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

December 18-19, 2014
State Capitol, Room 307
Santa Fe

The sixth meeting in 2014 of the Revenue Stabilization and Tax Policy Committee (RSTP) was called to order by Representative Edward C. Sandoval, chair, on Thursday, December 18, 2014, at 10:05 a.m. in Room 307 of the State Capitol in Santa Fe.

Present
Rep. Edward C. Sandoval, Chair
Sen. Carlos R. Cisneros, Vice Chair
Rep. Anna M. Crook
Rep. Brian F. Egolf, Jr.
Sen. Timothy M. Keller (12/18)
Rep. Rodolpho "Rudy" S. Martinez
Sen. Mark Moores
Sen. Clemente Sanchez
Sen. William E. Sharer
Sen. John Arthur Smith
Rep. James R.J. Strickler
Rep. Thomas C. Taylor
Rep. Jim R. Trujillo
Sen. Peter Wirth
Rep. Bob Wooley

Absent
Sen. Sue Wilson Beffort
Rep. Henry Kiki Saavedra
Sen. Lisa A. Torraco

Designees
Sen. Gay G. Kernan (12/18)
Rep. Debbie A. Rodella (12/18)
Sen. Nancy Rodriguez (12/19)
Rep. Luciano "Lucky" Varela (12/18)

Rep. Donald E. Bratton
Sen. William F. Burt
Sen. Jacob R. Candelaria
Rep. Ernest H. Chavez
Rep. Miguel P. Garcia
Sen. Phil A. Griego
Rep. Jason C. Harper
Rep. Sandra D. Jeff
Rep. Tim D. Lewis
Rep. Bill McCamley
Sen. George K. Munoz
Rep. Paul A. Pacheco
Rep. Dennis J. Roch

Sen. John M. Sapien
Rep. Carl Trujillo
Sen. Pat Woods

Guest Legislators
Rep. Roberto "Bobby" J. Gonzales
Sen. Cisco McSorley (12/19)

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

Minutes Approval

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

Staff
Pam Stokes, Staff Attorney, Legislative Council Service (LCS)
Amy Chavez-Romero, Assistant Director for Drafting Services, LCS
Carolyn Peck, Intern, LCS
Tessa Ryan, Staff Attorney, LCS

Guests

The guest list is in the meeting file.

Handouts

Handouts and other written testimony are in the meeting file.

Thursday, December 18

Revenue Forecast

Leila Burrows Kleats, chief economist, Department of Finance and Administration (DFA), Elisa Walker-Moran, chief economist, Taxation and Revenue Department (TRD), and Peter van Moorsel, chief economist, Legislative Finance Committee (LFC), presented the Consensus Revenue Estimating Group's (CREG's) revised forecast of general fund (GF) revenue.

Ms. Burrows Kleats summarized outlooks of the national economy, energy markets and New Mexico oil and gas production; provided an update of the New Mexico economy and its gross receipts base growth; and gave an overview of the capital budget. According to Moody's Analytics, the national economy is expanding in a sustainable way. Factors related to employment, interest rates and oil prices are fueling that growth, which could be tempered by situations unveiling internationally. Nonetheless, it is predicted that domestic expansion will continue. Meanwhile, the state's employment growth is close to the long-term average, and more growth is expected in fiscal years (FYs) 2015 and 2016, particularly in the services and construction sectors. Mining of oil and gas and manufacturing are the two categories showing the most gross receipts base growth, though the growth rate of mining is expected to wane.

Recent decreases in global oil prices will slow, but not arrest, oil production; production in New Mexico, which increased sharply since 2009, will in turn slow and cause a decline in GF revenue. Meanwhile, there is $320 million in senior severance tax bond capacity and $183 million in supplemental severance tax bond capacity for capital projects.

