NEW MEXICO LEGISLATURE

REVENUE STABILIZATION AND TAX POLICY COMMITTEE

2004
INTERIM REPORT

Legislative Council Service
411 State Capitol
Santa Fe, New Mexico

CONTENTS

INTRODUCTION

Members of the Revenue Stabilization and Tax Policy Committee (RSTPC) during the 2004 interim were:

Members	Designees
Rep. Donald L. Whitaker, Chair	Sen. Ben D. Altamirano
Sen. John Arthur Smith, Vice Chair	Rep. William "Ed" Boykin
Rep. Janice E. Arnold-Jones	Rep. Donald E. Bratton
Sen. Sue Wilson Beffort	Sen. Joseph J. Carraro
Sen. Mark Boitano	Sen. Phil A. Griego
Sen. Carlos R. Cisneros	Rep. Irvin Harrison
Rep. Anna M. Crook	Rep. Manuel G. Herrera
Sen. Joseph A. Fidel	Sen. Stuart Ingle
Rep. Roberto "Bobby" J. Gonzales	Sen. Steve Komadina
Sen. John T.L. Grubesic	Sen. Cisco McSorley
Rep. George J. Hanosh	Rep. Andy Nunez
Sen. Timothy Z. Jennings	Sen. Leonard Lee Rawson
Rep. Ben Lujan	Rep. Debbie A. Rodella
Sen. William E. Sharer	Sen. Nancy Rodriguez
Rep. Daniel P. Silva	Rep. Henry Kiki Saavedra
Sen. H. Diane Snyder	Sen. Bernadette M. Sanchez
Rep. Thomas C. Taylor	Rep. Joe M Stell
Rep. Luciano "Lucky" Varela	Rep. Don Tripp
	Rep. Robert White

The RSTPC held seven meetings in the 2004 interim. Four of those meetings were held at the State Capitol, while the others were held in Farmington, Ruidoso, Silver City and Deming. The meetings consisted of discussions of tax-related proposals ranging from low-income tax relief for New Mexicans to economic development and energy efficiency tax incentives proposed by various industries and state agencies. The committee also spent much of the interim reviewing the status of the revenues of the general fund, the land grant permanent fund, the severance tax permanent fund, the severance tax bonding fund, the educational retirement fund, the funds administered by the Public Employees Retirement Association and various other state funds. The administration of certain funds, such as the local DWI grant fund, were also examined by the committee. Methods of tracking the revenue impacts of various legislative proposals were further examined through discussions of dynamic scoring.

At its final meeting, the committee voted to endorse 27 of the bills presented to it during the interim. A chart with information on the bills proposed, committee endorsements and the names of the committee member sponsors of the endorsed bills is included at the end of this report.

APPROVED 2004

WORK PLAN, MEETING SCHEDULE AND BUDGET
for the
REVENUE STABILIZATION AND TAX POLICY COMMITTEE

MEMBERS

Rep. Donald L. Whitaker, Chair
Sen. John Arthur Smith, Vice Chair
Rep. Janice E. Arnold-Jones
Sen. Sue Wilson Beffort
Sen. Mark Boitano
Sen. Carlos R. Cisneros
Rep. Anna M. Crook
Sen. Joseph A. Fidel
Rep. Roberto "Bobby" J. Gonzales
Rep. George J. Hanosh
Sen. Timothy Z. Jennings
Rep. Ben Lujan
Sen. Roman M. Maes, III
Sen. William E. Sharer
Rep. Daniel P. Silva
Sen. H. Diane Snyder
Rep. James G. Taylor
Rep. Thomas C. Taylor

Designees:

Sen. Ben D. Altamirano
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Rep. Debbie A. Rodella
Sen. Nancy Rodriguez
Rep. Henry Kiki Saavedra
Sen. Bernadette M. Sanchez
Rep. Joe M Stell
Rep. Don Tripp
Rep. Robert White

WORK PLAN

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

Work Focus for 2004

Reviews of Legislation from the 2003 Special Session

Legislation adopted during the 2003 special session authorized approximately $1.6 billion in state transportation bonds for statewide transportation projects. The committee will monitor the issuance of the bonds and the department of transportation's progress with respect to those projects. In addition, the committee will review the effectiveness of amendments to the Weight Distance Tax Act and the effect of changes in the motor vehicle fee structure adopted in the special session.

Monitoring of Success and Impact of 2004 State Tax Legislation

The committee will periodically receive updates regarding implementation and the projected impact of tax legislation adopted in the 2004 legislative session. The committee will also review selected legislation that failed to be adopted but was endorsed by the committee and evaluate it for endorsement for the 2005 legislative session.

Review the Effectiveness of State-Sponsored Business Incentives and Consider Appropriate Assessment Tools

Every year, new legislation is adopted that provides business incentives through tax credits, deductions or exemptions. Currently, there is no method or requirement to review the effectiveness and success of these initiatives. The blue ribbon tax reform commission suggested that the state develop a methodology to evaluate the success of tax incentives adopted for their economic development benefit to the state. The committee will begin the process of determining how to assess the benefit of business incentive initiatives to the state.

<u>Other Tax and Fiscal Matters for Review</u>

The committee proposes to also:

- examine economic and revenue trends;
- monitor severance tax revenues, including revenue and bonding authority estimates, and management of bond appropriations and expenditures;
- receive an update on the performance of state permanent fund investments, including economic development investment tools;
- review existing tax laws for technical correction, cleanup or amendment;
- discuss the ramifications of tax pyramiding and alternative methods of reducing pyramiding's effects on businesses;
- discuss local option gross receipts and compensating tax issues;
- review the imposition and distribution of governmental gross receipts tax;

- receive an update on racing and gaming industries;
- receive an update on the local DWI grant fund and its administration;
- discuss the effects of changing the legal imposition of the gasoline tax;
- receive a report on the status of intergovernmental agreements with tribes and the resulting revenue trends;
- receive an update on the streamlined sales tax initiative;
- monitor changes in federal tax policy;
- review the implementation and most effective uses of dynamic scoring;
- discuss issues pertaining to PERA and ERA funds and programs;
- study the impact of increased oil and gas revenues on long-range revenue forecasting;
- receive an update on the effectiveness of film industry tax credits and their statewide use;
- review the implementation of the Civic and Convention Center Funding Act in Santa Fe and Santa Fe county; and
- conduct any other study or review of tax administration, tax laws, tax policy, public finance and revenue stabilization issues that the committee deems necessary.

MEETING SCHEDULE

The revenue stabilization and tax policy committee will meet as follows:

Date	Location
June 18	Santa Fe
July 7-9	Farmington
August 23-25	Ruidoso
September 13	Silver City
September 14-15	Deming
October 13-15	Santa Fe
November 8-10	Santa Fe
December 6-7	Santa Fe

BUDGET

Committee per diem and mileage:

One one-day meeting in Santa Fe	$4,301
One three-day meeting in Farmington	10,911
One three-day meeting in Ruidoso	10,931
One three-day meeting in Silver City and Deming	12,131
One three-day meeting in Santa Fe	9,557
One three-day meeting in Santa Fe	9,557
One two-day meeting in Santa Fe	6,929
Additional cost for designees	4,508
Total	$68,825
Total Approved Budget	$40,000

Revised: June 17, 2004

TENTATIVE AGENDA
for the
FIRST MEETING IN 2004
of the
REVENUE STABILIZATION AND TAX POLICY COMMITTEE

June 18, 2004
Room 322
State Capitol

Friday, June 18

10:00 a.m. CALL TO ORDER
—Representative Donald L. Whitaker, Chair

10:05 a.m. BED TAX RATE CERTIFICATION AND RESOLUTION OF LEGAL ISSUES
—Pamela Hyde, Secretary of Human Services
—Jason Sanchez, Bureau Chief, Program Administration Bureau, Medical Assistance Division, Human Services Department (HSD)
—Anna Branford, Financial Manager, Medical Assistance Division, HSD

10:50 a.m. REVIEW OF TAX LEGISLATION FROM THE 2004 SESSION
—Jan Goodwin, Secretary of Taxation and Revenue
—Richard Anklam, Assistant Secretary and Director of Tax Policy, Taxation and Revenue Department (TRD)

12:15 p.m. LUNCH

1:30 p.m. POST-SESSION FISCAL SUMMARY
—David Abbey, Director, Legislative Finance Committee
—Bill Taylor, Assistant Director, Legislative Finance Committee

2:15 p.m. INCOME TAX REFORM REVENUE PROJECTIONS
—Richard Anklam, Assistant Secretary and Director of Tax Policy, TRD
—Tom Clifford, Chief Economist, TRD

3:00 p.m. ADOPTION OF COMMITTEE WORK PLAN AND MEETING SCHEDULE
—Pam Ray, Staff Attorney
—Amy Chavez, Staff Attorney

4:00 p.m. ADJOURNMENT

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

June 18, 2004
Santa Fe

On June 18, 2004, the first meeting of the Revenue Stabilization and Tax Policy Committee (RSTPC) for the 2004 interim was held in Room 322 of the State Capitol.

PRESENT
Rep. Donald L. Whitaker, Chair
Sen. John Arthur Smith, Vice Chair
Rep. Janice E. Arnold-Jones
Sen. Sue Wilson Beffort
Sen. Carlos R. Cisneros
Rep. Anna M. Crook
Sen. Joseph A. Fidel
Rep. Roberto "Bobby" J. Gonzales
Sen. Timothy Z. Jennings
Rep. Ben Lujan
Sen. William E. Sharer
Sen. H. Diane Snyder

ABSENT
Sen. Mark Boitano
Rep. George J. Hanosh
Sen. Roman M. Maes, III
Rep. Daniel P. Silva
Rep. James G. Taylor
Rep. Thomas C. Taylor

Designees
Sen. Ben D. Altamirano *(designee for Rep. Daniel P. Silva)*
Rep. Donald E. Bratton *(designee for Rep. Thomas C. Taylor)*
Sen. Phil A. Griego *(designee for Sen. Roman M. Maes, III)*
Rep. Irvin Harrison *(designee for Rep. James G. Taylor)*
Rep. Manuel G. Herrera *(designee for Rep. George J. Hanosh)*

Staff
Pam Ray, Amy Chavez and Cenissa Martinez

Guests
The guest list is in the meeting file.

The chair called the committee to order at 10:05 a.m.

INTRODUCTION
Pam Ray of the Legislative Council Service staff explained the circumstances under which a designee of the RSTPC should replace a member of the committee. She stated that to promote continuity, a designee used to replace a member at a committee meeting should be from the same political party and the same legislative house. Ms. Ray also introduced the proposed 2004

RSTPC interim work plan, meeting schedule and budget to the members. The work plan provided for reviews of legislation from the 2003 special session, monitoring of the success and impact of 2004 state tax legislation and review of the effectiveness of state-sponsored business incentives. Ms. Ray also introduced various other tax and fiscal matters to be discussed by the committee during the interim. Members suggested additions to the work plan, including topics such as convention center fees, film industry tax credits and funding of state employee and educational retirement programs. The committee adopted the work plan with the suggested additions.

LONG-TERM CARE BED SURCHARGE

Pamela Hyde, secretary of human services, discussed the bed surcharge that the legislature passed during the 2004 session. The Human Services Department (HSD) estimates that about $22.5 million, including federal funds, could be raised by the surcharge. Effective July 1, 2004, nursing facilities, intermediate care facilities for the mentally retarded, residential treatment centers and accredited residential treatment centers will be assessed a daily bed surcharge in the amount of $8.82 per occupied bed. The first payment for the surcharge will be due to the Taxation and Revenue Department (TRD) on August 25. Secretary Hyde discussed the HSD's cooperation with the TRD to develop a form that facilities will use to pay the surcharge.

Secretary Hyde also discussed the rebasing of per diem rates for nursing facilities, which occurs every three years. An inflation factor is used by the HSD to recognize economic conditions and trends during the time period covered by the provider's prospective per diem rate between the rebasing years. The rebasing includes any cost incurred, reported, audited and reviewed for the provider's fiscal year. The costs include costs of doing business, such as the long-term care bed surcharge, and cost of living. Nursing facilities receive facility-specific per diem rates based on acuity. Therefore, each facility has a low and high rate. The current average low Medicaid rate for nursing facilities is $103.12 per day. The average high Medicaid rate is $164.61 per day. The estimated low Medicaid rate after rebasing this year will increase to approximately $115.13 per day, and the estimated high Medicaid rate after rebasing will be approximately $176.62. Secretary Hyde indicated that a special rebasing to consider the bed surcharge as a cost of doing business is taking place for intermediate care facilities for the mentally retarded, residential treatment centers and accredited residential treatment centers.

Earlier this year, the HSD received a letter of concern from the federal Centers for Medicare and Medicaid Services indicating that the daily bed surcharge might be considered an "impermissible provider tax" pursuant to federal regulations when viewed with an income tax credit that passed during the 2004 session for expenses paid to licensed nursing homes, licensed intermediate care facilities for the mentally retarded and licensed residential treatment centers. Secretary Hyde said that the law complies with federal regulations because the care facilities are considered to be the taxpayers under the regulations, while the tax credit is claimed by individuals occupying the beds. Secretary Hyde further stated that the HSD would challenge a decision against the surcharge, but said legislators may need to revisit the issue if federal funding falls through.

REVIEW OF 2004 TAX LEGISLATION

Jan Goodwin, secretary of taxation and revenue, and Richard Anklam, assistant secretary and director of tax policy, TRD, provided an overview of the tax legislation that passed during the 2004 session. Legislation discussed included the elimination of the gross receipts tax on food and medical services, the establishment of a regional transit gross receipts tax, expansion of county gross receipts tax authority, creation of a compensating tax deduction for defense-related businesses, an increase in workers' compensation fees and the creation of the high-wage jobs tax credit. Secretary Goodwin and Assistant Secretary Anklam also summarized the provisions of Senate Bill 23, which expands the definition of "governmental gross receipts" to include receipts from renting or granting permission to use parking, docking or aircraft tie-down spaces. Questions posed by committee members included whether the definition of governmental gross receipts encompassed proceeds from university parking lots and how many businesses paid workers' compensation fees.

POST-SESSION FISCAL SUMMARY

David Abbey, director of the Legislative Finance Committee (LFC), and Bill Taylor, assistant director, LFC, presented a 2004 post-session fiscal review to the committee. According to LFC estimates, fiscal year 2005 recurring revenue, adjusted for legislation, is estimated to increase from the last fiscal year by 4.2 percent to $4.38 billion. Fiscal year 2005 recurring appropriations are projected at $4.38 billion, a 6.1 percent increase from the previous fiscal year. Fiscal year 2005 recurring revenue and recurring appropriations are balanced. Estimated general fund reserve ending balances are $399 million and $386 million. The balances reflect an estimated $285 million one-time revenue adjustment associated with the shift in revenue recognition policy recommended by Governmental Accounting Standards Board Statement 34.

LFC adjustments to its January revenue estimates include $59.7 million for legislation. Tax changes account for $35.6 million of those adjustments, while $25 million of the adjustments are for improved revenue collections expected from the TRD's expanded audit program.

Mr. Taylor discussed the impact of lower energy prices and the personal income tax reduction enacted in 2003 upon revenue estimates. Reductions in energy prices and production declines for natural gas and crude oil were attributed as factors in weak revenue growth estimates. The volatility of natural resource revenue, which accounts for about 15 percent of general fund revenues, was cited as a major risk to the overall revenue forecast.

Flat personal income tax revenues were discussed as another factor in weak revenue growth. The second phase of the personal income tax reduction passed in 2003 reduces the top income tax rate from 7.7 percent to 6.8 percent. While personal income tax revenues normally grow more rapidly than personal income, revenues in fiscal year 2005 are only expected to increase by 3.7 percent, in comparison with projected personal income growth of 5.2 percent in fiscal year 2005.

INCOME TAX REFORM REVENUE PROJECTIONS

Dr. Tom Clifford, chief economist, TRD, and Dr. Al Maury, senior economist, TRD Tax Research Office, provided the committee with information on recent trends in personal income tax collections. The department analyzed the fiscal impacts of personal income tax cuts passed by the legislature in 2003 upon its revenue forecasts. In 2003, House Taxation and Revenue Committee Substitute for House Bill 167 and Senate Bill 167, as amended, increased the deduction for capital gains income; reduced the time allowed for processing personal income tax refunds; and reduced personal income tax rates over a five-year period beginning in tax year 2003. At the time the legislation was approved, the department estimated it would reduce fiscal year 2008 personal income tax revenues by approximately 28 percent or $360 million. Fiscal year 2004 revenues were expected to be reduced by $22 million — approximately two percent of fiscal year 2004 total personal income tax revenues.

Subsequent to the passage of the 2003 personal income tax cuts, the federal government implemented new tax reductions that affect the state's personal income tax base. The department estimates that the federal changes will reduce state collections by approximately $10 million per year.

Dr. Clifford and Dr. Maury also informed the committee about new developments that have significantly impacted personal income tax collections in fiscal year 2004. The first development is increased personal income tax revenue that has resulted from the enhanced collection initiative that the department began in February. The initiative, which was funded by a $5 million nonrecurring appropriation to the department, has generated total collections of over $60 million as of the end of May 2004. Thirty-five million dollars of the total includes enhanced personal income tax collections.

Senate Bill 621, approved by the legislature in 2003, was also discussed as a development that affects personal income tax revenues. The legislation imposed new withholding tax requirements on operators of crude oil and natural gas production facilities. The operator is responsible for withholding tax on proceeds owed to third parties who are not residents of New Mexico. The department estimated that $1 million in revenue would be raised by the legislation. Initial payments of the tax were due in January 2004 for proceeds distributed after October 1, 2003. The department has received tax payments of $28.8 million through the end of May 2004. Thus, payments are averaging about $14 million per quarter.

Discussions among committee members included topics ranging from the degree to which enhanced audits should be performed to the potential economic benefits of inflation and capital outlay spending upon revenue estimates.

ADJOURN

The meeting adjourned at approximately 2:30 p.m.

Revised: July 2, 2004

<u>TENTATIVE</u> AGENDA
for the
SECOND MEETING IN 2004
of the
REVENUE STABILIZATION AND TAX POLICY COMMITTEE

July 7, 8 and 9, 2004
Zia Center
San Juan College
Farmington, New Mexico

<u>Wednesday, July 7</u>

10:00 a.m. CALL TO ORDER
—Representative Donald L. Whitaker, Chairman

10:05 a.m. WELCOME
—Dr. Carol Spencer, President, San Juan College
—Mayor Bill Stanley, Farmington
—Commissioner Steve Neville, Chairman, San Juan County Commission

10:20 a.m. HOUSE MEMORIAL 6 UPDATE — NATURAL GAS DEVELOPMENT IN THE JICARILLA RANGER DISTRICT OF THE CARSON NATIONAL FOREST
—John Zent, General Manager, San Juan Division, Burlington Resources, Inc.
—Martin Chavez, Forest Supervisor, Carson National Forest
—Mark Catron, Planning Staff Officer, Carson National Forest

12:00 noon LUNCH

1:30 p.m. LOCAL GROSS RECEIPTS AND COMPENSATING TAX ISSUES
—Bill Fulginiti, Executive Director, New Mexico Municipal League

3:00 p.m. PROPOSED TAX LEGISLATION FOR THE 2005 SESSION
—Richard Anklam, Assistant Secretary and Director of Tax Policy, Taxation and Revenue Department

4:00 p.m. RECESS

<u>Thursday, July 8</u>

10:00 a.m. RECONVENE

10:05 a.m. EXTENDED HOURS FOR OPERATION OF GAMING MACHINES AT RACETRACK CASINOS

—Luke Otero, Legislative Liaison, Sunray Park and Casino
—Craig Smith, General Manager, Downs at Albuquerque
—Representative, Ruidoso Downs

11:00 a.m. UNINSURED EMPLOYERS FUND
—Alan Varela, Director, Workers' Compensation Administration

12:00 noon LUNCH

1:30 p.m. OIL AND GAS TAX SYSTEM OVERVIEW
—Tom Clifford, Chief Economist, Taxation and Revenue Department
—Kirk Muncrief, Senior Economist, Taxation and Revenue Department

2:15 p.m. OIL AND GAS TAX REVIEW AND PROJECTIONS
—Bob Gallagher, President, New Mexico Oil and Gas Association

4:00 p.m. JOB TRAINING INCENTIVE PROGRAM UPDATE
—Margaret McDaniel, Executive Director, San Juan Economic Department Service

4:30 p.m. RECESS

Friday, July 9

10:00 a.m. RECONVENE

10:05 a.m. DWI GRANT FUND AND ADMINISTRATION
—Joyce Johnson, Bureau Chief, Special Programs Bureau, Local Government Division, Department of Finance and Administration

11:15 a.m. COMPACT AND GAMING ISSUES
—Charles Dorame, Chair, New Mexico Indian Gaming Association

12:00 noon ADJOURNMENT

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

July 7-9, 2004
Zia Conference Center, San Juan College
Farmington

The second meeting of the Revenue Stabilization and Tax Policy Committee (RSTPC) for the 2004 interim was called to order by Representative Donald L. Whitaker, chair, on Wednesday, July 7, 2004, at 10:20 a.m. at the Zia Conference Center of San Juan College in Farmington.

PRESENT
Rep. Donald L. Whitaker, Chair
Sen. John Arthur Smith, Vice Chair (7/7)
Rep. Janice E. Arnold-Jones
Sen. Mark Boitano (7/8-7/9)
Sen. Carlos R. Cisneros
Rep. Anna M. Crook
Rep. Roberto "Bobby" J. Gonzales
Sen. Timothy Z. Jennings
Rep. Ben Lujan (7/7-7/8)
Sen. William E. Sharer
Rep. Daniel P. Silva
Sen. H. Diane Snyder (7/7-7/8)
Rep. Thomas C. Taylor

ABSENT
Sen. Sue Wilson Beffort
Sen. Joseph A. Fidel
Rep. George J. Hanosh
Sen. Roman M. Maes, III
Rep. James G. Taylor

Designees
Sen. Cisco McSorley *(designee for Sen. Roman M. Maes, III, on 7/7)*

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

Staff
Amy Chavez and Pam Ray

Guests
The guest list is in the meeting file.

