibility to municipal building officials. | Representative Lundstrom | None |
|---|-----------------------------|------|

#10

202 File # .183367.1

Sponsor

Appropriation

| | | |
|--|-------------------|------|
| Allows electric utilities to recover reasonable new transmission infrastructure costs. | Senator Harden | None |
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#11

202 File # .183367.1

Sponsor

Appropriation

| | | |
|---|-------------------------------------|------|
| Changes the Construction Industries Commission authority over municipal inspectors. Provides flexibility to municipal building officials. | Senator Bernadette M. Sanchez | None |
|---|-------------------------------------|------|

#12

202 File # .183467.1

Sponsor

Appropriation

| | | |
|--|-----------------------------|--|
| Appropriates \$200,000 from the Public Project Revolving Fund to enhance broadband access and encourage youth entrepreneurship in rural areas. | Representative Lundstrom | \$200,000 from the Public Project Revolving Fund |
|--|-----------------------------|--|