Ms. Walker-Moran continued by summarizing the CREG's revisions and reporting on revenue from major sales taxes and on risks to the forecast. Since August, recurring revenue has been revised down — largely due to flagging oil and gas receipts — by $120 million for FY 2015 and $144 million for FY 2016. "New money", or the increase from FY 2015 in recurring revenue, is estimated to be $141 million. Taxable gross receipts have shown a consistent pattern of growth, and over the last five years, most of that growth has occurred in the mining and extraction sector. Revenue from the compensating tax, which is considered a volatile source of revenue, peaked in FY 2014. Meanwhile, revenue from the insurance premium tax has been revised downward to reflect uncertainty surrounding federal health reform, and revenue trends related to cigarettes, tobacco products, liquor and personal and corporate income are relatively stable. The resolution of matters such as the lawsuit between the state and the City of Eunice, gaming compacts between the state and tribes and high-wage jobs tax credit protests could significantly affect revenue levels.

Mr. van Moorsel elaborated on the GF financial summaries and on matters being watched for their potential to disrupt revenue flows. Namely — and in addition to those that Ms. Walker-Moran discussed — issues related to energy markets, federal sequestration, certain tax credits, the tobacco settlement and federal special education allocations could reduce the GF balance. Mr. van Moorsel noted that the LFC's December 2014 revenue estimate for FY 2015 differs from the DFA figure because of differences in the treatment of a potential $60.2 Medicaid deficiency, and he commented on the GF reserves, including the low likelihood of the tobacco settlement matter unfolding in time to affect FY 2015 revenue levels.

On questioning, the panel and committee members addressed the following topics.

Eunice *lawsuit.* Ms. Walker-Moran said that, if the City of Eunice prevails and the resulting law were applied in all cases of distribution to local governments, the state would owe approximately $20 million per year.

Tobacco settlement and e-cigarettes. A member endorsed the idea of increasing revenue by taxing e-cigarettes at the same rate as traditional cigarettes, arguing that the measure would improve fairness and allow the state to capture revenue from traditional-cigarette smokers who are trying to quit by switching to e-cigarettes. Mr. van Moorsel indicated that the revenue that would be derived from the passage of such a law is not accounted for in the financial summary.

Capital outlay projects. The $25 million in capacity for projects in the "authorized but unissued" category, Ms. Burrows Kleats said, is money dedicated to projects that, in the year that the legislature authorized them, were not ready to proceed. She indicated that she would provide detailed information on those projects.

Oil and gas production and effects on revenue. Mr. van Moorsel said that the effect on gross receipts tax (GRT) revenue levels of factors related to oil and gas production — including the drop in gas prices and the slowdown in drilling — is difficult to quantify. He added that the price of natural gas also declined since the time the CREG arrived at its most recent estimation of average price. In response to a comment that the predicted average price of $71.00 per barrel of oil for FY 2015 seems high, Ms. Burrows Kleats indicated that the figure is computed as an average for the year, periods of which had relatively high prices and that, in the time since the figure was computed, the price of oil dropped. Members expressed the views that: 1) foreign and domestic policies are such that the state is vulnerable to drastic drops in demand for oil, which would have grave consequences for revenue stability and potentially zero out the "new money" balance; 2) 1980s- and 1990s-era history of sluggish demand for domestic oil should teach that the oil revenue situation demands heavy scrutiny, and the state should identify and prepare for the worst-case scenario; 3) "new money" should not be considered available for spending until it materializes; 4) volatility in oil and gas revenue is a key reason that a 10% reserve level is prudent; and 5) rather than succumb to the pressure to endorse revenue-destabilizing tax incentives, lawmakers should focus on improving revenue stability for the sake of, in particular, the education system.

Recent corporate income tax (CIT) rate reductions. Ms. Walker-Moran reported that the fully phased-in CIT rate reductions will cost the state approximately $140 million per year. A member expressed skepticism that the state is adequately advertising the rate reduction to attract out-of-state businesses and encourage business expansion. David Abbey, director, LFC, who was in the audience, responded that the LFC is recommending appropriating to the New Mexico Partnership, the state's business recruitment and expansion arm, $500,000 more than it previously received. The increase, he said, should bolster the state's efforts to publicize the reduced rates.

Tax expenditure report. Ms. Walker-Moran reported that the tax expenditure report that had originally been scheduled for presentation at the meeting is awaiting the governor's approval. She added that much effort was made to fill gaps in the previous report.

Information requests. Members requested, and Ms. Walker-Moran agreed to provide, additional information on GRT and personal income tax (PIT) revenue derived from arts, culture and entertainment sources, given that, although the statewide figure is relatively insignificant, much of this type of revenue is generated in places like Santa Fe. A member requested information on the fiscal effect of the state's 2010 GRT rate increase.