Copies of all written testimony are in the meeting file.

Wednesday, July 7

APPROVAL OF MINUTES

The committee unanimously approved the minutes of its first meeting held on June 18, 2004 in Santa Fe.

OPENING REMARKS BY CITY OF FARMINGTON AND SAN JUAN COUNTY OFFICIALS

Bill Standley, mayor of the City of Farmington, Steve Neville, chairman of the San Juan County Commission, and Dr. Carol Spencer, president of San Juan Community College, provided opening remarks at the second meeting of the RSTPC. Mayor Standley discussed the growth in population in the City of Farmington and in San Juan County. Mayor Standley noted that Farmington has a population of 37,000 while San Juan County has a population of about 117,000. Mayor Standley highlighted the progress of city projects, including a $13 million three-phase expansion of a Farmington wastewater treatment plant, expansion of Indian Hills Boulevard and construction of a retail transportation, medical and education center.

Commissioner Neville discussed the local option taxes that were recently passed in San Juan County, including a local option hospital tax and a local option emergency services tax. Commissioner Neville noted that some local option funding will be used to expand the San Juan Adult Detention Center and to complete a juvenile services center, which will provide residential substance abuse treatment and shelter beds for youth.

NATURAL GAS DEVELOPMENT IN THE JICARILLA RANGER DISTRICT OF THE CARSON NATIONAL FOREST

John Zent, general manager of the San Juan Division of Burlington Resources, Inc., discussed the Carson National Forest's release of a Draft Environmental Impact Statement (DEIS) intended to support proposed changes to its forest plan. During the last legislative session, the house of representatives passed House Memorial 6 requesting the Carson National Forest supervisor to withdraw proposed changes to the Carson National Forest management plan for the Jicarilla Ranger District. The forest service retracted the DEIS earlier this year.

Mr. Zent stated that if the DEIS had not been withdrawn, it would have adversely impacted oil and gas development in the Jicarilla Ranger District and the economic benefits that come with such development. The impact statement would have prevented about 68 percent of planned new drilling for oil and gas development. Mr. Zent stated that the prevention of additional development would have resulted in an 11 percent reduction in annual gas well jobs in the district. In 2001, the state received $20,424,320 in revenues from gas production in the Jicarilla Ranger District and Mr. Zent stated that a significant share of those revenues were distributed to local, county and other governmental units to fund schools and other programs. Mr. Zent stated that changes proposed by Carson National Forest to its forest plan would have unnecessarily restricted domestic energy development and undermined the Bureau of Land Management's efforts to manage mineral resources. Mr. Zent added that the DEIS was rightfully retracted because the DEIS was based on flawed assumptions and internal errors. Although the

DEIS was retracted, Mr. Zent stressed that the oil and gas industry will work with the forest service to develop oil and gas resources in the Jicarilla Ranger District in an environmentally sound manner.

Mark Catron, planning staff officer with the Carson National Forest, stated that the Carson National Forest Service Office plans to conduct a study to determine how various stakeholders might be affected by further development in the Jicarilla Ranger District. The office also plans to review the original data that served as the basis for the DEIS that was retracted. The possibility of reclamation and technological developments in the area of water quality analysis will be considered when the forest service conducts its study. Mr. Catron stressed that a major area of concern to the forest service will continue to be protection of cultural resources and migratory elk and deer herds in the Jicarilla Ranger District.

LOCAL GROSS RECEIPTS AND COMPENSATING TAX ISSUES

New Mexico Municipal League (NMML) President Bill Standley and NMML Executive Director Bill Fulginiti presented several tax policy issues to the committee. Mr. Standley and Mr. Fulginiti addressed changes to the state's tax system, including personal income tax reductions enacted in 2003, a 70-cent increase in the cigarette tax and the repeal of the gross receipts tax on food and health practitioners. Mr. Fulginiti thanked the legislature and the governor for holding municipalities and counties harmless from the elimination of the gross receipts tax on food and health practitioners. Mr. Fulginiti also discussed the repeal of the municipal tax credit of one-half percent, which financed the removal of the gross receipts tax on food and health practitioners and the hold harmless provision for local governments.

Mr. Fulginiti discussed bills that the NMML proposes for adoption by the RSTPC for introduction during the 2005 legislative session. First, to make tax information available to local officials, the NMML proposes the reintroduction of House Bill 924 from the 1995 legislative session. Mr. Fulginiti stated that municipalities have encountered difficulties in assessing the accuracy of distributions from the Taxation and Revenue Department (TRD) and claimed that wide fluctuations in distributions and adjustments and the inability of municipalities to obtain tax information led to a lack of trust in the department. With the new deductions for food and health practitioners, the NMML concluded that it is necessary for municipalities to obtain accurate tax information from TRD. NMML proposes that the law should be amended to permit a designated person in a municipality to request and receive tax information so that local officials could assist the department with the assurance of the accuracy of its distributions.

The NMML also proposes the removal of the sunset provision from Section 7-19D-12 NMSA 1978, which permits municipalities to enact an ordinance to impose a capital outlay gross receipts tax at a rate of one-fourth percent. The statutory authorization of municipalities to impose the tax sunsets on July 1, 2005. Mr. Fulginiti stated that municipalities need additional time to enact the tax because they are required to enact all other local option gross receipts tax increments before they can pass a referendum for a capital outlay gross receipts tax. In addition, municipalities might need more time to enact the capital outlay gross receipts tax because the repeal of the municipal tax credit will increase the overall rate of the gross receipts tax by one-half percent on January 1, 2005, thus complicating efforts to pass referendums for local taxes.

Mr. Fulginiti further discussed NMML's desire for the committee to reintroduce House Bill 37 from the previous legislative session. The bill would trade a part of the municipal distribution of gross receipts tax for a distribution of personal income tax to diversify revenue sources for municipalities. According to NMML, municipalities receive over 74 percent of their revenues from gross receipts taxes. Mr. Fulginiti explained that relying so heavily upon one source of revenue is dangerous when the economy slows down. Municipalities might benefit from receiving a different source of revenue, such as personal income tax revenue, as a means to minimize the risk inherent in relying on one method of taxation.

Mr. Fulginiti also discussed the differences in gross receipts tax rates and compensating tax rates on New Mexico businesses. He stated that as long as e-commerce, mail order and television sales grow and as long as municipalities are by law mostly dependent on gross receipts tax revenue, municipalities and cities could lose about $48 billion in revenue, while the state could lose $120 million. Mr. Fulginiti stated that to take advantage of the shift to remote commerce, the legislature should repeal the section of law that prohibits TRD from collecting compensating taxes on residential purchases. He further suggested that to allow cities to recover the loss of the gross receipts tax, the legislature should permit municipalities to enact local option compensating taxes in the same amount as the local option gross receipts tax.

TAXATION AND REVENUE DEPARTMENT PROPOSED LEGISLATION

The TRD proposes two bills for adoption by the committee and for introduction to the 2005 legislature. Richard Anklam, assistant secretary and director of tax policy, and Valdean Severson, bureau chief of the Oil and Gas Section of the Revenue Processing Division, TRD, proposed that the committee adopt a bill to amend state law to include helium for taxation under the Oil and Gas Severance Tax Act, Oil and Gas Conservation Tax Act, Oil and Gas Emergency School Tax Act, Oil and Gas Ad Valorem Production Tax Act and the Oil and Gas Production Equipment Ad Valorem Tax Act. The purpose of the proposed legislation is to tax helium in a manner consistent with other gases, as is done in states that currently produce helium on a commercial basis. Proponents argue it is best to add helium to the severance taxes, as competing states do, before significant commercial activity is underway in New Mexico.

Assistant Secretary Anklam, Alvan Romero, chief of the Tax Fraud Unit, and Charles Williamson, attorney, TRD, proposed that the committee adopt a bill to establish a tax fraud investigations division to investigate possible criminal violations of the revenue laws of the state. TRD officials believe that the proposed statute could provide an important enforcement tool to prosecute cases of criminal fraud in the state. Successful prosecution requires highly specialized knowledge, investigative techniques and experience. TRD asserts that the creation of the new division will enhance the state's ability to successfully prosecute these types of crimes.

The meeting recessed for the day at approximately 3:45 p.m.

Thursday, July 8

EXTENDED HOURS FOR OPERATION OF GAMING MACHINES AT RACETRACK CASINOS

Representatives from racetracks throughout the state discussed their desire to extend hours for operation of gaming machines at racetrack casinos. Representatives of Sunray Park in Farmington stated that House Bill 65, which did not pass during the last legislative session, would have helped the racetrack industry and could have led to increased employment. Byron Campbell, general manager of Sunray Park, discussed the need to replace outdated machines. He said that at Sunray Park, headcounts at the casino have dropped by seven percent. Although horse race simulcast business has increased, slot operations remain an essential element of racetrack business success. He stated that old machines must be replaced to maintain the success of racetrack casinos. Machine replacement could cost up to $5.5 million. Extending gaming machine hours would help alleviate some of the burdens facing racetrack casinos in the next few years.

Joe Kupfer, representing Zia Park in Hobbs and Ruidoso Park in Ruidoso, stated that Zia Park and Ruidoso Park are aiming to interact more with the business community as a means of promoting racing industry growth. Mr. Kupfer stated that racetracks such as Zia Park and Ruidoso Park hope to attract visitors to stay overnight in the cities and towns in which racetracks are located. Extension of gaming hours might encourage visitors to stay overnight. He estimated that extension of gaming hours could increase racetrack revenues by 10 percent.

Scott Scanland, spokesperson for Sunland Park Racetrack in Sunland Park, added that, $50 million of New Mexico tax revenue is currently attributable to racetrack revenues. He argued that extending hours will ultimately benefit state funds. He stated that the addition of gaming machines to racetrack casinos has improved racetrack purses and the quality of racing in New Mexico. Expansion of gaming hours would increase racing industry revenue and thus provide additional tax revenue to the state.

The committee discussed the benefits of permitting extended gaming machine hours on racetracks, but also acknowledged that the state should continue to negotiate with tribes before any action is taken.

UNINSURED EMPLOYERS' FUND

Alan Varela, director of the Workers' Compensation Administration (WCA), and Richard J. Crollet, Esq., Uninsured Employers' Fund administrator, provided the committee with information regarding the Richard J. Crollet, Esq., Uninsured Employers' Fund and its administration. The fund is comprised of uninsured employers' fees and is used by the WCA to pay workers' compensation benefits to a person entitled to the benefits when that person's employer has failed to maintain workers' compensation coverage because of fraud, misconduct or other failure to insure or otherwise make compensation payments. Mr. Crollet stated that since November 2003, he has received 33 claims. The average turnaround time from receipt of an uninsured employers' claim to issuance of eligibility determination is five days. The statutory minimum turnaround time is 15 days. Twenty-five of the claims have been determined in favor of the employer. As of June 30, 2004, 19 claims eligibility determinations have been finalized and forwarded to the Uninsured Employers' Fund insurance carrier for payment of benefits.

The committee asked Mr. Varela and Mr. Crollet specific questions regarding workers' compensation coverage requirements, claims filed with the WCA and the sufficiency of the fund to pay the claims filed.

STATE AND LOCAL TAXES ON OIL AND GAS PRODUCTION IN NEW MEXICO

Dr. Tom Clifford, chief economist, TRD, and Kirk Muncrief, senior economist, TRD Tax Research Office, provided the committee with an overview of state and local taxes on oil and gas production in New Mexico. TRD estimates that taxes and royalties on crude oil and natural gas production have contributed between 13 percent and 16 percent of general fund revenues. When non-general fund revenues are included, almost $1.2 billion in state revenues were estimated to be derived from oil and gas production in the state during fiscal year 2004.

In addition to state taxes, Dr. Clifford stated that significant amounts of local revenue are collected from oil and gas production. In recent years, ad valorem taxes on oil and gas production have generated approximately $100 million per year for certain local governments. In addition to direct tax and royalty revenues, oil and gas production provides the economic base for significant amounts of personal income tax, corporate income tax and gross receipts tax collections. The state also benefits from interest earnings from the Land Grant Permanent Fund and the Severance Tax Permanent Fund, the corpus of which is primarily derived from oil and gas production in prior years.

Dr. Clifford further discussed the statutory and effective tax rates for oil and gas production-related taxes, incentive rates provided for certain categories of oil and gas production and local oil and gas production taxes.

Dr. Clifford provided the committee with projections for oil- and gas-related revenues. Dr. Clifford highlighted the volatility in the natural gas market as a factor that will affect the revenue outlook in the future. TRD studies show that New Mexico natural gas prices have varied from a low of $2.00 to a high of over $8.00 per million cubic feet (mcf). The consensus revenue projection for fiscal year 2005 estimates that the average price of natural gas will be $4.00 per mcf. The oil price for 2005 is projected at $26.00 per barrel. The volatility of gas prices proportionately affects state revenue. General fund revenue increases by $1.2 million for each additional cent in the average annual natural gas price. Revenue increases by $4 million for each additional dollar in the annual average crude oil price.

Volumes of natural gas and crude oil production are also a factor in state oil- and gas-related revenues. Volumes have steadily declined during the past few years. Since January 2000, volumes have decreased by approximately 7 percent. TRD projects that natural gas volumes will continue to decline at one percent to two percent per year, while oil production is projected to decline at a similar rate. Oil production has declined by 1.2 percent each of the last four years.

OIL AND GAS TAX REVIEW AND PROJECTIONS

Bob Gallagher, president of the New Mexico Oil and Gas Association, explained the different taxes on oil and gas production in New Mexico. Mr. Gallagher explained that the severance tax is a tax on all oil and gas that is severed and sold. The tax rate is 3.75 percent of the taxable value, as determined by TRD, at the first point of sale. The severance tax on crude oil and natural gas is distributed to the Severance Tax Bonding Fund.

Mr. Gallager explained that the emergency school tax is a privilege tax on every person severing oil and other liquid hydrocarbons, carbon dioxide and natural gas for New Mexico. The tax rate of 3.15 percent applies to crude oil, other liquid hydrocarbons and carbon dioxide and four percent for natural gas. The tax is levied on the value of the product, as determined by TRD, at the first point of sale. Revenues derived from the emergency school tax are distributed to general fund and are paid in lieu of gross receipts tax. Mr. Gallagher stated that recent attempts to increase the emergency school tax on crude oil by .85 percent would generate an additional $12 million to $15 million in tax revenue for the state, but would also cost the state additional drilling. According to Mr. Gallagher, a .85 percent increase in the tax could prevent development of 12 new wells in the state.

The conservation tax applies to all products that are severed and sold. The tax rate, a percentage of the taxable value of sold products, varies with the unencumbered balance in New Mexico's Oil and Gas Reclamation Fund. The reclamation fund was set up to plug and reclaim well sites considered "abandoned" when the owner of the well cannot be found and in the 2003 session was expanded to include $350,000 for energy education.

The conservation tax rate is .0019 percent of the taxable value of sold products if the fund falls below $500,000. In the event the unencumbered balance in the Oil and Gas Reclamation Fund equals or exceeds $1 million for any one-month period, the rate of the tax becomes .0018 percent. Any excess of the $1,350,000 in the reclamation fund goes to the general fund. When the balance of the reclamation fund is equal to or falls below $500,000, the higher rate of .0019 percent applies.

The natural gas processors tax is levied solely on processors for the privilege of operating a natural gas processing plant in New Mexico. The tax is imposed on the amount of MMBTU's of natural gas delivered to the processor at the inlet of the natural gas processing plant. Proceeds from the natural gas processors tax goes to the general fund.

Mr. Gallagher concluded that although oil and gas production taxes produce much state revenue, the legislature should be cautious about raising taxes to a degree to which oil and gas companies are discouraged from developing further in New Mexico or are driven from the state due to the increased costs of business associated with oil and gas tax increases.

SAN JUAN ECONOMIC DEVELOPMENT SERVICE

Margaret McDaniel, executive director of the San Juan Economic Development Service, expressed appreciation to the committee and the legislature for its support of the San Juan

Economic Development Department Job Training Incentive Program. In fiscal year 2004, the program funded 41 projects and created 1,506 jobs. Program goals include support of local businesses, job creation, recruitment of new businesses and the development of work force skills.

The meeting recessed for the day at approximately 3:45 p.m.

Friday, July 9

LOCAL DWI GRANT FUND AND ADMINISTRATION

Joyce Johnson, bureau chief, and Alicia Ortiz, auditor, from the Special Programs Bureau of the Local Government Division (LGD) of the Department of Finance and Administration (DFA) provided an overview of the Local DWI Grant Program. They explained that the program was established to make grant and distribution funding available to counties and municipalities to prevent or reduce the incidence of DWI, alcoholism and alcohol abuse throughout the state. The program is funded by grant allocations, distributions and statutory detoxification grants. Overall, in fiscal year 2005, 77.93 percent of program funding was allocated to treatment in 33 counties. DWI grant programs funded by the Local DWI Grant Fund entered into 219 subcontracts to provide treatment, compliance monitoring, screening and prevention services. The programs also funded enforcement activities in cooperation with county, city and tribal police department, screened 10,067 DWI offenders and funded 14 teen court programs. The programs further implemented alternative sentencing services in 17 counties.

In 2002, the Legislative Finance Committee (LFC) conducted an audit of the Local DWI Grant Program. In response to the LFC audit recommendations, the LGD has established a long-term strategic plan; revised the grant proposal scoring mechanism; strengthened the administrative handbook; strengthened program expenditure monitoring; established a site visit schedule; increased the number of DWI offenders screened; increased funding for program management and oversight; and developed a training curriculum for local program coordinators.

Ms. Johnson highlighted the progress of the Local DWI Program in reducing DWI fatalities. The National Highway Traffic Safety Administration reported that from 1982 to 2002, there was a 70 percent drop in alcohol-related fatalities per 100 million vehicle miles. According to the University of New Mexico Institute for Social Research and Division Government Research, deaths due to alcohol-related crashes for all three major ethnic groups decreased by 55 percent from the previous year in 2000.

Ms. Johnson stated that the Special Programs Bureau plans to work with the governor and his DWI coordinator to support local DWI programs. The bureau also plans to increase evidence-based prevention programming targeting youth, Hispanics and Native Americans. She also noted that the Local DWI Grant Council passed two resolutions to support local control of DWI grant revenues and to support restoration of DWI funding to local county DWI programs.

COMPACT AND GAMING ISSUES

Charles Dorame, chair of the New Mexico Indian Gaming Association, expressed opposition to the proposed extension of gaming machine hours at racetracks outside of the context of compact negotiations outlined by the Compact Negotiations Act. Mr. Dorame stated that the association views the proposal as a direct violation of the 2001 compacts, and as a result, tribes might be forced into litigation with the state. The association believes that any expansion of hours of operation at racetrack casinos would be an expansion of non-tribal gaming, which is in direct violation of the exclusivity clause of the compacts. Mr. Dorame added that the All Indian Pueblo Council takes the same position as the New Mexico Indian Gaming Association with respect to the issue. In 2003, the All Indian Pueblo Council passed a resolution stating that expanded gaming hours at racetracks might force the 2001 compact tribes to request new compact negotiations.

The committee adjourned at 12:05 p.m.

Revised: August 20, 2004

TENTATIVE AGENDA
for the
THIRD MEETING IN 2004
of the
REVENUE STABILIZATION AND TAX POLICY COMMITTEE

August 23-25, 2004
Ruidoso Convention Center
Ruidoso

Monday, August 23

9:30 a.m. CALL TO ORDER
—Representative Donald L. Whitaker, Chair

9:35 a.m. APPROVAL OF MINUTES

9:40 a.m. STATUS OF INTERGOVERNMENTAL AGREEMENTS WITH TRIBES
—Richard Anklam, Assistant Secretary and Director of Tax Policy, Taxation and Revenue Department

10:00 a.m. —Joe Grenewalt, Senior Contract Analyst, BHP-Billiton
—Charles Roybal, Attorney, BHP-Billiton
—Mark Graham, Executive Director, Navajo Nation Tax Commission
—Harvey Lucero, Jicarilla Apache Revenue and Taxation Department
—Carson Vicenti, Jicarilla Apache Legislative Council
—Leon Reval, Jicarilla Apache Legislative Council
—Kerwin Tafoya, Jicarilla Apache Legislative Council
—Robert Jenkins, Director, Tax Administration Office, Pueblo of Santa Clara

12:00 noon LUNCH

1:30 p.m. HORSE RACING INDUSTRY UPDATE
—Julian Luna, Deputy Director, New Mexico State Racing Commission
—Eddie Fowler, Chairman, Board of Directors, New Mexico Horsemen's Association
—Bruce Rimbo, General Manager, Ruidoso Downs
—Don Cook, General Manager, Albuquerque Downs
—Byron Campbell, General Manager, Sunray Park

4:00 p.m. RECESS

Tuesday, August 24

9:00 a.m.	STREAMLINED SALES TAX PROJECT UPDATE —Jim Eads, Executive Director, New Mexico Tax Research Institute
10:00 a.m.	LOCAL ISSUES PERTAINING TO THE STREAMLINED SALES TAX PROJECT INITIATIVE —Bill Fulginiti, Executive Director, New Mexico Municipal League
11:00 a.m.	PROPOSED STREAMLINED SALES AND USE TAX AGREEMENT AND TAX ADMINISTRATION REFORM LEGISLATION —Richard Anklam, Assistant Secretary and Director of Tax Policy, Taxation and Revenue Department
12:00 noon	LUNCH
1:30 p.m.	NUCLEAR ENRICHMENT FACILITY UPDATE —Marshall Cohen, Vice President, Communications and Government Relations, National Enrichment Facility
2:15 p.m.	SEVERANCE TAX BONDING FUND STATUS —Mark Valdes, Director, Board of Finance
3:15 p.m.	PROPOSED PROPERTY TAX CODE REVISIONS —Richard Anklam, Assistant Secretary and Director of Tax Policy, Taxation and Revenue Department —Tim Eichenberg, Director, Property Tax Division, Taxation and Revenue Department
4:00 p.m.	PROPOSED CORPORATE INCOME TAX LEGISLATION —Richard Anklam, Assistant Secretary and Director of Tax Policy, Taxation and Revenue Department
4:30 p.m.	RECESS

Wednesday, August 25

8:00 a.m.	NATURAL GAS PIPELINE INVESTMENT —Gary Bland, Director, State Investment Council —Patrick Lyons, Commissioner of Public Lands —Jerry King, Assistant Commissioner, Surface Resources, State Land Office
9:30 a.m.	SMALL COUNTIES ASSISTANCE ACT —Sam Montoya, Executive Director, New Mexico Association of Counties

10:30 a.m. FILM AND MEDIA INDUSTRY INCENTIVES
—Eric Witt, Director, Legislative and Political Affairs and Media Industries Strategic Initiative, Office of the Governor
—Lisa Strout, Director, Film Division, Economic Development Department

11:30 a.m. FILM INDUSTRY PERSPECTIVE OF TAX INCENTIVES
—D. Zivkovich, Chief Executive Officer, Taos Production, Ltd.
—Jonathan Slater, Taos Film Commission (Invited)
—Ann Lerner, Albuquerque Film Office
—Ted Scanlon, Las Cruces Film Commission
—Scott Connor, American Outback Films
—John Hendry, Director, Travel and Marketing Division, Tourism Department

12:30 p.m. ADJOURN

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

August 23-25, 2004
Ruidoso Convention Center
Ruidoso

The third meeting of the Revenue Stabilization and Tax Policy Committee (RSTPC) for the 2004 interim was called to order by Representative Donald L. Whitaker, chair, on Monday, August 23, 2004, at 10:00 a.m. at the Ruidoso Convention Center in Ruidoso.