Farewell to Departing Committee Members

Senator Cisneros recognized the RSTP members who will soon leave the legislature — Representatives Crook, Martinez, Taylor and Sandoval and Senator Keller — and thanked them for their service to the committee. He read and presented a certificate to Representative Sandoval. Several members added their words of commendation for the departing members.

GRT Base Study — Results and Next Steps

Lee A. Reynis, Bureau of Business and Economic Research (BBER), University of New Mexico, Richard Anklam, president and executive director, New Mexico Tax Research Institute (TRI), and Jim O'Neill, consultant, updated the committee on the status of a study to predict the effects of hypothetical alternatives to the existing GRT system. Mr. Anklam opened by describing the context for the study. Legislation sponsored in 2013 by Senator Sharer and Representative Taylor inspired a conversation about the possibility of reforming the tax system by imposing on a grossly expanded tax base (i.e., one that included income and intermediate transactions) a rate much lower than that of the existing GRT; Mr. Anklam noted the importance of having an accurate assessment of the lowest rate that could be applied without compromising adequacy.

Ms. Reynis described the approach for developing a tool to model patterns and then predict the outcome of various changes to the existing system. The IMPLAN input-output model was chosen because of its wide, inter-industry acceptance and its accessibility to the BBER. Researchers compared IMPLAN data with data from other sources to gauge the IMPLAN data's accuracy; the researchers determined that IMPLAN data reasonably represented New Mexico's economy in 2012, the most recent year that could be tested.

Culling various data sources and using the model, researchers then estimated the total annual GRT revenues, exemptions and deductions. Their estimate for total output less exemptions (i.e., total gross receipts) was approximately $105 billion, nearly equal to the TRD's corresponding figure of $105.1 billion. Meanwhile, the researchers' model estimated exemptions to be $66 billion, deductions to be $82.3 billion and taxable gross receipts to be $50.1 billion. The latter figure differed by $800 million from that of the TRD ($49.3 billion).

Ms. Reynis went on to outline the researchers' findings from having employed the model in the context of Senator Sharer's and Representative Taylor's proposal. Researchers estimated that, if implemented, the measure would yield $5.3 billion in GF revenues. After deducting amounts distributed to municipalities, that figure exceeds by approximately $1.24 billion the amount of revenue, $3.63 billion, that it would need to replace. Mr. O'Neill noted that the rate proposed by the 2013 legislation, 2.125%, would yield more revenue than needed to ensure adequacy.

Ms. Reynis highlighted some limitations of the model and analysis. The model is neither dynamic nor able to adequately capture separate transactions, and the analysis did not adequately consider the implications as they relate to local governments, the governmental GRT, federal tax deductibility or the redistribution of income likely to occur.

Mr. Anklam closed by underscoring the viability of the model, but also by admonishing that, before the state overhauls its tax system, it should verify the study's results using a second study. He stressed that the research did not include a consideration of the effects of the proposal — which would most likely vary widely — on local governments but mentioned that those effects could be studied.

On questioning, the panel and committee members addressed the following topics about tax reform.

Continued thought and study. Several members and the presenters stressed the importance of continuing to study the implications of various tax reform proposals and to refine an understanding of a given proposal's collateral effects. A member, commenting that creativity in the political process is stifled because unpopular measures are discouraged from being introduced, encouraged policymakers to strive to explore a multitude of options and determine how to effect reform — not focus on the weaknesses of a given proposal.

Additional considerations. Members offered their responses to the presentation as follows: 1) though there will always be people who neglect to pay taxes they owe, a lower rate would improve compliance by tempering the incentive to evade the tax; less evasion would enrich revenues; 2) if the tax rate were very low, the issue of pyramiding and the burden on service providers who face out-of-state competition for sales would diminish; 3) stability in the tax system is paramount; 4) the current situation is such that taxpayers without a lobbyist to advocate for their interests pay a disproportionate share in taxes; any reforms should incorporate adequate progressivity; and 5) reform should be undertaken in a unified, bold and swift manner, not incrementally. In response to a member's suggestion that, to better understand the implications of a particular reform measure, the state require certain taxpayers to file an information return, Mr. O'Neill said that Maryland's effort to pursue such an initiative was unsuccessful because there was no penalty for not completing a return, and the exercise was not taken seriously enough by those who did submit one.

Specific proposals. Members suggested approaches to tax reform, should it advance, as follows: 1) to ensure revenue adequacy, a higher-than-needed tax rate could be established, with the excess revenue dedicated to the State Road Fund; 2) to honor previously made commitments to businesses, many of which rely on existing tax incentive programs, CIT rebates could be provided — alternatively, or additionally, the CIT rate could be reduced; 3) to keep local governments whole, they could be made to receive a portion of gross revenues — alternatively, or additionally, they could be given more opportunity to tax; 4) to offset the negative effects of tax reform on lower-income residents, the PIT rate could be lowered and made more progressive — alternatively, it could be required that only the top 10% pay the PIT; and 5) the new laws could contain provisions that are triggered if revenue levels miss established targets.

Retiree Program Solvency Report

Wayne Propst, executive director, Public Employees Retirement Association (PERA), introduced several PERA board members who were in attendance and then reported on the solvency of the PERA pension program. Mr. Propst reviewed FY 2014 actuarial valuation results overall and by major plan category. The year marked an increase in the funded ratios of all plan categories except municipal fire, which remained at its previous level. For all plans combined, the funded ratio was 75.8%.

Mr. Propst reviewed the 30-year solvency projections overall and for individual plans.

Since 2012, the 30-year projected funded ratio has improved dramatically. Reform legislation and good investments have helped to lift the baseline projection for the 2043 funded ratio from where it stood in 2012, 29%, to the 2014 value of 133%. Mr. Propst noted that, if calculated today, the figure would be closer to 111% because of a decline in investment value. Given such economic volatility, he remarked, the PERA urges caution in assuming that the program is on a path of long-term stability. He also remarked that the judicial and magistrate plans are difficult to model and predict because there are relatively few participants in each.

Mr. Propst reviewed: the average annual pensions and ages at retirement for all plans and by plan; lifetime pension accruals for selected programs; and selected PERA statistics. For all plans, the average annual pension is $27,900, and the average retirement age is 58.3 years. The PERA has almost 50,000 active members, almost 34,000 retirees and beneficiaries, 334 participating employers, 31 plans, two benefit tiers and net assets of approximately $14.5 billion. Mr. Propst remarked that the general increase in retirement frequency is consistent with population demographics.

Mr. Propst closed by articulating the PERA's request that, to allow for a developed understanding of the effects of recent changes, no major legislative changes be enacted for five years. This request will be embodied in a memorial that will be introduced in the next session.

On questioning, Mr. Propst and committee members addressed the following topics.

Albuquerque police. Mr. Propst explained that, recently, the Albuquerque City Council increased the salary cap for veteran police officers. The measure, intended to keep those members in the police force, has the effect of increasing the overall unfunded liability, given that pension benefits are partly calculated using final average salary. Members expressed concern that other local governments might emulate Albuquerque, causing a strain on solvency. Mr. Propst indicated that the Investments and Pensions Oversight Committee requested that a letter addressing the concern be sent to the City of Albuquerque.

Return to work. A member asked whether the legislative measure intended to increase the incentive for public safety workers to remain active in their positions adequately addresses the concern of return-to-work proponents. Mr. Propst testified that, though there have been informal discussions on the topic, the board, which recognizes the importance of experience in police forces, has heard no formal request to consider allowing retired employees to simultaneously collect a pension and a salary from PERA-connected sources. He reiterated the PERA's plea that the legislature postpone making any major changes to the system until it is better understood what those changes should be.

Cost-of-living adjustments (COLA); solvency. A member expressed the preference for a variable COLA in the pension system, explaining that no increase or a fixed percentage increase can cause problems. Another member remarked on the positive effect of improved pension solvency on the state's bond ratings.

Approval of Minutes

On a motion made and seconded, the minutes from the October 23-24, 2014 RSTP meeting were unanimously approved.