PRESENT
Rep. Donald L. Whitaker, Chair
Sen. John Arthur Smith, Vice Chair
Rep. Janice E. Arnold-Jones (8/24-8/25)
Rep. Anna M. Crook
Sen. Joseph A. Fidel
Rep. Roberto "Bobby" J. Gonzales
Sen. John Grubesic
Sen. Timothy Z. Jennings
Rep. Ben Lujan
Rep. Daniel P. Silva
Rep. Thomas C. Taylor
Rep. Luciano "Lucky" Varela

ABSENT
Sen. Sue Wilson Beffort
Sen. Mark Boitano
Sen. Carlos R. Cisneros
Rep. George J. Hanosh
Sen. William E. Sharer
Sen. H. Diane Snyder

Designees
Sen. Nancy Rodriguez (*designee for Sen. Carlos R. Cisneros on 8/23*)
Rep. Joe M Stell (*designee for Rep. George J. Hanosh*)

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

Staff
Amy Chavez, Pam Ray and Tim Crawford

Guests
The guest list is in the meeting file.

Copies of all written testimony are in the meeting file.

Monday, August 23

APPROVAL OF MINUTES

The committee unanimously approved the minutes of its second meeting held on July 7-9, 2004 in Farmington.

DESCRIPTION OF INTERGOVERNMENTAL AGREEMENTS WITH TRIBES

Richard Anklam, assistant secretary and director of tax policy, Taxation and Revenue Department (TRD), and Patricia Herrera, director of the Tax Information Office, TRD, provided an explanation of the tax and information sharing agreements between the state and tribes in New Mexico. They highlighted legislation from the 2003 and 2004 legislative sessions that permitted the secretary of transportation to enter into gasoline tax sharing agreements with the Pueblo of Nambe and the Pueblo of Santo Domingo. The agreement with the Pueblo of Nambe permits a tribal distributor owned by the pueblo to receive 40 percent of the gasoline tax revenue paid on 2.5 million gallons per month. In exchange, the tribal distributor cannot distribute gasoline for resale outside the boundaries of the reservation or pueblo land grant and cannot claim the deduction to which it would otherwise be entitled pursuant to Section 7-13-4 NMSA 1978.

Assistant Secretary Anklam also discussed information sharing agreements that allow for the exchange of information between the TRD and Indian nations, tribes or pueblos. State law authorizes TRD to provide tax information to an authorized representative of an Indian nation, tribe or pueblo whose territory is within New Mexico pursuant to an information sharing agreement with the Indian nation, tribe or pueblo. The Indian nation, tribe or pueblo must have enacted a confidentiality statute similar to Section 7-1-8 NMSA 1978. The information exchanged pursuant to an information sharing agreement is for the use of either government entity for the administration of its respective tax laws to ensure the proper enforcement of the tax laws of each government. The department currently has entered into information sharing agreements with the Jicarilla Apache Nation, the Navajo Nation and the Pueblo of Zuni.

State legislation has also authorized TRD to enter into agreements with certain pueblos to collect any gross receipts tax imposed by the pueblos. If one of those pueblos grants a 25 percent credit against its tax and meets other specified conditions, the state will grant a 75 percent credit against state and local gross receipts tax due from taxpayers subject to both taxes. The taxpayers will thus pay the same tax they would under state and local taxes alone. TRD has entered into gross receipts tax cooperating agreements with the pueblos of Santa Clara, Santa Ana, Laguna, Sandia and Nambe.

Assistant Secretary Anklam highlighted tax credits pertaining to the extraction of natural resources on tribal land. Taxpayers who are liable for the payment of the oil and gas severance tax, the oil and gas emergency school tax, the oil and gas conservation tax or the oil and gas ad valorem tax on products severed from Indian tribal lands are eligible for an intergovernmental tax credit against those taxes. The credit is equal to the lesser of 75 percent of the aggregate amount of the taxes imposed by the Indian nation in effect on March 1, 1995 or the aggregate amount of the taxes imposed by the state. A separate credit is available against the oil and gas production equipment ad valorem tax. This credit is also equal to the lesser of 75 percent of the tribally imposed tax or state tax. Both credits are available only for production from wells that were drilled on or after July 1, 1995. The credit was first adopted by the 1995 legislature. To date a total of $8.4 million in credits has been claimed against all taxes. An average of $1.5 million per year has been claimed in each of the last two fiscal years.

Taxpayers liable for the severance tax on coal severed from tribal land are eligible for credit for a portion of similar taxes paid to a tribal government on that coal. The credit amount is 75 percent of the lesser of the tax due under tribal taxes in effect on March 1, 2001 or the amount of severance tax and surtax due to the state. The credit was adopted by the 2001 legislature. Total credit claims have averaged about $5 million per year in the first three years the credit has been available.

STATUS OF INTERGOVERNMENTAL AGREEMENTS WITH TRIBES

Joe Grenewalt, senior contract analyst with BHP Navajo Coal Company (BNCC) and Fred O'Cheskey, representing Arizona Public Service Company (APS), discussed the economic effects of the intergovernmental tax credit against coal severance taxes. APS is a wholly-owned subsidiary of Pinnacle West Capital Corporation, an electric utility involved in the generation, transmission and distribution of electric power to customers in a 50,000 square mile area within the state of Arizona. APS is part owner and operating agent for the Four Corners Power Plant, located near Farmington, New Mexico.

BNCC is a wholly owned subsidiary of BHP Billiton, the world's largest natural resources company headquartered in Melbourne, Australia. BHP Billiton operates the Navajo Mine and San Juan Underground Mine near Farmington. The company has been in business in New Mexico for approximately 40 years.

Mr. Grenewalt acknowledged that the legislation that provided the intergovernmental tax credit against coal severance taxes was the result of collaborative efforts by the state of New Mexico, the Navajo Nation and coal and utility companies. Mr. Grenewalt explained that New Mexico imposes severance taxes, conservation taxes, resource excise taxes and property taxes on coal. The Navajo Nation imposes a business activity tax, a possessory interest tax and royalties. Mr. Grenewalt stated that enactment of the tax credit has significantly reduced tax liability for coal producers. The BHP Navajo Coal Company mine on Navajo Nation lands in New Mexico has saved $8.9 million in state taxes and $2.85 million in Navajo Nation taxes.

Mr. Grenewalt stated that without the tax credits and with full application of Navajo taxes, the coal price from the BNCC Navajo Mine was reduced by seven percent. The tax credit equates to a price reduction to $1.50 per ton of coal or $.08 per million British thermal units.

The reduced price in coal also has an effect on power plant operation in the state. Since power plants with lower operating costs are used more than higher cost plants, the reduced coal prices at the BNCC Navajo Mine played a significant role in the ability of APS's Four Corners Power Plant to generate electricity more efficiently.

Mr. Grenewalt and Mr. O'Cheskey attributed the tax credits as a factor in extension of coal contracts between APS and BNCC. They stated that extension of the fuel agreements required certainty for the tax and royalty structure at the BNCC Navajo Mine and that the tax credits provided the confidence needed for the companies to negotiate a contract extension. In August 2003, APS and BNCC signed an extension to the fuel agreements that will begin in January 2005 and end in July 2016. This allows for operation of BNCC Navajo Mine and the Four Corners Power Plant for an additional 11.5 years.

Mr. Grenewalt projected that the contract extensions will have a long-term positive revenue impact on both the state of New Mexico and the Navajo Nation. Over the life of the contract, the state is projected to receive an additional $183.13 million in tax revenue from the BNCC and $.42 million from the Four Corners Power Plant. The Navajo Nation is expected to collect an additional $117.11 million from BNCC and $223.72 million from the Four Corners Power Plant over the life of the contract. It is also projected that over the life of the contract, the coal company will hire an additional 940 employees while the power plant will hire an additional 1,438 employees.

Mark Graham, executive director of the Navajo Nation Tax Commission, stated that the coal tax agreement with the Navajo Nation has resulted in significant tax revenue increases for the Navajo Nation. Mr. Graham also stated that the TRD's information sharing agreement with the Navajo Nation has also provided valuable information to the Navajo Nation for enforcement of fuel taxes.

Carson Vicenti, Leon Reval and Kerwin Tafoya of the Jicarilla Apache Legislative Council also discussed the effects of the passage of the Jicarilla Apache tribal improvement tax credit that is the result of a cooperative agreement between TRD and the Jicarilla Apache Nation. Pursuant to the agreement and state law, a person who is liable for the payment of the oil and gas emergency school tax imposed on products severed from Jicarilla Apache tribal land or imposed on the privilege of severing products from Jicarilla Apache tribal land shall be entitled to a credit in an amount equal to the lesser of:

(1) the amount of the Jicarilla Apache tribal capital improvements tax imposed by the Jicarilla Apache Nation upon the products severed from qualifying wells or upon the privilege of severing products from qualifying wells; or

(2) .7 percent of the taxable value of the products severed from qualifying wells as determined by applicable state law.

Mr. Vicenti proposed that the .7 percent be raised in the future. He further expressed that the Jicarilla Apache tribal capital improvements tax has been an important source of funding for capital improvements for the Jicarilla Apache Nation. He stated that the funds have been used to construct a health care facility, a judicial complex, a government building and a water system.

Harvey Lucero of the Jicarilla Apache Revenue and Tax Department described that department's role in collecting tribal taxes. The department currently collects, monitors and enforces five tribal taxes. Four tribal members rotate as supervisors of the department.

Mr. Lucero highlighted the cooperative agreement between the TRD and the Jicarilla Apache Revenue and Tax Department with respect to the collection and administration of the Jicarilla Apache tribal capital improvements tax. A person liable for the tax is required to fill out a state tax form and the Jicarilla Apache Nation provides information to TRD on an as requested basis. Mr. Lucero suggested the same type of arrangement for the administration of the tribal gross receipts tax. The Jicarilla Nation plans to structure its gross receipts tax to mirror the state tax. The tribe worked on a cooperative agreement with TRD to allow the Jicarilla Apache Nation to collect its tax, but the state preferred to collect and remit the tax, so an agreement was not reached. Since the Jicarilla Apache Nation has its own tax department, the nation feels that it is preferable to collect, administer and enforce the tax. Ultimately, the tribe prefers to interpret whether its own tax laws are being met.

Robert Jenkins, director of the Santa Clara Pueblo Office of Tax Administration, discussed recent changes to the pueblo's tax code. On July 1, 2003 the code was amended so that businesses on tribal land within the City of Espanola can be subject to the pueblo gross receipts tax. Mr. Jenkins also discussed the office of tax administration's efforts to audit businesses that might be subject to the tax.

HORSE RACING INDUSTRY

Julian Luna, deputy director of the New Mexico State Racing Commission, discussed the status of the horse racing industry in New Mexico. Mr. Luna stated that since 1998, the outlook for the industry has significantly improved. In 1998, La Mesa Park, San Juan Downs and the Santa Fe Downs closed operations while the Downs at Albuquerque and Sunland Park were sold. Since then, the industry has set goals to boost tourism, protect and increase state tax revenues, to protect and create racing industry jobs, increase purses and attract visitors from neighboring states. Revenues have increased significantly since 1998. As a result, taxes attributable to the racing industry have increased from 10 percent in 1996 to 25 percent in 2004. Purses, however, have decreased from 25 percent in 1996 to 20 percent in 2004. In 1996, five tracks were operational in New Mexico. Today, four are operating, but a racetrack in Hobbs is expected to become operational by 2005, thus increasing the number of tracks statewide to five. Tax revenues from racing tracks statewide are projected to amount to $51,327,200 in 2005.

Eddie Fowler, chairman of the board of directors of the New Mexico Horsemen's Association, concurred with Mr. Luna regarding the growth of the horse racing industry. He stated that the number of horse owners and trainers in the state increased by 10 to 12 percent last year. There are currently 6,125 owners and trainers in New Mexico.

Don Cook, general manager of Albuquerque Downs, indicated that employment has decreased at Albuquerque Downs from 353 employees to 226 employees last year. He also stated that horse racing revenues will ultimately improve the quality of racing in New Mexico. He stated that racing revenues were used to remodel the barn area at the New Mexico State Fairgrounds, which amounted to $5.1 million. Approximately $225,000 per day is attributable to purses for horsemen.

Don Dutton of the New Mexico Gaming Control Board discussed the board's budget, which is approximately $5 million this year. He encouraged the legislature to refrain from raising taxes. He also expressed the continuing efforts of the board to ensure that patrons and owners of racetracks are treated equitably.

Scott Scanland, who represents Sunland Park Racetrack and Casino, discussed issues affecting that racetrack. He indicated that Sunland Park has experienced increased competition from Juarez, Mexico, in the form of sport book wagering and gaming machines at its dog track. Additionally, Texas lottery participation has increased dramatically and the Texas vendors around the racetrack are especially busy selling Texas lottery tickets. As a result, casino and horse race wagering has slightly decreased.

STREAMLINED SALES TAX PROJECT

Jim Eads, president and executive director of the New Mexico Tax Research Institute (NMTRI), provided a report to the committee on the status of the Streamlined Sales Tax Project (SSTP) in New Mexico. Mr. Eads introduced to the committee Dr. Manuel Devalle, the new director of tax research at NMTRI. Mr. Eads indicated that NMTRI will soon publish a three-part report on the SSTP consisting of a national overview of the SSTP, an analysis of the statutory issues that will be posed by the project to New Mexico if the state joins the initiative and a fiscal analysis of the impact of the initiative on New Mexico and state and local revenue streams.

Mr. Eads highlighted several points with respect to the current status of the SSTP. He stated that the SSTP originated in March 2000 to develop a simplified system for sales and use taxes, thereby reducing the burden of sales and use tax compliance for all types of retailers, particularly those operating on a multi-state basis. A major reason that state and local governments initiated the project was the facilitation of the collection of compensating and use taxes on remote sales, which those governments perceived as a threat to their revenue streams. State and local governments have become increasingly concerned with collecting taxes from sellers that are essentially ignored by individual purchasers. As of mid-2004, 42 states and the District of Columbia participated in the SSTP. New Mexico, Colorado and Idaho are the three states with a sales tax that are not participating in the SSTP. The participating states that collect sales and use taxes on remote sales are currently collecting those taxes voluntarily under the Streamlined Sales and Use Tax Agreement (SSUTA) until either Congress or the Supreme Court acts to make that collection mandatory.

A major objective of the SSUTA is "to simplify and modernize sales and use tax administration in the member states to substantially reduce the burden of tax compliance". To accomplish this purpose, SSUTA focuses on improving sales and use tax administration for all types of commerce. The agreement addresses a wide variety of issues, including the definition of particular projects; the appropriate place of taxation; tax administration; and consumer privacy. One of the most challenging provisions for New Mexico to comply with is a change in tax sourcing rules. Currently, New Mexico imposes its gross receipts tax in jurisdictions in which sales occur. However, where goods and services are transferred between localities, SSUTA requires that the transaction become taxed in the jurisdiction to which the goods or services are delivered.

Bill Fulginiti, executive director of the New Mexico Municipal League, discussed the potential impact of SSTP implementation upon the state and its local governments. Mr. Fulginiti stated that the SSTP might increase state and local revenue from the collection of taxes on remote commerce, but also cited studies predicting that New Mexico's loss in revenue would be $536 million by 2010. Losses might stem from the elimination of taxes on federal government contractors.

Mr. Fulginiti stated that the biggest impact upon local governments would result from changes in sourcing rules. A shift of tax distribution would occur for taxes on services and purchases delivered between local governments. Municipalities such as Albuquerque, Santa Fe, Farmington and Las Cruces might lose revenue while municipalities such as Corrales, Bosque Farms and other small municipalities might gain since goods are often delivered from large municipalities to smaller ones.

Mr. Fulginiti also stated that New Mexico will encounter difficult issues with respect to the SSTP's compensating tax requirements. Under SSTP, New Mexico would be required to conform the tax base for the compensating tax to the tax base for the gross receipts tax. Thus, services would be added to the compensating tax base. Transactions that are subject to different rates would also need to be conformed to gross receipts tax rates. Since there are no local compensating taxes, the compensating tax would need to be added at the local level.

Mr. Fulginiti suggested that before New Mexico fully participates in the SSTP as a member, state officials should thoroughly examine the gross receipts tax system as it pertains to the SSTP. He suggested that it might be advisable to pass the initial legislation necessary to participate in SSTP discussions so that issues important to the state of New Mexico might be discussed.

Assistant Secretary Anklam proposed legislation that would enable New Mexico to enter into discussions with respect to the formation of the policy of the SSTP. Although Assistant Secretary Anklam indicated that many important policy decisions have already been made by the participating states, New Mexico would benefit from being a part of future policy discussions with those states. The proposed legislation also features several administrative reforms that RSTPC sponsored during the previous legislative session.

<u>NATIONAL ENRICHMENT FACILITY</u>

Marshall Cohen, vice president of National Enrichment Facility (NEF), made a presentation concerning the construction and operation of a proposed nuclear enrichment facility in Lea County, five miles outside of Eunice, New Mexico, near the Texas border. The NEF would produce low enriched uranium (LEU) that is essential for fueling commercial nuclear plants. The NEF would be designed and licensed to operate for approximately 30 years. The NEF is planned to consist of 800,000 square feet under one roof. Mr. Cohen stated that the NEF will be safe and environmentally sound and will meet all federal and state environmental standards. He also projected that economic benefits might include employment of over 400 construction personnel and several million dollars in annual purchases of supplies and services. LES estimates that it will spend between $256 million to $462 million on goods and services in the local economy through construction. LES additionally estimates that tax payments over the life of the plant will amount to over $150 billion. The facility is planned to begin operating in 2009.

SEVERANCE TAX BOND FUND STATUS

Mark Valdez, director of the State Board of Finance, discussed the status of the Severance Tax Bonding Fund. He explained that the severance tax is levied at a rate of 3.75 percent on crude oil and natural gas production. Coal is taxed on a per unit bases at $0.57 per ton. About 70 percent of severance tax revenue is due to natural gas production, 20 percent to crude oil production, seven percent to coal production and three percent from other minerals. Severance tax revenue is transferred first to the Severance Tax Bonding Fund, which is pledged to pay debt service on senior and supplemental severance tax bonds. The fund maintains a reserve sufficient to pay the next two semi-annual debt service payments and the residual is transferred to the Severance Tax Permanent Fund.

The Severance Tax Bonding Fund and the Severance Tax Permanent Fund are experiencing revenue increases due to high production of minerals and price increases for natural gas and oil. The unaudited ending market value of the Severance Tax Permanent Fund at June 30, 2004 is estimated to be $3.6 billion. Severance tax bonding revenues for 2004 are projected at $318.93 million.

Mr. Valdez made legislative proposals for the 2005 legislative session. First, he suggested changing the revision date for capital projects from the last day of the fiscal year to the first day of the next fiscal year. This is expected to permit funds from reverted projects to be used for sponge bond capacity rather than transferral to the Severance Tax Permanent Fund. He also suggested that unexpended bond proceeds revert by the deadline specified in capital outlay legislation, even if encumbered by binding written contracts to third parties. In addition, he suggested that the State Board of Finance be granted the authority to extend reversion dates in certain circumstances.

Mr. Valdez finally proposed that the legislature authorize the issuance of tax-exempt commercial paper for capital project financing with severance tax and general obligation bond authorizations. Issuance of the tax-exempt commercial paper by the State Board of Finance would provide short-term working capital needs for bond-funded projects authorized by the legislature. This short-term obligation would then be paid off with the issuance of long-term bonds.