New Mexico Lottery Revenue Update and Lottery Tuition Fund Status

Glenn Walters, deputy cabinet secretary, Higher Education Department (HED), gave a presentation on the lottery scholarship program and Lottery Tuition Fund, and David Barden, chief executive officer, New Mexico Lottery Authority, gave a presentation on lottery programming and revenues.

Mr. Walters provided background on the lottery program, highlighted the status of the fund and discussed program participation and scholarship eligibility. The fund balance at the end of FY 2014 was approximately $12.5 million, less than the balance of approximately $18.8 million at the beginning of that year. Participation in the program has increased steadily since its inception but recently leveled off. Most of the tuition funding goes to research institutions, where approximately half of the students at those institutions are on the lottery scholarship. Referring to a table in the handout, Mr. Walters pointed out that recipients of the scholarship have a higher rate of college completion than non-recipients. He highlighted changes to eligibility that were implemented in the past year, namely, that the credit-hour requirement for most students was raised. Mr. Walters concluded by saying that it is hard to predict whether lottery revenue will be adequate to cover the tuition of qualifying students, but that such data will be available in early March.

Mr. Barden opened by saying that in the lottery context, too, accurately predicting key data is challenging. He reviewed lottery revenues from the end of October 2013 to that date in 2014; discussed game-related changes that were made to increase revenue; compared FY 2014 revenue figures with those in the FY 2015 budget; reviewed aspects of the FY 2007 through FY 2014 budgets; broke down the distribution of revenue in FY 2014, remarking that the amount distributed to the Lottery Tuition Fund met the minimum 30% requirement; discussed the authority's expense management, through which cost-savings measures have been implemented; and discussed aspects of individual games. He concluded by recognizing that the complexion of prospective lottery players is changing and underscoring the need to adapt to the changes.

On questioning, the presenters and committee members addressed the following topics.

Deficiency appropriation to the HED. Mr. Walters reported that the HED is requesting a deficiency appropriation of $11 million to reconcile an accounting mistake.

Scholarship receipt. Mr. Walters explained that a higher proportion of students at four-year institutions receive the scholarship than students at community colleges in part because the proportion of older adult students, who do not qualify for it, is higher at community colleges.

Market changes. Mr. Barden asserted that cutting prize amounts would result in less inflow to the Lottery Tuition Fund because it would discourage people from playing. He added that, increasing prize amounts, thereby potentially causing the opposite effect, would require legislative initiative. In response to a member's comment that profits should be optimized, Mr. Barden identified measures, such as hiring an in-house animator and trimming commissions to retailers, that the authority has taken to cut its expenses.

Information request. A member, commenting that a graduation requirement of more than 120 credits seems unnecessarily high, requested of the HED information on the barriers to graduation within four years.

Legislative Proposals

The committee heard presentations on legislative proposals that were embodied in draft legislation, copies of which were distributed to the committee. Several presenters requested that the committee consider for endorsement their proposals.

Exemptions from Reductions to Hold-Harmless Distributions

Dick Minzner, lobbyist for the City of Gallup, recapitulated a proposal, the details of which he had presented at the previous meeting, to prevent the harm that he said would befall Gallup should the impending hold-harmless distribution phaseout continue as scheduled. The bill accompanying his proposal would: 1) for qualifying cities and counties that have less than 1% annual growth in their GRT base, freeze the automatic reduction in hold-harmless distributions until revenue growth reaches that level; and 2) enact that provision, but raise the threshold to 2%, for local governments with a greater-than-30% poverty rate. Mr. Minzner noted that Gallup and McKinley County were formerly the only two local governments that would fall in the second category, but some others have recently entered the class.

In response to the presentation, a committee member argued that: the legislation implementing the hold-harmless phaseout was intended to reduce the cost to the state of those distributions and dedicate those savings to education; education is important for combating poverty; and the legislation was designed to, and does, allow adequate time for local governments to adjust to the changes.

A motion was made, but not seconded, to endorse the bill, and no vote was taken.

The committee recessed at 5:00 p.m.

Friday, December 19

The committee reconvened at 9:15 a.m. on Friday, December 19, 2014, with Representative Sandoval chairing the meeting.

Legislative Proposals (Continued)

Distributions or Transfers to Municipalities and Counties

Demesia Padilla, secretary, TRD, Bill Fulginiti, executive director, New Mexico Municipal League (NMML), and Mr. O'Neill briefed the committee on the status of efforts between the TRD and the NMML to address issues raised in the *Eunice* case; i.e., the recovery of distributions made to local governments after business taxpayers within the boundaries of those local governments make large tax refund claims. Secretary Padilla indicated that the parties involved in the discussion had not yet arrived at an agreement that was embodied by legislation to propose to the committee but that the TRD was continuing to work with the NMML and other stakeholders to find an administratively feasible solution. In response to a question from a committee member, Secretary Padilla stated that there might be concerns with making offers of compromise to municipalities but that the approach could be explored.

Allowing Local Governments to Tax Food

Mr. Fulginiti presented proposed legislation to, among other measures, reinstate the municipal portion of the GRT on food. Committee members responded with the following comments: 1) the desire to further alter the GRT system, as this would do, highlights the downside of the 2013 tax package; that is, the original measure introduced complexity in taxation that, because local governments' needs vary so widely, calls for further complexity to accommodate that wide range of needs; 2) despite local governments' complaints that the impending reduction in hold-harmless distributions will be devastating, evidence has not shown that the three-eighths tax option contained in the 2013 legislation will not offset the harm complained of; 3) the timing of local governments' authorization to impose the three-eighths tax option is inappropriate, given that certain governments have imposed the tax and collected that revenue before their hold-harmless distribution reductions begin; and 4) for the sake of low-income taxpayers, it would be better to offer relief to local governments by reducing other tax expenditures than it would to reimpose a tax on food.

Delayed Discontinuation of a County's Obligation to Fund the Safety Net Care Pool Fund

Senator Rodriguez, Clyde Ward, vice president, New Mexico Association of Counties (NMAC), and Steve Kopelman, executive director, NMAC, proposed for endorsement a bill, whose concept had been discussed at a previous meeting, that would curtail the otherwise perpetual requirement of counties to contribute one-twelfth of a percent of taxable gross receipts to the Safety Net Care Pool Fund. Mr. Kopelman said that the enacted bill would end, beginning on December 31, 2018, the contribution requirement, and he noted that key stakeholders were agreeable to the bill's terms. Senator Rodriguez added that a date of discontinuation was a crucial, but vetoed, component of the 2014 enacted legislation that this bill would amend, that the governor has expressed support for the reinsertion of an end date and that the timing will allow for an assessment of the effects of Medicaid expansion.

On a motion made and seconded, the committee endorsed the bill with no opposition.

County Treasurer Can Be Authorized to Accept Payments of Delinquent Taxes

Mr. Ward encapsulated a proposal that clarifies that county treasurers may collect payments made pursuant to installment agreements to resolve tax delinquencies if the treasurer is designated as an agent of the TRD. Mr. Ward remarked that the measure would improve accountability and have relatively minor consequences, most of which would be in Bernalillo County. In response to a question by a committee member, he said that a representative of the

TRD indicated that the TRD would not oppose the bill. A member praised the measure in saying that it would reduce bureaucracy and ease the burden on taxpayers.

On a motion made and seconded, the committee endorsed the bill with no opposition.

Correcting Obvious Errors in a Property Tax Schedule

Mr. Ward presented a bill that would allow county treasurers to correct certain obvious, county-assessor-made errors that otherwise would have to be corrected by taxpayers in district court. He gave as an example of such an error the accidental deletion of a veterans' exemption and noted that the measure would help taxpayers.

On a motion made and seconded, the committee endorsed the bill with no opposition.

Changes to the County Industrial Revenue Bond (IRB) Act

Mr. Kopelman presented two bills that relate to county IRBs. The first would, by repealing a section of law, discontinue the ability of a business to delay the issuance of county IRBs for a new business project by seeking a State Board of Finance determination on the question of whether the prospective business would compete with the existing, nearby business. He noted that the ability, provided in the County IRB Act, of an existing business to petition against a bond issuance is not granted in the corollary municipal IRB Act and that the provision can have fatal implications for time-sensitive projects. A member commented that the legislature should not interfere with competition among businesses. Responding to a question, Mr. Kopelman said that he was not aware of any situation, other than that involving a wire manufacturer in Santa Teresa, in which the provision has been an issue.