PROPOSED PROPERTY TAX CODE REVISIONS

Tim Eichenberg, director of the Property Tax Division, TRD, proposed that the RSTPC endorse a bill making several changes to the Property Tax Code. Currently, the Property Tax Code prevents assessed value increases in single-family dwellings owned and occupied by taxpayers who are 65 years of age or older and whose modified gross income does not exceed $18,000, adjusted for inflation. The proposed bill would require taxpayers eligible for the valuation limitation to submit applications to county assessors within 30 days after the mailing of the county assessor's notice of valuation. The bill also creates a presumption that a taxpayer desires to protest the denial of a claim for exemption or application for limitation. The denial automatically generates a protest in which the taxpayer can withdraw or waive the right for a hearing. According to TRD, this proposal might facilitate the taxpayer's exercise of the right of review of a claim for lower value for property taxation purposes.

The bill also adds statutory requirements for county treasurers with respect to delinquent property tax payments. The proposal adds language requiring county treasurers to report penalty, interest and costs they receive for properties on their delinquency lists. The proposed legislation would also require county treasurers to submit monthly payment reports to the TRD, along with the penalty, interest and cost, in accordance with Department of Finance and Administration rules and regulations.

PROPOSED INCOME TAX LEGISLATION

Assistant Secretary Anklam proposed that the RSTPC endorse a bill that raises the threshold for imposing a penalty on underpayment of the required annual personal income tax payment so that a penalty shall not be imposed if the underpayment is less than $1,000. The bill also makes a technical correction to the corporate income tax payment schedule.

The meeting recessed for the day at approximately 4:30 p.m.

SAN JUAN BASIN PIPELINE EXPANSION PROPOSAL

Gary Bland, state investment officer, Patrick Lyons, commissioner of public lands, and Dennis Langley, president and chief executive officer of Earth, Energy and Environment, L.L.C. (E3), discussed a proposal to build additional natural gas pipeline capacity out of the San Juan Basin in northwest New Mexico. E3 requested the State Investment Council (SIC) to purchase $150 million in convertible bonds to finance the project. The total cost of E3's proposed extension from the Blanco Hub to the Thoreau Station is estimated at $260 million, while the cost of an alternative pipeline from the Blanco Hub to Juarez, Mexico, is $560 million. Mr. Langley estimates that the project will yield state royalties, state severance tax and production taxes in an amount between $29.5 million and $41.5 million per year. The SIC plans to purchase the convertible bonds for the project only if the convertible bonds are issued by ABN Amro or another entity acceptable to the SIC if that entity is listed on a nationally recognized stock exchange.

State Investment Officer Bland answered a list of questions submitted to him by Senator John Arthur Smith on behalf of the Investments Subcommittee of the Legislative Finance Committee. Mr. Bland stated that no state government money would be invested in the proposal until regulatory approval, right-of-way acquisition and all other aspects are in place so that construction of the pipeline can proceed. He also indicated that potential legal problems concerning the SIC authority to enter into a private equity venture by purchasing bonds that are not publicly traded and that are not convertible to stock in the issuing company are being researched by the attorney general and outside counsel retained by the SIC. State Investment Officer Bland stated that New Mexico would not commit any funds or finalize any transactions until all legal issues and final terms and conditions are resolved. He indicated that the outcome of the bankruptcy auction of E3's parent company, TransWestern, will be known on September 1,

2004. Mr. Bland stated that if all legal and contractual negotiations are satisfactorily resolved, a $50 million bond purchase might occur in December.

SMALL COUNTIES ASSISTANCE ACT PROPOSAL

Samuel O. Montoya, executive director of the New Mexico Association of Counties (NMAC), discussed a proposal to expand the number of counties eligible for funding pursuant to the Small Counties Assistance Act. The act was adopted in 1982 to assist counties with small populations and limited property tax bases. The revenue source for funding the Small Counties Assistance Act is 10 percent of the state compensating tax. Because of reassessed property values and population growth in counties, fewer counties have qualified for assistance because they have exceeded the population and valuation ceilings contained in the act. Thus, NMAC proposed to change the thresholds for eligibility for assistance so that more counties can benefit from state funding.

FILM AND MEDIA INDUSTRY INCENTIVES

Eric Witt, director of the Legislative and Political Affairs and of the Media Industries Strategic Initiative, discussed the success of film industry incentives in the state. He stated that incentives such as interest-free loans, lease-free buildings, assistance in travel, lodging and catering and tax credits such as the New Mexico film tax credit have resulted in an additional $8 million to the state. Eighty films are expected to be produced in New Mexico in 2004 and this figure is expected to increase to 100 in 2005. The Office of the Governor continues to support the development of the film industry statewide.

Lisa Strout, director of the Film Office of the Economic Development Department, also discussed the growth of the film industry in New Mexico. She stated that the types of films produced in New Mexico have become increasingly diverse. However, many challenges to film industry growth exist in the state, including obtaining the necessary crews to train production in-state staff. She concurred with Mr. Witt regarding the success of the New Mexico film tax credit in attracting the film industry to the state.

Jonathan Slater of the Taos Film Office stated that New Mexico is the leader among states in providing incentives to attract the film industry. Mr. Slater summarized some of the projects of the Taos Film Office, including the initiation of a program to teach film production in local classrooms and the expansion of Taos theaters. He also indicated that the production of films in Taos is welcomed by locals. Even though many of the jobs provided by film productions in Taos are often short-term, they provide high wages that benefit local employees.

Scott Conner of American Outback Films discussed his concern regarding the lack of speaking roles for local actors. He stated that many of the main actor roles are given to out-of-state actors, while New Mexican actors are given roles as extras. Mr. Conner proposed that the committee consider investing state funds in films produced by New Mexico residents.

Jon Hendry, director of the Travel and Marketing Division of the Tourism Department, discussed the effects of film production upon the tourism industry in New Mexico. He stated that recent film productions have been an effective marketing tool and have attracted a record number of tourists to the state.

The committee adjourned at 12:30 p.m.

Revised: September 10, 2004

TENTATIVE AGENDA
for the
FOURTH MEETING IN 2004
of the
REVENUE STABILIZATION AND TAX POLICY COMMITTEE

September 13, 2004
Global Resource Center, Western New Mexico University
Silver City

September 14-15, 2004
Western New Mexico University Deming Mimbres Learning Center, Room 152 A
2300 East Pine
Deming

Monday, September 13

9:00 a.m. CALL TO ORDER
—Representative Donald L. Whitaker, Chair

9:05 a.m. APPROVAL OF MINUTES

9:10 a.m. INTRODUCTORY REMARKS
—Dr. John E. Counts, President, Western New Mexico University

9:45 a.m. SILVER CITY COPPER MINING INDUSTRY STATUS
—Richard Peterson, Regional Communications Manager, Phelps Dodge

10:45 a.m. TAXATION AND REVENUE DEPARTMENT ENHANCED AUDIT INITIATIVE
—Manu Patel, Deputy Director, Legislative Finance Committee

11:45 a.m. LUNCH

1:30 p.m. SEVERANCE TAX PERMANENT FUND UPDATE AND PIPELINE INVESTMENT PROPOSAL STATUS
—Gary Bland, State Investment Officer, State Investment Council

2:30 p.m. NEW MEXICO FINANCE AUTHORITY AND PUBLIC PROJECTS REVOLVING FUND UPDATE
—Mark Valenzuela, Director, Intergovernmental Relations, New Mexico Finance Authority

3:30 p.m. RECESS

Tuesday, September 14

9:00 a.m. PENSION OBLIGATION FUND ISSUANCE PROPOSAL
—David Paul, Financial Advisor, State Board of Finance

10:00 a.m. EDUCATIONAL RETIREMENT FUND STATUS
—Evalynne Hunemuller, Director, Educational Retirement Board
—Frank Foy, Chief Investment Officer, Educational Retirement Board

11:00 a.m. PUBLIC EMPLOYEES RETIREMENT FUND STATUS
—Terry Slattery, Executive Director, Public Employees Retirement Association

12:00 noon LUNCH

1:30 p.m. TAXATION OF STATE PARK RECEIPTS
—Doug Williams, Economist, Legislative Council Service

2:15 p.m. —Bill Fulginiti, Executive Director, New Mexico Municipal League
—Adam Polley, County Manager, Sierra County

3:15 p.m. RECESS

Wednesday, September 15

9:00 a.m. INFRASTRUCTURE INVESTMENT PLAN AND CAPITAL OUTLAY MONITORING UPDATE
—James Jimenez, Secretary, Department of Finance and Administration and Co-chair, Governor's Finance Council
—Robert Apodaca, Director, Capital Outlay Division, Department of Finance and Administration

10:30 a.m. PETROLEUM INDUSTRY UPDATE
—Representative, Native American Petroleum Coalition
—Ruben Baca, President, New Mexico Petroleum Marketer's Association

12:30 p.m. ADJOURN

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

September 13, 2004
Western New Mexico University, Global Resource Center
Silver City

September 14-15, 2004
Western New Mexico University, Deming Mimbres Learning Center, Room 152 A
Deming

The fourth meeting of the Revenue Stabilization and Tax Policy Committee (RSTPC) for the 2004 interim was called to order by Representative Donald L. Whitaker, chair, on Monday, September 13, 2004, at 9:20 a.m. at the Western New Mexico University Global Resource Center in Silver City.

PRESENT

Rep. Donald L. Whitaker, Chair
Sen. John Arthur Smith, Vice Chair
Rep. Janice E. Arnold-Jones
Sen. Sue Wilson Beffort
Rep. Anna M. Crook
Sen. John Grubesic
Rep. George J. Hanosh
Sen. Timothy Z. Jennings
Rep. Ben Lujan
Rep. Daniel P. Silva
Rep. Thomas C. Taylor
Rep. Luciano "Lucky" Varela

ABSENT

Sen. Mark Boitano
Sen. Carlos R. Cisneros
Sen. Joseph A. Fidel
Rep. Roberto "Bobby" J. Gonzales
Sen. William E. Sharer
Sen. H. Diane Snyder

Designees
Rep. Manuel G. Herrera (*designee for Sen. Carlos R. Cisneros*)
Rep. Henry Kiki Saavedra (*designee for Rep. Roberto "Bobby" J. Gonzales*)
Sen. Leonard Lee Rawson (*designee for Sen. H. Diane Snyder on 9/14 and 9/15*)

Staff
Amy Chavez, Pam Ray and Tim Crawford

Guests
The guest list is in the meeting file.

Copies of all written testimony are in the meeting file.

Monday, September 13

APPROVAL OF MINUTES

The committee unanimously approved the minutes of its third meeting held on August 23-25, 2004 in Ruidoso.

INTRODUCTORY REMARKS

Faye Vowell, provost of Western New Mexico University (WNMU), welcomed the RSTPC members to Silver City and to WNMU. She indicated that branches of WNMU exist in Silver City, Truth or Consequences, Deming and Gallup. Last year, over 400 students graduated from WNMU. Hispanics comprise over 50 percent of the student body, largely due to support from a federal Title V grant that requires at least 26 percent of the student body to be comprised of Hispanic students. She also indicated that a majority of the student population is comprised of students that graduated from small high schools. Ms. Vowell discussed recent training initiatives at WNMU for faculty and staff. One initiative involves a national study of student engagement to improve communication between faculty and staff through improved technology. WNMU also participates in the American Democracy Project, which promotes student-driven discussions regarding civic engagement and voter responsibility.

SILVER CITY COPPER MINING INDUSTRY

Richard Peterson, regional communications manager of Phelps Dodge, and Nancy M. King, attorney from the Montgomery and Andrews law firm, discussed the status of copper mining by Phelps Dodge in the Silver City area. Mr. Peterson provided the committee members with a background of copper mining in New Mexico. He indicated that Phelps Dodge purchased property in Tyrone, New Mexico, for the purpose of producing copper in 1909. Although the company closed the mine in 1921, it reopened the mine as a modern open-pit mine in 1968. Beginning in 1996, the company purchased several other New Mexico mining companies, including Chino Mines Company, Cobre Mining Company and Cyprus-Amax Mining Company.

Mr. Peterson discussed the financial outlook for Phelps Dodge in recent years. In 2002, the company lost $341.6 million, but earned $95 million in 2003. During the first quarter of 2004, the company earned $185 million and in the second quarter, the company earned $225 million. Mr. Peterson stated that the financial outlook for the copper mining industry worldwide is favorable because worldwide economic conditions, particularly in the manufacturing and capital goods sectors, are improving. After several years of slow sales and rising inventories, demand for copper exceeds worldwide production.

The financial outlook is also improving for the Chino Mines Company in New Mexico. For instance, although the production of copper by the Chino Mines Company was less than one-third of capacity in 2003, operations are expected to improve. Employment has risen from 380 employees in 2003 to over 600 employees this year.

Unlike the Chino Mine, the Tyrone Mine has reduced copper production. New material is not currently mined in Tyrone. Phelps Dodge is in the process of reclaiming the mining site. The mine currently employs 380 workers, which has increased from 260 at the end of 2003.

Mr. Peterson discussed challenges to the success of copper mining by Phelps Dodge in New Mexico. Those challenges include regulatory uncertainties, complex permitting processes, understaffed agencies, inconsistencies in regulatory interpretation, the complexity of mining sites and aging copper ore bodies. However, Mr. Peterson also indicated that several technological opportunities will soon be available to reduce reclamation and other costs to the industry.

TAXATION AND REVENUE DEPARTMENT ENHANCED AUDIT INITIATIVE

Manu Patel, deputy director of the Legislative Finance Committee (LFC), discussed the LFC's recent review of the enhanced tax collection initiative efforts of the Taxation and Revenue Department (TRD). During the 2003 legislative session, the TRD received a $5 million special appropriation. The TRD allocated $4 million to the Audit and Compliance Division and $1 million to the Tax Fraud Investigations Division of the department. The TRD's goal was to enhance the general fund by $50 million through an initiative to collect $68 million in additional tax revenue from February 1, 2003 to June 30, 2004. The TRD reported that it increased collections by $66.5 million and that $55.1 million of that amount was distributed to the general fund.

The TRD received a $2.3 million special appropriation to continue the enhanced collection initiatives during the 2004 legislative session. The TRD has been required to collect an additional $31 million of delinquent taxes, with $25 million distributed to the general fund, during fiscal year 2005.

The LFC additionally reviewed the operations of the Tax Fraud Investigations Division of the TRD. The director of the division was hired in February 2003, and the division is almost fully staffed. However, a division policy has not been developed. Although the division is not directly involved in the enhanced collection initiatives, the division is viewed as a deterrent against noncompliance. Legislation has been proposed for the 2005 legislative session to formally establish the Tax Fraud Investigations Division as a statutory division. The TRD and the LFC will discuss performance measures for the division to be addressed during the 2005 legislative session.

The Managed Audit Program of the TRD was also reviewed. Legislation passed during the 2003 session expanded the program to include all tax programs as part of the initiative to enhance tax collections. The program allows taxpayers to conduct a self-audit and to avoid penalties and interest. Money owed must be paid within 30 days of assessment. One full-time employee and one part-time employee operate the program. Managed Audit Program collections comprised $3.8 million, or 2.6 percent, of total collections during the initiative's period. The TRD does not have procedures to monitor and enforce compliance with Managed Audit Program time limits for submitting self-audit documents within 180 days and paying assessments within 30 days.

The LFC formulated several recommendations for improvement of the TRD's enhanced audit initiative. First, it suggested avoidance of manual collections and tabulation procedures. Second, it recommended maintenance of audit trails and internal reviews of manual collections tabulation procedures. It also suggested that the department devise procedures to evaluate the effectiveness of the Tax Fraud Investigations Division and to monitor and enforce Managed Audit Program time limits for submitting self-audit documents and paying assessments. The LFC finally suggested that the TRD ensure staffing depth for the Managed Audit Program. Since one employee currently operates the entire program, the LFC suggested that additional staff might buffer against a work stoppage that might occur if that employee is unavailable to work.

LAND GRANT PERMANENT FUND AND PIPELINE INVESTMENT PROPOSAL UPDATE

Gary Bland, state investment officer, provided the committee with an update of the status of the Permanent School Fund and other permanent funds derived from lands granted to the state by the federal government. State Investment Officer Bland explained that although the state investment officer is charged with the duty of investing the funds, the types of investments that can be made are restricted by the New Mexico Constitution. Article XII, Section 7 of the New Mexico Constitution also requires distribution of five percent of the average year-end market values of the fund for the immediately preceding five calendar years. If the average of the year-end market values of the funds for the immediately preceding five calendar years is greater than $5.8 billion, the state investment officer must make additional distributions from the funds pursuant to a schedule set by Article XII, Section 7.

State Investment Council (SIC) estimates show that approximately $240 million will be earned on investment of the Land Grant Permanent Fund in 2004. The average of the year-end market values of the fund for the previous five years will be approximately $7.3 billion. Distributions from the fund in 2005 will be approximately $421 million. The market value of the Severance Tax Permanent Fund in 2004 is expected to be $3.6 billion in fiscal year 2004 and distributions for fiscal year 2004 are expected to be $172 million.

State Investment Officer Bland also updated the committee members on the reasons for the SIC's decision not to invest $50 million on a natural gas pipeline expansion project in the San Juan Basin near Farmington. Mr. Bland indicated that the SIC did not proceed with the investment because the investment might violate state law and would not necessarily provide additional benefits to the state's natural gas industry. Attorneys hired to review the proposal advised the SIC that the proposed investment did not meet state requirements to invest only in companies whose stocks are registered on a national exchange. The attorneys also advised the

SIC that there was not independent proof that natural gas production in the San Juan Basin would benefit from increased pipeline capacity.

The committee recessed for the day at approximately 2:30 p.m.

Tuesday, September 14

WELCOMING REMARKS BY DEMING OFFICIALS

Sam Baca, mayor of the city of Deming, welcomed the committee members to the city of Deming and discussed the various benefits of legislative committees meeting in cities throughout the state. Representative Dona G. Irwin from Deming also welcomed the members. Senator John Arthur Smith, also from Deming, welcomed the committee members. Representative Whitaker handed over the title of chair to Senator Smith for the remainder of the meeting.

EDUCATIONAL RETIREMENT FUND UNFUNDED LIABILITY AND PENSION OBLIGATION BOND INVESTMENT

David Paul, financial advisor to the State Board of Finance, discussed the unfunded actuarial accrued liability (UAAL), the difference between the assets and liabilities, of the Educational Retirement Fund. The Educational Retirement Board (ERB) has reported that the pension fund's UAAL is expected to rise from $1.7 billion in 2003 to $2.4 billion in 2004. The issuance of pension obligation bonds (POBs) has been addressed as an option to address the growing UAAL. POBs are taxable, long-term bonds issued by the state to pay all or part of a pension system's UAAL. Proceeds from the bonds would be distributed to the ERB to invest in the same manner as other assets of the ERB are invested. The POBs would be considered a state liability because the state has the ultimate obligation to pay annuitant benefits. Since the POBs would take the form of revenue bonds, the state would need to identify a revenue stream dedicated to make annual debt service payments. A revenue source to pay the bond debt service would need to be determined. Mr. Paul suggested that pledging a portion of the gross receipts tax might be appropriate.

Mr. Paul indicated that the objective of POB issuance is to refinance long-term UAAL costs at low-interest costs. Under current market conditions, POBs might provide substantial budget savings. Savings in the range of 20 percent might occur on a present value basis. The interest cost of POBs is six percent, which is below the actuarial rate of eight percent. POBs are also viewed favorably because a portfolio of equities and bonds might outperform bond interest rates over time. In the long term, the actual pension fund portfolio return should exceed the pension obligation bond interest cost. Mr. Paul indicated that Internal Revenue Service rules permit such arbitrage so long as the bonds are subject to federal income tax. Mr. Paul indicated that issuance of the bonds should approach $150 million and once the bonds are issued, the state should retire the UAAL over 20 years.

Mr. Paul stated that POBs are an ultimately reasonable strategy for reducing the UAAL and providing a financial benefit to the state. Savings structured up front over a three-year timeframe can help offset the budget impact of income tax rate reductions. POBs replace one long-term liability with another long-term liability that carries a lower cost of funding. Success of the POB strategy depends upon effective portfolio management in achieving competitive returns over time. Issuance should provide for partial funding of the deficit and provide for a clear proceeds investment plan. Credit rating agencies view a well-structured transaction positively with respect to UAAL impact, balance sheet risk and commitment to pension funding. The use of gross receipts tax bonds to fund bond debt might provide an effective proxy for general fund credit and would likely be positively received by credit rating agencies.

Mr. Paul also cautioned that other strategies for funding the UAAL might need some consideration. Those strategies might include increased employer contributions to the Educational Retirement Fund, reduced educational retirement benefits to future retirees and conversion of the defined benefit structure of the educational retirement system to a defined contribution system.

EDUCATIONAL RETIREMENT STATUS

Evalynne Hunemuller, director of the ERB, discussed the status of the state educational retirement system. She stated that the ERB administers the largest retirement system in the state. The system is composed of 65,000 active members. The educational retirement system is a defined benefit plan, so the monthly pension of its members is assured.

Ms. Hunemuller provided a comparison between state educational retirement and Public Employees Retirement Association (PERA) benefits. Educational employers provide 8.65 percent of the contribution to the educational retirement plan, while employers provide 16.59 percent of the contribution for the PERA retirement plan. Educational retirement plan members contribute 7.6 percent to their plan while PERA members contribute 7.42 percent. The cost-of-living adjustment for educational retirement beneficiaries starts at age 65 and is one-half of the previous year's consumer price index. The cost-of-living adjustment for PERA members begins to take effect after three years of retirement.

In response to concerns regarding the soundness of the Educational Retirement Fund, Ms. Hunemuller stated that the fund remains strong. However, she indicated that several issues that need to be addressed include increased fund liabilities, investment losses and inadequate contribution levels. She stated that increased liabilities have resulted from increased membership due to an increasing number of retirements. The fund is also obligated to pay more in pensions because of increased life expectancies of members and higher average salaries upon retirement.

The low earning performance of the fund's investments has not assisted in offsetting increased liabilities. In 2001, the return on market investments was -11.1 percent; in 2002 it was -8.8 percent; and it was 2.7 percent in 2003. To offset the poor performance of recent years, the fund would need to earn a 24.8 percent return on its investments during the next year. As a result of the combination of increased liabilities and unfavorable investment performance, the UAAL of the Educational Retirement Fund has increased from $1.1 billion to $1.7 billion. The UAAL funding period for the Educational Retirement Fund has increased from 27.2 years to 78 years.

Ms. Hunemuller discussed various methods to reduce the UAAL of the Educational Retirement Fund. Options include increased contributions from employers and employees; required retirement periods for members; increased funding from the legislature; and the issuance of POBs.

PUBLIC EMPLOYEES RETIREMENT STATUS

Terry Slattery, executive director of the PERA, discussed the financial status of the public employees retirement system in New Mexico. He explained that the PERA is charged with the responsibility of making pension payments to current and future retired PERA members, vested former members and to survivor pension beneficiaries. PERA funding is provided by member contributions, affiliated public employer contributions and investment earnings of PERA assets. Seventy-three percent of the funding for the public employees retirement system comes from investment of present PERA assets. Fifteen percent of the funding is comprised of employer contributions and the remainder is comprised of future member contributions.

Mr. Slattery indicated that the basic funding objective of the PERA is to avoid transfers of the cost of statutory obligations between generations of taxpayers. He stated that the objective will be realized if PERA funding resources are sufficient to finance normal costs, which are costs allocated to the current year attributable to services rendered by PERA members for the current year. UAAL, including costs allocated to prior years attributable to services rendered by PERA members in prior years, must also be funded over a period not to exceed 30 years. As of June 30, 2003, actuarial valuation indicated that PERA funding resources are sufficient to fund the normal cost and finance the UAAL over an aggregate period of 17 years.

Mr. Slattery also discussed the status of the Judicial Retirement Fund, which provides pension payments to current and future retired judges, vested former judges and survivor pension beneficiaries. Five percent of the fund is comprised of member contributions and nine percent is comprised of employer contributions. The remainder of the fund is comprised of investment earnings of Judicial Retirement Fund assets and of a portion of district court civil case docket fees. The UAAL of the Judicial Retirement Fund is currently $20,728,330 and the judicial retirement system is 76 percent funded. Reduced contributions have contributed to the UAAL amount. Contributions are not based upon a percentage of salaries and thus do not rise with increased salaries. As a result, while a demand is placed upon retirement benefits, the amount contributed to the retirement fund has not increased at the same rate. The formulation of a salary-based contribution rate into the Judicial Retirement Fund is a proposed solution to the disparity between contributions to and payments from the fund.

TAXATION OF STATE PARK RECEIPTS

Doug Williams, Legislative Council Service economist, discussed various options for the taxation of state park receipts. He discussed the advantages and disadvantages of creating a new local governmental gross receipts tax applicable to state park fees, creating a new local sales tax applicable to state park fees, increasing state park fees and earmarking an increase for localities and altering the distribution of the governmental gross receipts tax related to state park fees. The revenue raised by such options statewide would approximate $35,000 for each one percent of tax allocated to local governments.

Adam Polley, Sierra County manager, discussed a proposal to subject state and federal agencies to a five percent local option lodger's tax. He stated that many state and federal parks use county resources, including roads and police, rescue, fire and hospital services. Mr. Polley suggested that counties should not have to bear the entire burden of paying for such resources and that the state and federal government could pay for their use of the resources by paying the local option lodger's tax.

GOVERNMENTAL GROSS RECEIPTS TAX OVERVIEW

Mark Valenzuela, director of intergovernmental relations with the New Mexico Finance Authority (NMFA), explained that the governmental gross receipts tax (GGRT) is a five percent tax on the receipts of agencies, institutions, instrumentalities and political subdivisions of the state for the privilege of engaging in activities, such as the sale of tangible personal property from facilities open to the general public; the performance of or admissions to recreational and athletic events; and refuse collection and disposal. The governmental gross receipts tax is also imposed upon the receipts of local water utilities for providing sewage services and solid waste management. One percent of the GGRT is distributed to the Cultural Affairs Department, 24 percent is distributed to the Energy, Minerals and Natural Resources Department and 75 percent is distributed to the NMFA. The amount distributed to the NMFA is further distributed to funds such as the Water Facility Construction Loan Fund and the Solid Waste Facility Grant Fund. GGRT collections have risen steadily during the last decade. Collections for fiscal year 2004 are expected to approximate $24.49 million.

The committee recessed for the day at 3:00 p.m.

Wednesday, September 15

INFRASTRUCTURE INVESTMENT AND CAPITAL OUTLAY MONITORING

James Jimenez, director of the Department of Finance and Administration (DFA), made a presentation on the governor's proposal to reform the capital outlay appropriation process. The DFA has created the Capital Projects Unit, which will be responsible for developing a long-range approach to infrastructure and linking projects to statewide priorities; recommending projects that provide adequate funding to ensure timely project completion; and recommending capital projects that can be completed within four years. The Capital Projects Unit is soliciting requests from local governments, special districts, tribes, pueblos and chapters to identify capital priorities for inclusion in the governor's 2005 executive recommendation for capital outlay.

Robert Apodaca, director of the Capital Projects Unit, DFA, reviewed the strategic plan for the unit for the 2005 legislative session. Goals include cooperation with agencies to improve accountability and reporting; identification of stagnant projects and fund balances available for reauthorization or reversion; and providing training and assistance to agencies on planning, budgeting and administration on capital projects. The unit will also work with the governor, legislature and local and tribal governments to develop joint priorities to be funded through the capital outlay process. The unit will make recommendations to the governor for capital projects to be funded during the legislative session.

The meeting adjourned at 11:45 a.m.

Revised: October 12, 2004

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

October 13-14, 2004
Room 307
State Capitol

Wednesday, October 13

8:00 a.m.	CALL TO ORDER —Senator John Arthur Smith, Vice Chair
8:05 a.m.	APPROVAL OF MINUTES
8:10 a.m.	TAXPAYER BILL OF RIGHTS ASSESSMENT AND REVIEW —Jan Goodwin, Secretary, Taxation and Revenue Department (TRD)
9:10 a.m.	ENHANCED AUDIT INITIATIVE STATUS —Jan Goodwin, Secretary, TRD —David Fergeson, Director, Audit and Compliance Division, TRD
10:10 a.m.	NORTH AMERICAN OIL AND GAS MARKET DEMAND —John Rigg, British Petroleum
11:00 a.m.	OIL AND GAS PRODUCTION UPDATE —Mark Fesmire, Director, Oil Conservation Division, Energy, Minerals and Natural Resources Department (Invited)
12:00 noon	LUNCH
1:30 p.m.	CONVENTION CENTER FEE REVENUE UPDATE —Jim Romero, City Manager, City of Santa Fe —Katherine Raveling, City Finance Director, City of Santa Fe —Bill Fulginiti, Executive Director, New Mexico Municipal League —Tony Flores, Director, Project and Facility Department, Santa Fe County
2:30 p.m.	OIL AND GAS REVENUE COLLECTIONS UPDATE —Tom Clifford, Chief Economist, TRD —Kirk Muncrief, Senior Economist, TRD

3:30 p.m. GASOLINE AND SPECIAL FUEL TAX REPORTING REQUIREMENT PROPOSAL
—Tom Clifford, Chief Economist, TRD
—Linda Palmer, Audit Supervisor, TRD

4:30 p.m. GOVERNMENTAL GROSS RECEIPTS TAX COLLECTIONS UPDATE
—Tom Clifford, Chief Economist, TRD

4:45 p.m. RECESS

Thursday, October 14

9:00 a.m. DYNAMIC FORECASTING UPDATE
—Melissa Vigil, Chief Economist, Department of Finance and Administration

10:00 a.m. 2003 SPECIAL SESSION HOUSE BILL 115 UPDATE
—Rhonda Faught, Secretary, Department of Transportation (DOT)
—Robert Olcott, Chief Economist, DOT

11:00 a.m. INTERAGENCY INFORMATION SHARING FOR TAX ENFORCEMENT
—Colonel Matt Murray, Chief, Motor Transportation Division, Department of Public Safety (DPS)
—Ron Cordova, Motor Transportation Division, DPS

12:00 noon LUNCH

1:30 p.m. LOCAL LIQUOR EXCISE TAX ISSUES
—Tasia Young, New Mexico Association of Counties

2:30 p.m. GENTAX APPLICATION SYSTEM AUDIT REVIEW
—Manu Patel, Deputy Director, Legislative Finance Committee (LFC)

3:30 p.m. LOCAL DWI FUND PROGRAM AUDIT UPDATE
—Manu Patel, Deputy Director, LFC

4:30 p.m. ADJOURN

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

October 13-14, 2004
Room 307
State Capitol

The fifth meeting of the Revenue Stabilization and Tax Policy Committee (RSTPC) for the 2004 interim was called to order by Senator John Arthur Smith, acting chair, on Wednesday, October 13, 2004, at 8:20 a.m. at the State Capitol.

PRESENT

Sen. John Arthur Smith, vice chair
Rep. Janice E. Arnold-Jones
Sen. Sue Wilson Beffort
Sen. Mark Boitano
Sen. Carlos R. Cisneros
Rep. Anna M. Crook
Rep. Roberto "Bobby" J. Gonzales
Sen. John Grubesic
Sen. Timothy Z. Jennings
Rep. Ben Lujan
Rep. Daniel P. Silva
Sen. H. Diane Snyder
Rep. Thomas C. Taylor
Rep. Luciano "Lucky" Varela

ABSENT

Rep. Donald. L. Whitaker, chair
Sen. Joseph A. Fidel
Rep. George J. Hanosh
Sen. William E. Sharer

Designees
Rep. Irvin Harrison (*designee for Rep. Donald L. Whitaker*)
Sen. Phil A. Griego (*designee for Sen. Joseph A. Fidel*)
Rep. Joe M Stell (*designee for Rep. George J. Hanosh*)

Staff
Amy Chavez, Pam Ray and Tim Crawford

Guests
The guest list is in the meeting file.

Copies of all written testimony are in the meeting file.

Wednesday, October 13

APPROVAL OF MINUTES

The committee unanimously approved the minutes of its fourth meeting held on September 13 in Silver City and on September 14-15 in Deming.

NEW MEXICO TAXPAYER BILL OF RIGHTS AND TAXATION AND REVENUE DEPARTMENT ENHANCED AUDIT INITIATIVE

Jan Goodwin, secretary of taxation and revenue, discussed the implementation of the New Mexico Taxpayer Bill of Rights enacted in Sections 7-1-4.1 through 7-1-4.3 NMSA 1978. The purpose of the Taxpayer Bill of Rights is to ensure that the rights of New Mexico taxpayers are adequately safeguarded during the assessment, collection and enforcement of taxes administered by the Taxation and Revenue Department (TRD) and to explain the rights of taxpayers.

Secretary Goodwin explained that the TRD has made several administrative changes to implement the provisions of the Taxpayer Bill of Rights. First, to support impartiality in tax hearings, TRD administrative hearing officers have been physically separated from the secretary's office and from the Audit and Compliance Division of the TRD. The offices of the TRD hearing officers are currently located in the Wendell Chino Building while the secretary's office and the Audit and Compliance Division are located in the Montoya Building at the South Capitol Complex. Also, to improve the TRD hearing process, the TRD hearing officers have developed for taxpayer use a list of frequently asked questions about administrative hearing procedures. The TRD sends the document to anyone whose protest is scheduled for a hearing. The document informs the taxpayer of what to expect at the hearing. The taxpayer's responsibility to gather evidence and witnesses to support the protest, and the decision of whether the taxpayer will represent himself or herself or hire a professional representative to act on the taxpayer's behalf, are also covered.

The Audit and Compliance Division has also made several changes to improve internal and taxpayer understanding of the Taxpayer Bill of Rights. The division has conducted an intensive two-day workshop for auditors to explain and discuss the Taxpayer Bill of Rights. Committee members suggested that the division continue to hold such workshops on a frequent basis. To facilitate taxpayer audits, the division developed an "audit setup" letter for taxpayers. The division also created a chart of audit time lines to help taxpayers identify important dates throughout the audit process.

Additionally, the TRD has enhanced its data collection procedures to improve service to taxpayers. For example, the TRD established new indicators in the GenTax program for better service to taxpayers who request additional information on certain notices or assessments. To reduce the number of invalid inquiries, the TRD has also implemented additional manual reviews of data before beginning limited-scope audits. To improve the administration of nontaxable transactions, the TRD has reduced the number of nontaxable transaction certificate (NTTC) categories in the gross receipts tax program. The TRD also plans to test an online system to track the issuance and use of NTTCs. The TRD has finally issued a publication explaining the provisions of the Taxpayer Bill of Rights and changed several existing publications to reflect the Taxpayer Bill of Rights.

Secretary Goodwin also discussed the TRD's expansion of the managed audit program to include all tax programs under the Tax Administration Act. Secretary Goodwin stated that the procedure has enhanced tax collection and identified potentially delinquent taxpayers. In the fiscal year ending June 30, 2004, the managed audit program collected over $4.2 million. Through the third week of September 2004, 66 managed audit taxpayers had been assessed a total of $2 million. Secretary Goodwin stated that the procedure encourages voluntary payments because it permits coverage by managed audits to avoid penalties and interest.

In response to the Legislative Finance Committee (LFC) review of a $5 million appropriation to the TRD to enhance tax collections, Secretary Goodwin updated the committee on the TRD's continuing efforts with respect to the initiative. During the 2003 legislative session, the TRD received a $5 million special appropriation to enhance the general fund by collecting outstanding taxes owed to the TRD. Secretary Goodwin stated that the TRD collected $75 million last year as a result of the initiative, amounting to an 11 to one return on the original $5 million appropriated to the TRD. The TRD is continuing its collection efforts and has collected an additional $12.3 million this year as a result of improved tax collections. The improved collections are attributable to the establishment of call centers for delinquent taxpayers, the addition of term collectors in field offices and more frequent collection of taxes from business taxpayers. Treasury offset programs to intercept taxpayer's federal tax refunds have also been established. The Tax Fraud Unit of the TRD has additionally modified its policies to provide more consistent investigations of delinquencies and will soon establish measures to provide accountability for the recommendations it makes to district attorneys for prosecutions. The department has additionally hired a designated prosecutor to work with the district attorney's office to pursue tax fraud cases. Committee members raised the issue of whether a tax fraud prosecutorial unit should be established within the Attorney General's Office.

The LFC's audit of the TRD's enhanced audit efforts raised a concern that the initiative lacked staffing depth. To respond to this concern, the TRD hired an additional staff person to maintain managed audits. However, Secretary Goodwin stated that the TRD should continue to limit the size of its staff to maintain consistency among managed audits.

NORTH AMERICAN OIL AND GAS DEMAND

John Rigg and Greg Beilstein of British Petroleum Energy Company (BP) discussed demand in the oil and gas markets of North America within the context of business conducted in these markets by BP. BP is an oil, gas, petrochemicals and renewables company. It produces those natural resources in Alaska, the Mackenzie Delta, Canada, the Rocky Mountains, the San Juan Basin, the Permian Basin, the Gulf Coast, in Trinidad and in other locations throughout North America. Mr. Rigg and Mr. Beilstein discussed the market demand cycles for natural gas in North America. Since 1990, the market has experienced five distinct increases and decreases, or demand cycles, for North American natural gas. Despite these cycles, the demand for gas has increased overall during the last 15 years. Production of natural gas has increased slightly since 1999 in the continental United States, but has decreased significantly in offshore production. On the other hand, liquified natural gas demand has risen sharply since 1998. Several regasification terminals to convert the liquified natural gas to a gaseous phase are proposed or planned to be constructed along the southern and eastern coasts of the United States within the next 10 years.

According to Mr. Rigg and Mr. Beilstein, the demand for North American natural gas is expected to grow at a rate of one percent per year and gas from traditional North American basins will not meet the demand. Incremental sources of supply might thus be needed. Mr. Maerz and Mr. Rigg stated that infrastructure investment to enable new supply sources would additionally be required to reach growing markets. Without additional investment, Mr. Rigg and Mr. Beilstein stated that supply and market misalignment and infrastructure bottlenecks might occur. They also predicted that higher prices, negative economic impacts and undesirable political intervention might occur without additional infrastructure investment. To ensure that the required infrastructure is built, Mr. Maerz and Mr. Rigg suggested that gas producers should commit to develop and exploit the natural resources and seek government regulatory clarity and certainty. They also suggested that pipeline companies provide capital commitment and technical expertise for project development; build low-cost efficient infrastructure responsive to customer needs and share investment risk. They further suggested that state policymakers provide a stable, predictable regulatory regime and allow regulated entities to support supply and infrastructure development that facilitates market growth.

NEW MEXICO NATURAL GAS AND OIL PRODUCTION

Mark Fesmire, director of the Oil Conservation Division of the Energy, Minerals and Natural Resources Department, discussed the demand for natural gas and oil produced in New Mexico. In 2003, a total of 1,589,698,011 natural gas wells were permitted and drilled in New Mexico. During the same year, 66,531,336 oil wells were drilled. Production of both natural gas and oil has decreased slightly during the past three years.

CONVENTION CENTER FEE UPDATE

Bill Fulginiti, executive director of the New Mexico Municipal League, provided an explanation of convention center financing. Mr. Fulginiti stated that the legislature recently passed three bills to help finance convention centers in Albuquerque, Las Cruces and Santa Fe.

The passage of one of those bills authorized the city of Albuquerque to impose a one percent hospitality fee on gross room revenue per day. Fifty percent of the proceeds from the fee is used to finance improvements to the Albuquerque Convention Center, while the remaining 50 percent is used for advertising to promote tourist attractions, facilities and events in the municipality. The act permits revenue bonds to be issued using the fee as the source of repayment. The fee raised $1.7 million in Albuquerque as of July 1, 2004.

The Convention Center Financing Act authorizes the city of Las Cruces to impose up to $2.50 per day for vendees using lodging facilities. The use of the funds is for land acquisition and construction of a convention facility. The city of Las Cruces, Dona Ana County and other incorporated municipalities within 20 miles of Las Cruces are authorized to levy the fee. To date, those entities have not enacted the fee. The fee could raise up to $1.133 million.

The Civic and Convention Center Funding Act authorizes the city of Santa Fe to impose up to a two percent fee on room rentals. The fee shall be used for the construction and operation of a convention facility and may also be used for a parking facility associated with the convention center. The act also allows revenue bonds to be used. A one percent fee could yield approximately $1.158 million annually, while the two percent fee would generate about $2.317 million. As of June 30, 2004, the city of Santa Fe had collected $1.078 million in revenue from the fee.

Carol Robertson-Lopez, mayor pro-tem, Michael Duran, city manager, and Katherine Raveling, city finance director of the city of Santa Fe, discussed the impact of the fee imposed pursuant to the Civic and Convention Center Funding Act. In addition to the revenue from the lodger's tax, revenue from the convention center fee imposed pursuant to the act has been dedicated to improvement of the Sweeney Convention Center in Santa Fe and to a feasibility study for a new convention center in Santa Fe. Mayor Pro-Tem Robertson-Lopez stated that the additional funding raised by the convention center fee is necessary to continue the convention center projects. The mayor has issued requests for proposal for a project manager, for archaeological studies and for design of the new convention center. City of Santa Fe officials hope that the new convention center will be open for business in July 2008. The seating capacity for the new facility will be approximately 1,800 people. Additional space will also be available to provide meals to convention attendants and for exhibition spaces for local artists. Committee members stated that construction of the new facility should begin as soon as possible to minimize the financing expenses of the project.

NEW MEXICO OIL AND GAS REVENUE COLLECTIONS

Thomas Clifford, PhD, chief economist, TRD, and Kirk Muncrief, senior economist, TRD, elaborated on the state and local revenues that stem from oil and natural gas production in the state. During fiscal year 2003, approximately $1.07 billion in tax, royalty and rent revenues stemming from oil and gas production were collected. Total state and local collections from taxes, royalties and rents were approximately $1.3 billion in fiscal year 2004, a 22 percent increase from the previous year. $1.17 billion of that amount included state revenues, while $92 billion included local revenues. State land beneficiaries received about $40 million. Those amounts do not include gross receipts tax, personal income tax and corporate income tax liabilities incurred by oil and gas companies.

Dr. Clifford outlined recent trends in state oil and gas revenues and production. Revenues reached their peak in fiscal year 2001, the year of the California energy crisis. After falling by one-third in 2002, revenues increased by a total of 38 percent over the last two years. Fiscal year 2004 was the second-highest revenue year on record. Natural gas production has stabilized in fiscal year 2004, after declining in the previous two years. The average New Mexico gas price increased by $1.04, or 25 percent, during 2004. Crude oil production declined by four percent in fiscal year 2004. The average price of crude oil in New Mexico increased by $3.11 per barrel to $30.83, the highest average price reported in New Mexico since 1983. Revenues from oil production in 2004 were $152 million, an increase of eight percent.

Dr. Clifford discussed the impact of demand and production of natural gas on regional natural gas prices. He noted that regional prices fluctuate widely due to fluctuating demand and pipeline capacity conditions. The gap between average New Mexico prices and those at the Henry Hub Trading Center in Louisiana has widened to an average of $0.84 over the last two years. Permian Basin prices have remained closer to the Henry Hub prices.

GASOLINE AND SPECIAL FUEL TAX REPORTING REQUIREMENT PROPOSAL

Dr. Clifford and Linda Palmer, audit supervisor, TRD, proposed a bill for adoption by the committee. The proposed legislation creates new reporting requirements for gasoline retailers and special fuels wholesalers and penalties for failure to comply with those requirements. Pursuant to the proposed legislation, gasoline retailers and special fuels wholesalers would be required to file monthly information returns with the TRD. Other suggested changes include technical changes to conform state law to the International Fuel Tax Agreement.

The committee recessed at 4:30 p.m.

Thursday, October 14

GOVERNMENTAL GROSS RECEIPTS TAX COLLECTIONS UPDATE

Dr. Clifford discussed the impact of the passage of Senate Bill 23 during the 2004 legislative session. The bill amended Section 7-9-3.2 NMSA 1978 to expand the definition of "governmental gross receipts" to include receipts from renting or granting permission to use parking, docking or aircraft tie-down spaces. Dr. Clifford stated that although it is too early to surmise the impact of the legislation, a large increase in governmental gross receipts tax collections occurred between May and July of 2004. However, a significant portion of this increase might be attributable to seasonal revenues from local water utilities, which pay a significant portion of the governmental gross receipts tax.

DEPARTMENT OF FINANCE AND ADMINISTRATION DYNAMIC SCORING PILOT PROJECT

Melissa Vigil, chief economist of the Department of Finance and Administration (DFA), and Billy Leung from REMI discussed the implementation of a legislatively mandated pilot project to provide dynamic scoring fiscal analysis services for legislative proposals during the 2004 and 2005 legislative sessions for bills that have a static impact in excess of $10 million. The DFA has worked with the staff of REMI to conduct and implement its dynamic scoring model and to perform dynamic scoring analyses.

Ms. Vigil discussed the difference between dynamic scoring and static scoring. Static scoring estimates the gain or loss associated with the existing level of taxable income or other tax bases. Dynamic scoring estimates static impacts, but allows taxable income to vary, enabling estimation of the full impact of a policy change. For instance, a tax change might create an economic shock that has a ripple effect on business activity, consumer spending and population. Those factors affect the tax base. While dynamic scoring takes the ripple effect into consideration in fiscal impact estimates, static analysis excludes the ripple effect from consideration. Moreover, dynamic scoring analysis includes long-term employment and output impacts resulting from policy changes as factors affecting fiscal impact figures.

GOVERNOR RICHARDSON'S INVESTMENT PARTNERSHIP (GRIP) UPDATE

Rhonda Faught, secretary of transportation, and Robert Olcott, chief economist, Department of Transportation (DOT), provided the committee with an update of the economic impacts and highway projects funded resulting from House Taxation and Revenue Committee Substitute for House Bill 15, which passed during the 2003 special session, also known as Governor Richardson's Investment Partnership (GRIP). Pursuant to the legislation, the special fuels tax was raised by $.03, the weight distance tax was raised by 38 percent and vehicle registration fees were raised by an average of $12.50 per year. Some transportation projects funded by GRIP included the widening of United States Highway 491, improvement of Interstate 40 between Grants and Thoreau, improvement of Interstate 10 in Lordsburg and improvement of the Coors Boulevard-Interstate 40 interchange in Albuquerque. An amendment requiring the DOT to hire a workforce comprised of a minimum of 70 percent in-state residents for 100 percent state-funded projects also passed. The legislation expressed the intent of the legislature to authorize the issuance of approximately $1.6 billion in state transportation bonds in annual increments of $350 million.

According to Secretary Faught, GRIP will create 8,000 jobs per year and will create an $8.4 billion positive impact on the economy. She additionally stated that $342.4 million in savings would be generated by reduced commuting times, and $49.5 million would be saved in reduced vehicle maintenance costs. Secretary Faught predicted that GRIP will generate approximately $90 million in gross receipts tax revenues.

Secretary Faught discussed the new money that would be raised from the issuance of bonds and how that money would be refinanced throughout the year. Forty-five million dollars of the funding sources for the debt service for GRIP during 2004 will be comprised of state funds, and $112.3 million will be comprised of federal funds.

Currently, all of the 40 projects authorized pursuant to GRIP are in some stage of development from design to bidding for construction. Schedules for those projects were set by the degree of design and complexity. Secretary Faught assured the committee members that DOT is committed to completing all of the projects authorized pursuant to GRIP.

Mr. Olcott briefed the committee members on the implementation of weight distance tax identification permits, which were created pursuant to GRIP to identify vehicles that are subject to the tax. To defray the costs of issuance and administration of the permits, TRD has established a $2.00 administrative fee. DOT anticipates that several weight distance identification permits will be issued on January 1. The issuance of the permits is expected to improve enforcement of the weight distance tax and the trip tax.

INTERAGENCY INFORMATION SHARING FOR TAX ENFORCEMENT

Colonel Matt Murray, chief, and Ron Cordova, deputy chief, both of the Motor Transportation Division (MTD) of the Department of Public Safety (DPS), discussed the manner in which the MTD shares information with the Motor Vehicle Division of TRD and other divisions of the TRD for the purpose of tracking information used to enforce the weight distance tax and the use of oversize and overweight permits. Colonel Murray and Mr. Cordova provided the committee with a visual presentation of the interface containing information entered by TRD that helps MTD identify delinquent or non-filing taxpayers. They also explained how the interface assists the MTD in providing data to the TRD for audit purposes. Since the passage of GRIP, which created the weight distance tax identification permits, permit revenues have increased dramatically. Revenues from issuance of the permits is expected to reach $2,943,822. Since July 2004, the MTD has issued 444,529 tax identification permits.

LIQUOR EXCISE TAX INCREASE PROPOSAL

Santa Fe County Commissioner Harry Montoya and James Gilson, Santa Fe County Family Services director, proposed that the committee support legislation to authorize all counties to impose local liquor excise taxes of 10 percent. Commissioner Montoya and Mr. Gilson suggested that imposition of the tax could help counties defray the costs of housing prisoners that have been incarcerated as the result of alcohol-related offenses. McKinley County, which currently has the authority to impose the tax pursuant to the Local Liquor Excise Tax Act, has experienced decreases in detoxification center admissions, alcohol-related automobile accidents, cirrhosis mortality rates and suicide rates after enactment of the tax. Commissioner Montoya stated that the tax could provide similar benefits to the rest of the counties in the state if they are permitted to impose the tax.

During a public comment period, Ed Mahr, a lobbyist for the New Mexico Alcohol Beverage Wholesalers Association, expressed opposition to a local option local liquor excise tax. Mr. Mahr contended that the tax would unduly transfer legislative power to local governments. He stated that distributions to the Local DWI Grant Fund have effectively addressed local alcohol-related issues. He suggested that greater distributions might be permitted for counties with the most serious alcohol-related issues. Fred O' Cheskey, also a lobbyist for the New Mexico Alcohol Beverage Wholesale Association, stated that a local option liquor tax should not be permitted because New Mexico has one of the highest taxes on liquor in the country. He also stated that placing an additional tax on liquor would have a regressive effect and could ultimately negatively impact tourism. He further stated that imposition of an additional tax on liquor might ultimately promote bootlegging and illegal sales of alcohol to minors.

LOCAL DWI GRANT FUND PROGRAM AUDIT UPDATE

Manu Patel, deputy director, and Scott Roybal, performance auditor, both with the LFC, presented their findings of a review of the Local DWI Grant Fund Program's responses to the LFC's audit of the program in 2003. Mr. Roybal stated that the program made significant improvements subsequent to the audit and implemented several of the recommendations made by the LFC in its 2003 audit report. The LFC concluded that the program appears to be gaining momentum and that program accountability appears to be improving. However, the LFC found that the program continues to need a strategic plan that clearly identifies milestones and measures program success. Mr. Roybal also suggested that training and technical assistance to local DWI programs could be more effective by increasing site visits by staff from the Local Government Division of the DFA. The LFC also found that fiscal and programmatic deficiencies continue to affect some local programs. Finally, the LFC found that issues such as the improvement of the reversal of driver license revocations and single repositories for interlock data need to be addressed. The LFC concluded that once the DWI czar and other affected entities address those issues and when cross-agency coordination improves, the Local DWI Grant Fund Program will be an effective and accountable program.

STATUS REPORT OF THE GENTAX APPLICATION SYSTEM

Mr. Patel and Ed Paz, computer system auditor, LFC, discussed the LFC's review of the implementation of the GenTax Computer Application System for integrated tax processing. The LFC conducted the review to gain an understanding of how GenTax calculates distributions of state-shared taxes collected for counties and municipalities. It also conducted the review to determine if the GenTax system accurately calculates distributions of state-shared taxes collected for counties, municipalities and the state general fund. Another objective of the audit was to determine if controls are in place and operating effectively to ensure all Combined Revenue System (CRS) tax receipts deposited to a bank are processed by GenTax in a timely manner. Finally, the audit also was conducted to determine the status of the GenTax Computer Application System project implementation.

The LFC found that the GenTax Computer Application System adequately accounts for all tax receipts submitted for processing. However, the LFC concluded that a significant volume of transactions with insufficient taxpayer information needs to be handled manually through the GenTax system. The TRD does not perform daily cash receipts reconciliations between revenue processed in GenTax and cash deposited to a bank. Thus, the LFC found that it is difficult to determine whether all bank deposits were processed by GenTax in a timely manner.

Based upon its review of the GenTax system, the LFC formed recommendations for the TRD. First, the LFC suggested that receipts processed by GenTax should be reconciled with bank deposits on a daily basis. The LFC also suggested that plans to transfer knowledge of the GenTax Computer Application System to internal technology staff should be formulated. Mr. Paz stated that knowledge transfer will reduce reliance on more expensive vendor support. The LFC made other suggestions, including the implementation of plans to implement a data warehouse and to automate revenue processing for taxes and fees received through the mail. The LFC finally suggested that the TRD work with the legislature to amend Section 7-1-8 NMSA 1978 to permit the LFC to access electronic information in the GenTax system for audit purposes, as the

LFC was unable to obtain all of the information it needed during the current audit to determine whether the distributions in the GenTax system were correctly calculated.

The committee adjourned at 4:00 p.m.

Revised: November 5, 2004

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

November 8-10, 2004
Room 322
State Capitol

Monday, November 8

9:00 a.m. CALL TO ORDER

9:05 a.m. APPROVAL OF MINUTES

9:10 a.m. *K-mart v. Taxation and Revenue Department* UPDATE
—Jim Eads, President and Executive Director, New Mexico Tax Research Institute

10:15 a.m. GASOLINE TAX ISSUES
—Ruben Baca, New Mexico Petroleum Marketer's Association
—Perry Martinez, Co-Chair, Native American Petroleum Coalition

11:15 a.m. OIL AND GAS REVENUE PROJECTIONS UPDATE
—Tom Clifford, Taxation and Revenue Department (TRD)

12:00 noon LUNCH

1:30 p.m. GOVERNOR RICHARDSON'S TAX PROPOSALS
—Jan Goodwin, Secretary, TRD
—Tom Clifford, Chief Economist, TRD

2:30 p.m. PRODUCED WATER TAX CREDIT PROPOSAL
—John Gillis, Public Service Company of New Mexico

3:30 p.m. RURAL ELECTRIC COOPERATIVE NET METERING PROPOSAL
—Keven Groenewold, Executive Vice President, New Mexico Rural Electric Cooperative Association

4:15 p.m. HOSPITALITY TAX INCENTIVE
—Marianne Joyce, Proactive Host Program, Adventure Gallup and Beyond Initiative, Gallup-McKinley Chamber of Commerce

5:00 p.m. RECESS

Tuesday, November 9

9:00 a.m. ALTERNATIVE METHODS OF STATE FUND INVESTMENT
—Gary Bland, State Investment Officer, State Investment Council
—Mark Valdes, Director, Board of Finance

10:00 a.m. ELIMINATE COUNTY FEES FOR OUT-OF-STATE PRISONERS — LEGISLATION PROPOSAL
—Ed Mahr, Corrections Corporation of America

11:00 a.m. TOBACCO SETTLEMENT REVENUE OVERSIGHT COMMITTEE LEGISLATION PROPOSALS
—Senator Mary Jane M. Garcia
—Joe Lennihan, General Counsel, TRD

12:00 noon LUNCH

1:30 p.m. USE OF ECONOMIC DEVELOPMENT TAX INCENTIVES
—Tom Clifford, Chief Economist, TRD

2:30 p.m. ECONOMIC DEVELOPMENT DEPARTMENT (EDD) PROPOSALS
—Rick Homans, Secretary, EDD
—Frank Marquez, Administrative Services Director, EDD

3:30 p.m. LABORATORY PARTNERSHIP WITH SMALL BUSINESS TAX ACT
—J. Lenny Martinez, Vice President, Sandia National Laboratories
—Mariann Johnston, Program Manager, New Mexico Small Business Assistance Initiative

4:15 p.m. TECHNICAL RESOURCE CONSORTIUM PATENT PROGRAM
—Roman Maes, Legislative Liaison, Technical Resource Consortium

5:00 p.m. RECESS

Wednesday, November 10

9:00 a.m. CLEAN ENERGY PROPOSALS
—Craig O'Hare, Special Assistant for Renewable Energy, EMNRD

10:00 a.m. TAXATION AND REVENUE DEPARTMENT LEGISLATIVE PROPOSALS
—Jan Goodwin, Secretary, TRD
—Steve Dichter, Deputy Secretary, TRD
—Larry Kehoe, Director, Motor Vehicle Division, TRD
—Libby Gonzales, Director, Revenue Processing Division, TRD

11:30 a.m. ADJOURN

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

November 8-10, 2004
Room 322
State Capitol

The sixth meeting of the Revenue Stabilization and Tax Policy Committee (RSTPC) for the 2004 interim was called to order by Representative Donald L. Whitaker, chair, on Monday, November 8, at 9:15 a.m. at the State Capitol.

PRESENT
Rep. Donald L. Whitaker, chair
Sen. John Arthur Smith, vice chair
Rep. Janice E. Arnold-Jones
Sen. Sue Wilson Beffort
Sen. Mark Boitano
Sen. Carlos R. Cisneros
Rep. Anna M. Crook
Sen. Joseph A. Fidel
Rep. Roberto "Bobby" J. Gonzales
Sen. John Grubesic
Rep. George J. Hanosh
Sen. Timothy Z. Jennings
Rep. Ben Lujan
Sen. William E. Sharer
Sen. H. Diane Snyder
Rep. Thomas C. Taylor
Rep. Luciano "Lucky" Varela

ABSENT
Rep. Daniel P. Silva

Designee
Rep. Henry Kiki Saavedra (*designee for Rep. Daniel P. Silva*)

Staff
Amy Chavez, Pam Ray and Tim Crawford

Guests
The guest list is in the meeting file.

Copies of all written testimony are in the meeting file.

Monday, November 8

APPROVAL OF MINUTES

The committee unanimously approved the minutes of its fifth meeting held on October 13-15 at the State Capitol.

K-MART V. TAXATION AND REVENUE DEPARTMENT UPDATE

Jim Eads, president and executive director of the New Mexico Tax Research Institute, discussed the oral arguments of two cases argued before the New Mexico Supreme Court on October 14. K-Mart is the appellant in one case and Sonic is the appellant in the other case. The general issue presented for decision in both cases is whether or not the New Mexico gross receipts tax is applicable to the sale of a license for use in New Mexico when the sale occurred outside of New Mexico.

Mr. Eads explained the facts of each case. The corporate headquarters of K-Mart are located in Michigan. In 1991, K-Mart created a wholly owned subsidiary corporation, KPI, to own certain trademarks, trade names and service marks. KPI licenses the use of that intangible property back to K-Mart in return for the payment of a royalty fee. Sonic similarly has corporate headquarters out of state. The corporate headquarters of Sonic are located in Oklahoma. Sonic enters into license agreements with licensees in New Mexico. The Taxation and Revenue Department (TRD) asserted that audits of both KPI and Sonic revealed that gross receipts tax was due on the sales of the use of the K-Mart trade name in New Mexico and the use of the licenses purchased by New Mexico licensees from Sonic. Sonic paid the taxes that the TRD claimed were due and then claimed a refund, which was denied. Sonic sued to obtain the refund. K-Mart sought and obtained a hearing before the TRD, which upheld the assessment of the tax and an appeal was taken from the hearing officer's decision and order. Both K-Mart and Sonic received unfavorable rulings from the lower courts and appealed to overturn those rulings to obtain refunds for the gross receipts taxes paid and to further abate gross receipts tax assessments.

According to Mr. Eads, the statutory question that the outcome of the cases will hinge upon is where the sale of the intangible properties of KPI and Sonic occurred. The New Mexico gross receipts tax can be applied to a sale if it occurs in New Mexico. Mr. Eads summarized the arguments made by both the appellants and appellees as to whether sales of intangible property occurred in New Mexico.

Mr. Eads concluded that the cases could have far-reaching consequences for all of the states because a large number of businesses could be affected and because the manner in which constitutional standards for nexus pursuant to the commerce clause are interpreted might be refined.

GASOLINE TAX ISSUES

Ruben Baca, executive director of the New Mexico Petroleum Marketers Association, discussed issues of concern to the organization. The association members are concerned about increasingly demanding regulatory requirements placed on the petroleum industry, including late night convenience store regulations. Mr. Baca expressed concern that the hasty passage of regulations denies the legislature its power to debate and vote upon important proposals.

Mr. Baca also expressed concern about a report produced by the TRD that recommends elimination of federal funding for remediation and cleanup of petroleum products. The report recommends that petroleum marketers instead purchase personal pollution insurance. However, the report also suggests that the petroleum marketers should continue to pay a petroleum products loading fee. The fee was previously used for federal funding of remediation and cleanup of petroleum products. Mr. Baca stated that the petroleum products loading fee should not be used as a tax on the petroleum industry to fund environmental projects that are not associated with petroleum product cleanup and remediation. He also stated that the fee should not continue to burden small operators, who are especially impacted by the fee. Thus, the New Mexico Petroleum Marketers Association holds that if federal funding for remediation and cleanup of petroleum products is removed, elimination of the petroleum products loading fee should follow.

Perry Martinez, co-chair of the New Mexico Native American Petroleum Coalition (NAPC), discussed the deductions for Native American tribes pursuant to the Gasoline Tax Act. Mr. Martinez stated that a compromise between state, petroleum marketers and tribes is reflected in the act, as the act:

- avoids double taxation of gasoline by the state and tribes;
- prevents unfair competition for non-Indian petroleum interests;
- encourages economic development on tribal lands;
- creates new jobs;
- provides a stable tax base for tribes; and
- provides gasoline, services and products for the communities.

Mr. Martinez explained the agreements between the state and the tribes contained in the Gasoline Tax Act. First, pursuant to that act, if gasoline is sold at retail on tribal land and if the tribe collects a gasoline tax on the fuel, the state does not tax the fuel. Previously under the Gasoline Tax Act, the pueblos of Nambe and Santo Domingo were able to each sell a set amount of wholesale gasoline not subject to the state's gasoline tax. However, both tribes have since entered into intergovernmental tax sharing agreements with the state where the tribes agreed not to exercise their right to sell wholesale gasoline for the term of the agreement, thereby allowing that gasoline to be sold on the off-reservation market subject to the state's gasoline tax. The state then remits a portion of the tax revenue collected by the state on the gasoline to the tribe.

Mr. Martinez stated that the compromises reflected in the provisions of the Gasoline Tax Act are important to the tribes because tribal gasoline tax revenue is critical for tribal governmental services. On behalf of the NAPC, Mr. Martinez encouraged the members of the committee to support maintenance of the tax structure under the Gasoline Tax Act and to support a bill proposed to the RSTPC by the TRD to create gasoline reporting requirements.

REVENUE OUTLOOK FROM CRUDE OIL AND NATURAL GAS PRODUCTION

Tom Clifford, chief economist, and Kirk Muncrief, senior economist, TRD, provided a forecast of the revenues that the state is expected to generate from crude oil and natural gas production. The TRD estimates that statewide sales volume of natural gas has declined from 1,628 million cubic feet (Mcf) in 2001 to 1,564 Mcf in 2004. Sales volumes are declining in both the Permian and San Juan basins by about one percent per year. However, natural gas sales have increased by 2.2 percent in fiscal year 2004 in response to higher natural gas prices and increased drilling. After stabilization of those factors in 2005, production and sales of natural gas are expected to decline by one percent per year, while prices of natural gas are expected to remain high for several years. In comparison to the natural gas prices of other states, New Mexico prices are relatively low due to lower transportation costs and regional market demand. However, the factors that affect those prices are volatile.

Oil production in New Mexico has declined six percent since 2001, while it has decreased four percent in fiscal year 2004 from 2003. Oil production is expected to continue to decline by one percent per year. Some of the decline might be offset by drilling and higher oil prices, which are expected to encourage oil production. Prices, on the other hand, have increased by 29 percent in 2003 and 13 percent in 2004. Fiscal year 2005 prices are expected to average $40.00, which is a 26 percent increase from fiscal year 2004. Those prices are expected to decline during the next several years.

Dr. Clifford and Mr. Muncrief provided an overview of the market for natural gas in the next few years. They explained that current high natural gas prices reflect fundamental pressures in the North American market. Limited relief from the high prices is expected until liquefied natural gas (LNG) arrives in significant quantities in the North American market. LNG is not expected to substantially impact the market until 2008. In addition, five LNG terminals would need to be constructed on the West Coast for LNG to affect New Mexico natural gas prices. LNG terminals on the West Coast would compete with natural gas produced in the San Juan Basin, thus reducing prices received by New Mexico producers.

An outlook for future oil production in New Mexico was also provided to the RSTPC. In recent weeks, TRD data indicated that oil prices have risen to an average of $39.21 per barrel. Recent prices might reflect short-term market uncertainties stemming from hurricane damage in the Gulf of Mexico and supply uncertainty in Russia, Nigeria and Iraq. Additional pressures on prices are likely to result from demand increases due to economic growth in Asian nations, and limited supply resources from OPEC and other oil producers. Despite these pressures, supplies of oil should gradually increase and reduce prices because worldwide drilling is at an all-time high.

TRD estimates show that state revenue from oil and natural gas production will peak in fiscal year 2005 and decline after fiscal year 2005. Total state revenue is expected to increase by 13 percent to over $1.3 billion in fiscal year 2005, and in later years is expected to remain over $1.1 billion per year. Local governments are expected to receive $100 million per year from oil and gas production in the next several years. General fund revenue is expected to exceed $700 million in fiscal year 2005 and to decline to about $600 million over the next several years.

For every 10-cent change in the annual price of natural gas, state general fund revenue is expected to change by $12 million and local revenue is expected to change by $2 million. Every change of $1.00 in oil price is expected to change state general fund revenue by $4 million and local revenue by $1 million. Dr. Clifford and Mr. Muncrief further concluded that strong industry revenue would further benefit the state through personal and corporate income tax collections.

GOVERNOR RICHARDSON'S TAX PROPOSALS

Secretary Jan Goodwin, TRD, presented four tax relief proposals endorsed by Governor Bill Richardson. They include a proposal for tax relief for low- and middle-income households; expansion of the income tax exclusion for retirees; elimination of the single-parent penalty; and creation of a gross receipts tax holiday.

The proposal for tax relief for low- and middle-income households creates a new $3,000 exemption per person. The exemption would begin phasing out at $15,000 of adjusted gross income and phase out completely at $35,000 for single taxpayers. The exemption would begin phasing out at $25,000 for married taxpayers and phase out completely at $65,000. The proposal is expected to reduce general fund revenue by $23.5 million per year beginning in fiscal year 2006. The TRD estimates that 430 returns and 900,000 New Mexicans will be affected if the proposal becomes law. Tax liabilities are expected to be reduced by an average of $55.00 for each affected return. Approximately 166,000 New Mexicans are expected to be entirely relieved of their tax liabilities.

An expanded income tax exclusion for retirees is expected to affect 80,000 New Mexicans of age 65 and over. Existing law permits a maximum income tax exemption of $8,000 for taxpayers who are 65 and over or who are eligible to be treated as blind for federal income tax reporting purposes. The current exemption is phased out starting at $18,000 of adjusted gross income for single taxpayers and $30,000 of adjusted gross income for married filing joint taxpayers and heads of households. The exemption is completely eliminated at an adjusted gross income of $28,500 for single taxpayers and at $51,000 for married filing joint taxpayers and heads of households. The governor's proposals would eliminate the phase-out of the exclusion to allow all seniors to exclude at least $2,500 of income from their tax liabilities.

The elimination of the single-parent penalty will entail modification of income tax brackets so that single parents will be treated the same for tax purposes as married couples filing jointly. Secretary Goodwin explained that current income tax brackets for taxpayers filing head of household returns are designed on the outdated premise that single parents face lower household expenses than married couples. Secretary Goodwin stated that equalizing head of household tax brackets with those of married couples will more adequately reflect the expenses that single parents must pay to maintain their households. Fifty thousand single parents are expected to benefit from this proposal at an average of $40.00 each.

The gross receipts tax holiday proposal would prohibit the imposition of the gross receipts tax on retail sales items that cost less than $2,500 each. The gross receipts tax holiday would be a one-time holiday that would occur on August 6, 2005. The tax holiday is expected to reduce general fund revenue by $5 million and local government revenues by $43 million. The average household is expected to save $20.00 from the gross receipts tax eliminated on the holiday.

PRODUCED WATER TAX CREDIT PROPOSAL

John Gillis of the Public Service Company of New Mexico (PNM) discussed a proposal to provide a corporate income tax credit for the gathering, transporting or treatment of produced water for disposition in the generation of electricity. Produced water is water that is an incidental byproduct from drilling for oil or gas. The credit would be available to a taxpayer that gathers, transports or treats produced water that is disposed in the process of generating electricity. The credit would be available to the taxpayer during the year in which the disposition of the water occurs if the disposition of the water complies with Energy, Minerals and Natural Resources Department regulations. An eligible taxpayer may claim $1,000 per acre-foot of produced water disposed of in the taxable year. However, the tax credits claimed by taxpayers who gather, transport or treat the same produced water shall not exceed $3 million in a taxable year. The total credits claimed by the taxpayer over time also shall not exceed 50 percent of the taxpayer's capital cost of equipment for gathering, transporting or treating produced water that is disposed in an electric generating facility. The Energy, Minerals and Natural Resources Department would be charged with the task of determining whether produced water is disposed of in accordance with the department's rules for the purpose of determining whether a taxpayer is eligible for the produced water tax credit.

RURAL ELECTRIC COOPERATIVE NET METERING PROPOSAL

Keven Groenewold, executive vice president of the New Mexico Rural Electric Cooperative Association, discussed a proposal regarding net metering. Net metering benefits customers who generate their own power. If the customers make more electricity than they use, the excess flows to the cooperative, the customers' electricity meters run backwards and their electricity bills are reduced. The cooperative buys the excess power at the full retail price, rather than at the wholesale price for which it sells on the open market. Mr. Groenewold discussed a proposal to amend the Rural Electric Cooperative Act to promote equity in the net metering process. The proposal would provide a net metering credit for consumers who generate their own power in excess of their use. The credit would be equal to the average annual wholesale power cost less distribution system losses and would be redeemable by the customer against the customer's electricity bill liability.

Mr. Groenewold stated that the proposals would permit rural cooperatives to better operate and promote equity in sharing of operating costs among cooperative members. He also stated that the proposal promotes the generation of renewable energy by only providing the credit to consumers who use renewable energy sources.

HOSPITALITY TRAINING TAX CREDIT

Marianne Joyce of the Adventure Gallup and Beyond Initiative of the Gallup-McKinley Chamber of Commerce discussed the proposed legislation for a hospitality training tax credit. The legislation was initially introduced as House Bill 7 during the 2003 special session. The proposal would create a tax credit in an amount equal to the cost of hospitality training paid for by a taxpayer and attended by employees of the taxpayer in an amount of up to $10,000 per year.

Hospitality training would include customer service skills training to employees who work with tourists and other retail customers. Ms. Joyce stated that a new proposal based on the 2003 introduced legislation will refine the definition of a "hospitality business" eligible for the credit and reduce the fiscal impact of $72.56 million for the originally proposed legislation. Proposed reduction of the tax credit during the 2004 legislative session to $5,000 will additionally reduce the fiscal impact to the state to $18.25 million. Ms. Joyce further stated that the Tourism Department supports the proposal for the 2004 legislative session as an incentive for employers to provide hospitality training to their employees and to ensure better service for tourists and local consumers.

The committee recessed for the day at approximately 5:00 p.m.

ALTERNATIVE METHODS OF STATE FUND INVESTMENT

State Investment Officer Gary Bland of the State Investment Council (SIC) provided the RSTPC members with an overview of the manner in which the managed assets of the SIC are invested. Managed assets of the SIC include securities, cash and accrued income and other assets and liabilities. As of September 30, 2004, the SIC reported $11,577,807,636 in managed net assets. The SIC invests its managed assets in domestic equities, international equities, fixed income securities and cash. As of September 30, 2004, the SIC invested approximately 67.68 percent of its managed assets in domestic and international equities and approximately 32 percent in fixed income securities and cash.

The SIC also invests assets of the Land Grant Permanent Fund. The fund is invested in equities, core bonds, high-yield bonds, economically targeted investments and private equity. Sixty-five percent of the fund was invested in equities, 26 percent in core bonds, three percent in high-yield bonds and six percent in private equity as of September 30, 2004. Mr. Bland provided the RSTPC with information regarding the market value changes of various investment pools entered into by the SIC.

Mark Valdes, director of the State Board of Finance, discussed the state treasurer's responsibility for investment of the general fund, the local government investment pool, state bond proceeds, debt service funds and other miscellaneous funds. Mr. Valdes explained that state law enumerates the investments into which the state treasurer may enter and determines the role of the State Board of Finance in providing advice and consent to the state treasurer with respect to those investments.

Mr. Valdes explained the criteria that the state treasurer uses to make investment decisions. First, the state treasurer follows a "prudent person" rule for the investment of assets. He considers the preservation of principal, the maintenance of liquidity, return maximization and other factors in making investment decisions. The treasurer is authorized to invest in U.S. government obligations; commercial paper; corporate bonds; asset-backed obligations; repurchase agreements; bank, savings and loan association or credit union deposits; securities lending agreements; tax-exempt securities and mutual funds.

PROPOSAL TO ELIMINATE COUNTY FEES ON OUT-OF-STATE PRISONERS AT PRIVATELY OPERATED CORRECTIONAL FACILITIES

Ed Mahr from the Corrections Corporation of America discussed a proposal to eliminate county fees on out-of-state prisoners at privately operated correctional facilities. State law currently imposes a fee of $2.00 per out-of-state inmate incarcerated in a privately operated correctional facility. Mr. Mahr asserted that this fee negatively impacts privately operated facilities that must transfer in-state inmates to other facilities and house out-of-state inmates to replace them. He stated that the negative impact to the private facilities will likewise negatively impact surrounding communities, which will receive lower tax revenues from the facilities. Mr. Mahr indicated that Cibola and Torrance counties would be especially impacted by the fees.

TOBACCO SETTLEMENT REVENUE OVERSIGHT COMMITTEE (TSROC) LEGISLATION PROPOSALS

Senator Mary Jane M. Garcia, member of the TSROC, and Joe Lennihan, general counsel, TRD, asked for the RSTPC's endorsement of two bills supported by the TSROC and the TRD. The first proposed bill provides the TRD with new tools to enforce and collect the cigarette tax. It clarifies who applies cigarette tax stamps and provides for tax-exempt stamps. Distributors and manufacturers would be licensed and retailers of cigarettes would have to register with the TRD. The bill also enhances record keeping and establishes reporting provisions and civil and criminal penalties. The bill additionally provides the TRD and other law enforcement agencies with authority to stop and search suspect vehicles for counterfeit tax stamps or contraband cigarettes when there is probable cause to do so. The TRD or law enforcement officials are given the authority to destroy the counterfeit stamps and contraband cigarettes when they are no longer needed as evidence.

The second bill proposed by the TSROC and the TRD amends the Tobacco Delivery Sales Act in response to internet and mail-order sales of tobacco products or any tobacco product sale by written telephonic or electronic means where the tobacco products are conveyed to a purchaser by a delivery service. The proposed legislation provides for regulation of sellers and buyers of tobacco products and delivery services who convey the tobacco products to the consumer and will allow for the TRD to collect taxes on those sales. The proposed legislation provides a process for obtaining the age of consumers so that tobacco products will not be delivered to minors. Sellers of tobacco products that are to be delivered will have a duty to verify the ages and identities of purchasers of tobacco products.

ECONOMIC DEVELOPMENT TAX INCENTIVES

Dr. Clifford discussed the frequency of use of the various economic development tax incentives available in New Mexico. He presented the RSTPC members with information regarding the refundability of the various credits, whether the tax credits apply against local taxes and the estimated use of the tax credits as measured by their annual fiscal impacts to state and local revenues. Of the personal income tax incentives that exist, TRD estimates found that a deduction for net capital gain income was the most frequently used and had an impact of $2.2 million to state revenues in 2003. Of the corporate income tax incentives in existence, an election to file separate returns available pursuant to Section 7-2A-8.3 NMSA 1978 was the most frequently used. In 2003, the state realized a reduction in revenues of $30 million due to taxpayer use of the incentive. The film production tax credit offered pursuant to Section 7-2F-1 NMSA 1978 also significantly impacted state revenues with a fiscal impact of $4 million.

Of the gross receipts, compensating and withholding tax exemptions available, a tax credit for manufacturers created pursuant to the Investment Credit Act was the most frequently claimed, creating a negative fiscal impact to the state of $12 million. The high-wage jobs tax credit enacted during the 2004 legislative session followed with a fiscal impact of $2.2 million to the state as of November 2004. A deduction for wind energy generation equipment created pursuant to Section 7-9-54.3 NMSA 1978, the technology jobs tax credit and the laboratory partnership with small business tax credit each reduced state revenue by $2 million.

Rick Homans, secretary, Economic Development Department (EDD), recommended several additional new economic development tax incentives for adoption by the RSTPC. Those proposals include gross receipts tax deductions for aviation maintenance and aircraft refurbishing service receipts. Other proposals include a three-year tax holiday for startup companies in New Mexico; a five percent personal income tax credit for investment in New Mexico corporations; a five percent tax credit on qualified equipment for businesses that manufacture advanced energy technology; and a gross receipts tax and compensating tax deduction for companies that contract with the federal government for research and development services. Secretary Homans additionally suggested removal of the time limitation on the effectiveness of the rural jobs tax credit and expansion of a 15 percent rebate to film technologies.

RSTPC members questioned whether EDD could determine the effectiveness of tax incentives by determining for each incentive the number of jobs created, revenues generated and other indicators that measure economic growth. Secretary Homans explained that due to confidentiality requirements in state law, EDD cannot access the records of taxpayers benefitting from the tax incentives necessary to obtain such information. Kelly O'Donnell, assistant secretary and tax policy director of the TRD, further acknowledged that such information could not be made available to EDD.

NEW MEXICO SMALL BUSINESS ASSISTANCE INITIATIVE

Lenny Martinez, vice president of the Manufacturing Systems, Science and Technology Division of Sandia National Laboratories, and Marianne Johnston, program manager of the New Mexico Small Business Initiative, explained the initiative. The New Mexico Small Business Initiative addresses small business needs and requirements with expertise and resources from Sandia National Laboratories. The Laboratory Partnership with Small Business Tax Credit Act provides tax incentives for Sandia National Laboratories to promote small business development through the use of its resources. Mr. Martinez and Ms. Johnston requested the RSTPC to consider for adoption by the committee a memorial that requests a study of the Laboratory Partnership with Small Business Tax Credit Act. They proposed that a committee consisting of representatives from the Legislative Finance Committee, the EDD, Sandia National Laboratories and New Mexico small businesses conduct the study. Mr. Martinez and Ms. Johnston further suggested that the RSTPC propose legislation during the 2004 legislative session to increase the tax credits created by the Laboratory Partnership with Small Business Tax Credit Act.

TECHNICAL RESOURCE CONSORTIUM PATENT PROGRAM

Roman Maes, legislative liaison of the Technology Research Consortium (TRC), introduced Dr. Charles Whitehurst of the TRC, Dr. Van Romero of the New Mexico Institute of Mining and Technology and John Pieper of the University of New Mexico Human Services Center, each of whom advocates state funding of the TRC. The mission of the TRC is to collaborate in the acceleration of new technology business formations and expansions that will benefit research programs of TRC members, entrepreneurs, industries, investors and the state. New Mexico research institutions, including the University of New Mexico, New Mexico State University, the New Mexico Institute of Mining and Technology and Highlands University would participate in the collaborative. Several advanced technology centers would be named by the collaborative for research initiatives. Dr. Whitehurst, Dr. Romero and Mr. Pieper requested that the RSTPC recommend for proposal to the legislature an appropriation for $42 million to fund the initiatives of the TRC collaborative. They predicted that the funding of the TRC will have several positive economic effects, including job creation and promotion of high-technology industries in the state.

The committee recessed for the day at approximately 5:10 p.m.

CLEAN ENERGY PROPOSALS

Craig O' Hare, special assistant for renewable energy for the Energy, Minerals and Natural Resources Department, discussed legislative proposals made by the governor's Clean Energy Task

Forces. The task forces were created by an executive order in 2004 to promote the use of clean energy in the state. The task forces recommend that the legislature increase the renewable energy production tax credit for solar power and make the credit refundable and transferable. The task forces also suggest reintroduction of House Bill 380, which was originally introduced during the 2004 legislative session. The bill would provide for funding of clean energy renovations at state buildings, public schools and universities. The task forces also recommend that the legislature amend the Public Facility Energy Efficiency and Water Conservation Act to permit utility bill savings for companies that provide cost-free clean energy improvements. An amendment to the "net metering rule" was additionally suggested. Finally, the task forces suggest the establishment of an electricity transmission authority to provide for planning, construction, financing and operation of transmission infrastructure.

TRD LEGISLATIVE PROPOSALS

Secretary Jan Goodwin, Deputy Secretary Steve Dichter, Larry Kehoe, Motor Vehicle Division (MVD) director, and Libby Gonzales, Revenue Processing Division director, TRD, proposed to the RSTPC several legislative proposals for committee adoption.

The first proposal seeks to align interest rates with current market rates charged to taxpayers of delinquent taxes. The same proposal would also strengthen penalty provisions and add new sections on fraudulent and frivolous tax reports. The net fiscal impact to the state of that proposal is expected to amount to a $5 million loss to the general fund and an additional loss of $2 million to local governments.

The second proposal would create electronic reporting requirements with the Property Tax Division of the TRD for certain holders of properties presumed abandoned. A third proposal would require all vehicles weighing 26,000 pounds and under and registered after January 1, 2006 to display front and rear license plates. The fee would be set at $4.50 for existing registrations and $3.00 for new registrations. The fees collected are to be retained by the TRD to defray the cost, manufacture and issuance of the additional plates.

The fourth proposal would provide funds to resolve the MVD's $4 million deficit by increasing its administrative service fee by $1.50 on all transactions; modifying the distribution formula to appropriate new revenues to the MVD and municipal and county agents; and appropriating to the MVD excess balances from the Financial Responsibility Fund and any royalties received from commercial resellers of MVD data.

The TRD's final proposal for legislation addresses changes that the TRD asserts are necessary to bring New Mexico into substantial compliance with the Federal Motor Carrier Safety Administration rules. If the proposal becomes law, the general fund would be reduced by $27.8 million during the first year of the legislation's effectiveness and $55.6 million during each subsequent year.

The committee adjourned at approximately 12:00 noon.

Revised: December 2, 2004

TENTATIVE AGENDA
for the
SEVENTH MEETING
of the
REVENUE STABILIZATION AND TAX POLICY COMMITTEE

December 6-7
Room 322
State Capitol

Monday, December 6

9:00 a.m.	CALL TO ORDER
9:05 a.m.	APPROVAL OF MINUTES
9:10 a.m.	DEPARTMENT OF FINANCE AND ADMINISTRATION (DFA) REVENUE PROJECTIONS —James Jimenez, Secretary, DFA —Jan Goodwin, Secretary, Taxation and Revenue Department (TRD)
10:15 a.m.	NEW MEXICO MUNICIPAL LEAGUE (NMML) PROPOSALS —Bill Fulginiti, Executive Director, NMML
11:15 a.m.	NEW MEXICO ASSOCIATION OF COUNTIES (NMAC) PROPOSALS —Tasia Young, Legislative Liaison, NMAC
11:45 a.m.	LUNCH
1:30 p.m.	ECONOMIC DEVELOPMENT DEPARTMENT (EDD) PROPOSALS —Rick Homans, Secretary, EDD —Debbie Fleischaker, Deputy Secretary, EDD —Frank Marquez, Administrative Services Director, EDD
2:30 p.m.	ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT (EMNRD) PROPOSALS —Craig O'Hare, Special Assistant for Renewable Energy, EMNRD
3:00 p.m.	DEPARTMENT OF TRANSPORTATION (DOT) PROPOSALS —Robert Olcott, Chief Economist, DOT —Michael Sandoval, Traffic Safety Bureau

3:30 p.m.	HOSPITALITY TAX INCENTIVE PROPOSAL —Marianne Joyce, Adventure Gallup and Beyond Initiative, Gallup-McKinley Chamber of Commerce
3:45 p.m.	PRODUCED WATER TAX CREDIT PROPOSAL —John Gillis, Public Service Company of New Mexico
4:00 p.m.	NET METERING PROPOSAL —Keven Groenewold, Executive Vice President, New Mexico Rural Cooperative Association
4:15 p.m.	MISCELLANEOUS PROPOSALS
4:45 p.m.	RECESS

Tuesday, December 7

9:00 a.m.	TRD PROPOSALS —Jan Goodwin, Secretary, TRD —Tom Clifford, Chief Economist, TRD
11:30 a.m.	TOBACCO SETTLEMENT REVENUE OVERSIGHT COMMITTEE (TSROC) PROPOSALS —Joe Lennihan, General Counsel, TRD
12:00 noon	ADJOURN

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

December 6-7
Room 322
State Capitol

The seventh meeting of the Revenue Stabilization and Tax Policy Committee (RSTPC) for the 2004 interim was called to order by Representative Donald L. Whitaker, chair, on Monday, December 6, at 9:30 a.m. at the State Capitol.

PRESENT
Rep. Donald L. Whitaker, chair
Sen. John Arthur Smith, vice chair
Sen. Sue Wilson Beffort
Rep. Anna M. Crook
Rep. Roberto "Bobby" J. Gonzales
Sen. John T.L. Grubesic
Rep. George J. Hanosh
Sen. Timothy Z. Jennings
Rep. Ben Lujan
Sen. William E. Sharer
Rep. Daniel P. Silva
Sen. H. Diane Snyder (12/6)
Rep. Thomas C. Taylor
Rep. Luciano "Lucky" Varela

ABSENT
Rep. Janice Arnold-Jones
Sen. Mark Boitano
Sen. Carlos R. Cisneros
Sen. Joseph A. Fidel

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

Staff
Amy Chavez, Pam Ray and Tim Crawford

Guests
The guest list is in the meeting file.

Copies of all written testimony are in the meeting file.

Monday, December 6

The committee unanimously approved the minutes of its sixth meeting held on November 8-10 at the State Capitol.

GENERAL FUND CONSENSUS REVENUE ESTIMATES

James Jimenez, secretary of the Department of Finance and Administration (DFA), and Jan Goodwin, secretary of the Taxation and Revenue Department (TRD), provided the RSTPC with consensus revenue estimates for the general fund for the next fiscal year. Secretary Jimenez and Secretary Goodwin began their presentation to the committee with an overview of the national economy. They stated that 337,000 new jobs were created nationwide in October and that the third quarter gross domestic product grew by 3.9 percent. They further stated that consumer spending grew by over 4 percent and that the construction sector has posted gains.

The New Mexico economy was compared to the performance of the national economy. Secretary Goodwin stated that the state's unemployment rate dropped to 5.2 percent in October from 5.4 percent a month earlier. The national unemployment rate increased slightly, to 5.5 percent in October. Two-thirds of all jobs created in New Mexico were created in Albuquerque, Las Cruces and Santa Fe, with the remaining third created in the state's rural areas. Revised personal income for the state increased by 6.5 percent in the second quarter of 2004, compared with national growth of 5.2 percent during the same period.

Secretary Jimenez provided a general fund outlook for fiscal years 2005 and 2006. Total recurring revenue of $32.4 million is expected to accrue in the fund in fiscal year 2005 and $9.4 million is expected to accrue in 2006. Gross receipts tax revenue is expected to increase by $11 million, both in the current fiscal year and in the budget year. During the first four months of the fiscal year, taxable gross receipts grew by almost 6 percent. Through October, taxable gross receipts in manufacturing grew by 16.5 percent, in mining by 13.3 percent, in construction by 6.8 percent and in retail trade by 3.1 percent.

General fund balances at the end of fiscal year 2004 were 12.2 percent of recurring appropriations. Fiscal year 2005 recurring revenues are expected to exceed recurring appropriations by $255.8 million, resulting in balances of 17.2 percent of recurring appropriations at the end of fiscal year 2005. Because the state changed its accounting policy to recognize revenues on a full accrual basis, the executive recommends maintaining reserves at 10 percent of recurring appropriations.

NEW MEXICO MUNICIPAL LEAGUE PROPOSALS

Bill Fulginiti, executive director of the New Mexico Municipal League (NMML), presented five discussion drafts to the committee for its endorsement for the upcoming legislative session.

Draft #1 allows county and municipal governments to impose a local option compensating tax. The local option compensating tax is imposed in addition to local option gross receipts taxes. The bill requires the TRD to administer the tax and to transfer payments to local governments. The bill has an effective date of July 1, 2005. Draft #1 was not adopted by the committee.

Draft #2 permits municipalities to trade a part of the municipal distribution of the gross receipts tax for a distribution of the personal income tax. Draft #2 received no recommendation.

Draft #3 repeals the prohibition on the collection of compensating taxes on the use of property for nonbusiness purposes. Draft #3 was adopted by the committee with no negative votes.

Draft #4 extends the time during which a local government may enact a municipal or county option capital outlay gross receipts tax. Draft #4 was adopted by the committee with no negative votes.

Draft #5 permits municipalities to access information on gross receipts taxes and gross receipts taxes paid. Mr. Fulginiti suggested this proposal as a means of assessing the accuracy of distributions from the TRD in light of wide fluctuations in distributions to municipalities. Draft #5 was adopted by the committee with no negative votes.

NEW MEXICO ASSOCIATION OF COUNTIES PROPOSAL

Tasia Young, legislative liaison for the New Mexico Association of Counties, proposed for committee adoption Draft #6, which amends the Small Counties Assistance Act to increase base distributions from the small counties assistance fund. Draft #6 was adopted by the committee with no negative votes.

ECONOMIC DEVELOPMENT DEPARTMENT (EDD) PROPOSALS

Rick Homans, secretary, EDD, presented six discussion drafts to the committee for its endorsement for the upcoming legislative session.

Draft #7 creates a tax credit in an amount equal to the sum of all gross receipts taxes, compensating taxes or withholding taxes for which a qualified research and development small business is liable. Qualified research and development small businesses include those that employ 25 or fewer employees and that have revenues of $10 million or less. A business must also spend at least 20 percent of its total revenues for qualified research expenditures to qualify for the credit. A qualified research and development small business can claim the credit for up to three years. Draft #7 was adopted by the committee, with 11 committee members voting in favor of adoption and one voting against adoption.

Draft #8 permits a compensating tax deduction for entities that perform research or testing on test articles pursuant to a contract with the United States government or any of its agencies or instrumentalities. It also expands the scope of the definition of "test articles" for which the deduction may be taken. The draft further permits a gross receipts tax deduction for receipts from the sale of research and development (R&D) services pursuant to a contract with the United States government or any of its agencies or instrumentalities. Receipts of contractors and subcontractors working under contractors that perform research and development services for national laboratories are not deductible. Receipts from selling tangible personal property used to perform R & D services for the United States government are made deductible pursuant to this discussion draft. Draft #8 was adopted by the committee with no negative votes.

Draft #9 expands the gross receipts tax deduction for aircraft services pursuant to Section 7-9-62.1 NMSA 1978 in two ways. First, the deduction is expanded to cover aircraft maintenance services. Second, the types of aircraft upon which the services are provided is expanded to any aircraft weighing more than 10,000 pounds. Draft #9 was adopted by the committee with no negative votes.

Draft #10 puts a restriction on current provisions in law that permit the state investment officer to make loans to film production companies in an amount of up to 80 percent of the estimated film production tax credits available to those companies. An amendment to existing law requires that to receive such loans, the film production companies must agree to name the state investment officer as its agent for the purpose of filing an application for the film production tax credit. The discussion draft also permits film production tax credit amounts due to a taxpayer to be intercepted to pay amounts owed by that taxpayer to the state investment officer. Draft #10 was adopted by the committee with no negative votes.

Draft #11 creates the "angel investment tax credit", which is a tax credit of 5 percent of each investment up to $500,000 for each investment made in start-up high-tech, biotechnology and manufacturing businesses that have revenues of not more than $5 million. Draft #11 was adopted by the committee, including amendments to that draft which will be provided by the EDD. Ten committee members voted for adoption of the draft, while one voted against adoption.

Draft #12 expands the film production tax credit to apply to 15 percent of technology expenditures attributable to the production of commercial audiovisual products and creates additional requirements for eligibility for the tax credit. The taxpayer must agree to pay all obligations the film company has incurred in New Mexico, notify the public of its need to file creditor claims against the film company and delay filing of a claim for the film production tax credit until the New Mexico Film Division delivers written notification to the TRD that the film production company has fulfilled all of the requirements for the credit. Draft #12 was adopted by the committee with no negative votes.

ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT (EMNRD) PROPOSALS

Craig O'Hare, special assistant for renewable energy, EMNRD, made two tax-related proposals to the committee.

Draft #13 makes three changes to the existing renewable energy production tax credit. The renewable energy production tax credit is a corporate income tax credit for the production of electricity by the use of a qualified energy generator that uses solar, wind or biomass energy. This draft increases the tax credit rate for the production of energy by solar energy-derived qualified energy generators from $.01 per kilowatt-hour of electricity produced for the first 100,000 megawatt hours of electricity produced to $.04 per kilowatt-hour of electricity produced for the first 100,000 megawatt hours of electricity produced. The draft also expands the definition of "qualified energy generator" to include any facility that has at least one megawatt of energy generating capacity. The definition previously required at least 10 megawatts of energy generating capacity. The draft also makes the tax credit refundable.

RSTPC members suggested that the draft be changed to increase the tax credit rate from the production of energy by solar energy-derived qualified energy generators from $.01 per kilowatt-hour of electricity produced for the first 100,000 megawatt hours of electricity produced to $.02 per kilowatt-hour of electricity produced for the first 200,000 megawatt hours of electricity produced. Another proposed change would leave unchanged the definition of "qualified energy generator" as it currently exists in law. The committee unanimously voted to adopt Draft #13 with the proposed changes.

Draft #14 enacts the Energy Efficiency and Renewable Energy Bonding Act. The act requires the EMNRD to develop a state plan for the installation of energy efficiency measures to reduce energy consumption in state buildings and school district buildings. The department would enter into contracts for the installation of those measures pursuant to the Procurement Code. This draft also creates the energy efficiency and renewable energy bonding fund, which consists of a portion of gross receipts tax revenues and revenues from bonds issued by the New Mexico Finance Authority (NMFA). The NMFA is authorized to issue up to $20 million in revenue bonds pursuant to this act. The bond debt is proposed to be paid from the operating cost savings realized by public school districts and state agencies as a result of the installation of energy efficiency measures. An amount of 90 percent of the cost savings realized by school districts and state agencies as the result of the installation of energy efficiency measures in their respective buildings are deducted pursuant to the state equalization guarantee distribution and of a state agency's operation budget would cease when the school district's or state agency's cumulative reductions equal the school district's or state agency's proportional share of the debt service payments necessary to service the bonds issued pursuant to the Energy Efficiency and Renewable Energy Bonding Act. Draft #14 was adopted by the committee with no negative votes.

DEPARTMENT OF TRANSPORTATION (DOT) PROPOSAL

Robert Olcott, chief economist, DOT, presented Draft #15 for adoption by the RSTPC. The draft closes two loopholes and alters the administration of the overweight tax. The draft also eliminates the 125-mile radius that was intended to clarify the meaning of what constitutes an area that is "within the vicinity of a municipality" in regard to purchase of an annual overweight permit for vehicles carrying extra-heavy loads. Draft #15 was adopted by the committee with one vote against adoption.

HOSPITALITY TRAINING TAX CREDIT ACT PROPOSAL

Pam Ray, staff attorney with the Legislative Council Service (LCS), summarized the provisions of Draft #16, which was introduced to the committee during the RSTPC meeting in November by Marianne Joyce of the Gallup/McKinley Chamber of Commerce. The draft enacts the Hospitality Training Tax Credit Act. The act provides for credits that may be taken against a retail business's gross receipts tax or corporate income tax or against the owner's personal income tax. The credit is in the amount that is paid by the retailer for training of staff who work with tourists. The maximum credit that can be taken in one year is $3,000. The Governor's Office of Workforce Development and Training will provide oversight and program parameters for the training programs pursuant to the act. Draft #16 received no recommendation.

PRODUCED WATER TAX CREDIT PROPOSAL

John Gillis, from the Public Service Company of New Mexico, presented Draft #17 for endorsement by the RSTPC. The draft provides for a tax credit against a taxpayer's corporate income tax for gathering, transporting or treating produced water that is then used in the process of generating electricity. Pursuant to the draft, the Oil Conservation Division of the EMNRD will adopt the rules necessary to qualify a taxpayer for the tax credit. The TRD will administer the tax credit. The tax credit may be carried forward if it exceeds the taxpayer's liability in any year. The total tax credits that may be claimed by all of the credit claimants is $3 million. Draft #17 was adopted by the committee with no negative votes.

NET METERING

Keven Groenewold, executive vice president of the New Mexico Rural Cooperative Association, presented Draft #18 to the committee for endorsement. The proposal applies only to net metering in rural electrical cooperative systems. The bill limits net metering to excess electricity produced only by renewable sources. In addition, the net metering system is limited to a generating capacity of no more than 25 kilowatts, unless the cooperative agrees to a greater capacity or has a contract with the customer-generator that limits the power that will be purchased by the cooperative. The bill also limits the total net metering resources that must be purchased by the cooperative to one percent of the annual peak demand of the residential and commercial consumers of the cooperative in the previous year. Draft #18 was adopted by the committee with one vote in opposition to adoption.

OFFER IN COMPROMISE CONSTITUTIONAL AMENDMENT PROPOSAL

Amy Chavez, staff attorney, LCS, summarized the provisions of Draft #19, a committee proposal to amend the Anti-Donation Clause of the Constitution of New Mexico to permit the TRD to enter into agreements with certain taxpayers to forgive tax liabilities. Such a constitutional amendment would permit the legislature to adopt legislation to create an offer in compromise program for the state, similar to the offer in compromise program that the Internal Revenue Service conducts on a federal level. Draft #19 was adopted by the committee with no negative votes.

The committee recessed for the day at approximately 5:15 p.m.

Tuesday, December 7

SUNSET CLAUSE ADDITIONS

Senator John Arthur Smith made a motion to add five-year sunset clauses to new tax incentives proposed by the EDD and the EMNRD. Representative Whitaker seconded the motion. The motion passed by a vote of nine in favor of the motion and three opposed to it.

TAXATION AND REVENUE DEPARTMENT PROPOSALS

Kelly O'Donnell, assistant secretary and tax policy director, TRD, discussed the TRD bill drafts for which the TRD seeks committee endorsement.

Draft #20 permits the TRD secretary to enter into negotiations with respect to the Streamlined Sales and Use Tax Agreement. The draft also contains several administrative reform proposals that were raised by the Blue Ribbon Tax Reform Commission and that were introduced during the last legislative session. Draft #20 was adopted by the committee with no negative votes.

Draft #21 includes helium and non-hydrocarbon gases in the definition of products subject to taxes pursuant to the Oil and Gas Severance Tax Act and the Oil and Gas Emergency School Tax Act. Draft #21 was adopted by the committee with no negative votes.

Draft #22 requires all vehicles to display front and rear registration plates. A fee of $3.00 would be charged for vehicles not previously registered with the department, and a fee of $4.50 would be charged for vehicles registered with the department before January 1, 2006. The committee unanimously voted not to endorse Draft #22.

Draft #23 changes the threshold for imposing penalties for tax underpayments from $500 to $1,000. It also specifies the due date for the first quarter estimated corporate income tax payment as the fifteenth day of the fourth month of the taxable year. The draft additionally makes taxes deducted and withheld with respect to a taxpayer by remitter under the Oil and Gas Proceeds Withholding Tax Act subject to estimated tax requirements.

The draft also contains new proposed changes. It adds language to allow oil and gas remitters to enter into agreements with nonresident recipients of oil and gas proceeds that would remove the remitter's obligation to withhold the oil and gas withholding tax and obligate the recipient to file a personal income tax return. The draft would also require oil and gas remitters to provide taxpayer names and federal tax identification numbers of the nonresidents who elect to avoid having taxes withheld. Draft #23 was adopted by the committee with no negative votes.

Draft #24 provides technical cleanup of the Property Tax Code. The RSTPC endorsed a similar bill, House Bill 576, last year. This year's proposal is substantially the same, but contains provisions for the valuation of omitted property. It also permits a property owner to waive a right to a hearing with respect to a limitation on an increase in property value for low-income single family dwellings and for those owned by property owners over 65 years of age, and to instead claim a refund for an amount that the property owner claims with respect to that limitation. The committee unanimously voted not to endorse Draft #24.

Draft #25 requires a holder of more than 25 properties presumed abandoned to file an electronic report of the properties with the TRD. The draft also permits the TRD to sell abandoned property by any reasonable method. Currently, the TRD can only sell such property to the highest bidder at public auction. The bill also extends the time during which an owner may enter into an agreement to recover or locate property that is presumed abandoned. Draft #25 was adopted by the committee with three RSTPC members voting in opposition to adoption.

Draft #26 increases administrative fees charged on all driver's license and vehicle registration transactions from $.50 to $2.00. Increased funds would be distributed to the Motor Vehicle Division (MVD) of the TRD and to municipal governments that operate satellite MVD offices to defray administrative expenses of operating the offices. The draft would also reappropriate cash balances from registration fee revenues earmarked for enforcement of the Mandatory Financial Responsibility Act to cover unanticipated shortfalls in the MVD's operating budget. The cash balances from royalties paid by commercial users of MVD databases would also be reappropriated to the MVD for the same purpose. Draft #26 was adopted by the committee with two RSTPC members voting in opposition to adoption.

Draft #27 includes several changes to the commercial driver's license provisions that are needed for the state to be in compliance with mandates from the Federal Motor Carrier Safety Administration (FMCSA). Compliance issues refer to such items as:

- minimum time to post and pass conviction information to driver records;
- commercial driver record information exchange between states; and
- statute violations committed by a commercial driver in a private vehicle.

Draft #27 was adopted by the committee with no negative votes.

Draft #28 includes provisions requiring special fuels retailers and wholesalers to file information returns with the TRD. Draft #28 was adopted by the committee with no negative votes.

Draft #29 imposes a new misdemeanor penalty on TRD personnel who disclose trade secrets, customer information, proprietary information or commercial and financial information that is not disclosed by a public entity and that is acquired by the TRD from a person who has contracted with the TRD for electronic access to MVD records. The penalty might include imprisonment for not more than one year and a fine of not more than $1,000. Draft #29 was adopted by the committee with no negative votes.

Draft #30 creates a tax fraud investigation division within the TRD. This proposal was introduced to the legislature as House Bill 360 during the 2004 legislative session. In addition to the provisions of last year's bill, this proposal provides penalties for failure to collect, account for and pay over a tax. Draft #30 was adopted by the committee with no negative votes.

Draft #31 requires a person who has been gainfully employed in New Mexico to register that person's vehicles with the state after 30 days of that person's initial date of employment. The draft also imposes a misdemeanor penalty of not more than $300 and not more than 90 days of imprisonment for failure to meet that requirement. Draft #31 was adopted with six voting in favor of adoption and five in opposition to adoption.

Draft #32 clarifies time requirements for nonresidents to register their vehicles in New Mexico and imposes a penalty for failure to meet those requirements. The committee unanimously voted not to adopt Draft #32.

Draft #33 enhances the ability of the TRD to enforce provisions of the Cigarette Tax Act. It adds stamping requirements, including required use of stamps on nontaxable cigarettes. It also increases reporting and record-keeping requirements. Both civil and criminal penalties are provided for violations of the stamp requirements and for selling contraband cigarettes or counterfeit stamps. Since Draft #33 was endorsed by the Tobacco Settlement Revenue Oversight Committee, the RSTPC voted unanimously against adoption of the draft.

The committee adjourned at approximately 12:15 p.m.

REVENUE STABILIZATION AND TAX POLICY COMMITTEE
LEGISLATION PROPOSALS
DECEMBER 6-7, 2004

Draft Number	Title	Agency	202 #	Vote In Favor	Vote Against	Y/N Endorsed	Sponsor(s)
1	Local Option Compensating Tax	Municipal League	152813.1	3	9	N	NA
2	GRT to PIT Distribution	Municipal League	152814.1	3	9	N	NA
3	Collect Compensating Tax on Residential Purchases	Municipal League	152812.1	13	0	Y	Sen. Cisneros
4	Municipal GRT for Capital Outlay	Municipal League	152815.1	13	0	Y	Rep. Whitaker
5	Permit Municipality Access to Gross Receipts Tax Information	Municipal League	152816.1	11	0	Y	Rep. Whitaker
6	Small County Assistance	Association of Counties	152898.1	13	0	Y	Rep. Whitaker
7	R&D Company Tax Holiday	Economic Development Department (EDD)	152629.1	11	1	Y	Sen. Beffort & Sen. Snyder

REVENUE STABILIZATION AND TAX POLICY COMMITTEE
LEGISLATION PROPOSALS
DECEMBER 6-7, 2004

Draft Number	Title	Agency	202 #	Vote In Favor	Vote Against	Y/N Endorsed	Sponsor(s)
8	Gross Receipts Tax Deduction for Federal R&D Contacts	EDD	152631.1	12	0	Y	Rep. Silva
9	Aviation GRT Deduction Expansion	EDD	152637.1	9	0	Y	Rep. Hanosh and Sen. Jennings
10	Film Technology Tax Rebate	EDD	152634.1	10	0	Y	Rep. Gonzales
11	Angel Investment Tax Credit	EDD	152638.1	10	1	Y	Sen. Snyder
12	Film Production Tax Credit	EDD	152834.1	13	0	Y	Rep. Lujan
13	Amend Renewable Energy Credit	EMNRD	152535.1	10	0	Y	Rep. Gonzales and Rep. Crook
14	Renewable Energy Bonding	EMNRD	152538.1	10	0	Y	Rep. Gonzales
15	Trip Tax and Overweight Permit	DOT	152622.1	11	1	Y	Rep. Silva

REVENUE STABILIZATION AND TAX POLICY COMMITTEE
LEGISLATION PROPOSALS
DECEMBER 6-7, 2004

Draft Number	Title	Agency	202 #	Vote In Favor	Vote Against	Y/N Endorsed	Sponsor(s)
16	Hospitality Tax Incentive	Gallup/ McKinley County	152818.2	NO ACTION			NA
17	Produced Water Tax Credit	PNM/John Gillis	152407.1	11	0	Y	Sen. Cisneros
18	Net Metering	NM Rural Electric Coops.	152682.1	11	1	Y	Sen. Cisneros and Rep. Hanosh
19	Offer In Compromise	RSTPC Request	152675.1	11	0	Y	Sen. Jennings
20	Streamlined Sales Tax & Administrative Reforms	TRD	151999.3	10	0	Y	Rep. Whitaker
21	Helium in Severance Tax	TRD	152000.1	10	0	Y	Rep. Whitaker
22	Dual License Plates	TRD/MVD	152673.1	0	12	N	NA
23	Corporate Income Tax Revisions	TRD	152001.2	11	0	Y	Sen. Beffort

REVENUE STABILIZATION AND TAX POLICY COMMITTEE
LEGISLATION PROPOSALS
DECEMBER 6-7, 2004

Draft Number	Title	Agency	202 #	Vote In Favor	Vote Against	Y/N Endorsed	Sponsor(s)
24	Property Tax Revisions	TRD	152146.2	0	9	N	NA
25	Abandoned Property	TRD	152672.1	8	3	Y	Rep. Varela
26	Motor Vehicle Fees	TRD	152681.1	8	2	Y	Rep. Hanosh
27	Commercial Driver's License Changes	TRD	152685.1	8	0	Y	Sen. Grubesic
28	Gas Tax & Special Fuels Tax Filing Changes	TRD	TRD Draft	12	0	Y	Rep. Silva
29	MVD Records Privacy	TRD	152889.1	12	0	Y	Sen. Smith
30	Tax Fraud Division	TRD	152147.1	13	0	Y	Rep. Lujan
31	MVD Nonresident Registration Requirement	TRD	152993.1	6	5	Y	Rep. Lujan
32	Penalty & Interest Restructuring	TRD	TRD Draft	0	13	N	NA

REVENUE STABILIZATION AND TAX POLICY COMMITTEE
LEGISLATION PROPOSALS
DECEMBER 6-7, 2004

Draft Number	Title	Agency	202 #	Vote In Favor	Vote Against	Y/N Endorsed	Sponsor(s)
33	Cigarette Tax Administration Changes	TRD	152482.1	0	13	N	NA