On a motion made and seconded, the committee endorsed the bill with five members voting in opposition.

The second bill would make eligible for funding through IRB proceeds projects related to the extraction phase of mining or energy development and projects related to housing development. In response to members' questions, Mr. Kopelman said that: 1) though the provisions of the measure would apply to all counties, the impetus for its proposal was the housing shortage in the southeast region; 2) if developed through the IRB scheme, housing would not be subject to property taxes; 3) some counties can control housing through zoning, but they otherwise do not have economic development tools to develop housing; and 4) if a lessee defaulted on the obligation to make payments on a property, the county would own, and probably try to sell, the property. Mr. Ward added that the measure was intended to encourage the development of apartment complexes, not single-family residences, at market, not low-income, rates and that several programs to assist low-income housing development exist. Members made the following remarks: 1) to include housing as an eligible project seems incongruent with the intent of the IRB Act, which was to encourage industrial expansion; 2) the proposal's application to the entire state could have unintended consequences; 3) the proposal's advancement of natural resource extraction is objectionable; and 4) outstanding questions about the proposal remain.

On a motion made and seconded, the committee voted to not endorse the bill.

Administrative Hearings Office Act

Senator Candelaria, Mr. Anklam and Jason Espinoza, vice president, government affairs, Association of Commerce and Industry (ACI), presented proposed legislation that would make independent the hearings office currently attached to the TRD and, according to Senator Candelaria, in so doing, offer more fairness to businesses and individuals. The draft legislation, he said, was the product of collaboration among the Department of Finance and Administration, ACI and TRI. Mr. Espinoza added that the TRD participated in the work, and he remarked that: 1) the legislation preserves recently adopted reforms prompted by recommendations of the Council on State Taxation (COST); 2) the COST would review the draft to determine what score the state would receive were the legislation enacted; and 3) much of the draft constitutes updates to references. Mr. Anklam noted the trend among states to make tax protest offices independent, and he said that the measure would have no budget impact and not meaningfully change the current process for protests. He added that the legislation, with respect to the chief hearing officer, was modeled closely on the American Bar Association's model for administrative tribunals.

The committee sought clarification on related points and voiced some concerns about the proposal. Mr. Anklam briefly reviewed the history of initiatives to adopt similar measures and explained the legal recourse of taxpayers who wish to protest their assessment. Secretary Padilla, who was in the audience, provided some data on the existing hearings office. A member expressed reservations about the proposal's provisions to: allow the governor to appoint the chief hearing officer; and make inapplicable to hearings the rules of evidence and of civil procedure, given the high (arbitrary and capricious) standard of review at the appeals level. The member articulated a preference for more independence, akin to that for the superintendent of insurance, in the process for selecting the chief hearing officer. Regarding the member's second concern, Senator Candelaria countered that applying formal rules of procedure at the administrative hearing level would dramatically increase the costs to parties involved and would defeat the purpose of the quasi-judicial administrative law process, which offers more efficiency than the process of district courts.

No motion was made to endorse the bill.

GRT Deduction for Cybersecurity Devices

Senator Cisneros, Ceidlidh Creech, director, Portal Locks LLC, and Pete Berry, director of operations, Portal Locks LLC, presented a proposal to create a GRT deduction for cybersecurity devices. Ms. Creech described Portal Locks as a woman-owned small business that manufactures devices to protect computers from cyber attacks. Mr. Berry indicated that the company wishes to manufacture its devices exclusively in Questa, in part because of the recent mine closing there that has left many residents without work.

On questioning, Mr. Berry reported that the company is in its start-up phase and is bearing a heavy initial cost burden, but that when the company becomes more self-sufficient, it would willingly pay a fair share in taxes. Senator Cisneros indicated that the Job Training Incentive Program could help in equipping the existing work force with the skills required by the new work. A member added that the Taos branch of the University of New Mexico has offered to help facilitate that skills development. Ms. Creech concluded by saying that the company was initially planning to build a plant in Texas, but the revision prompted the company to seek from New Mexico tax treatment that would, in effect, be similar to that in Texas.

On a motion made and seconded, the committee endorsed the bill with one member voting in opposition.

Agricultural Property Valuation

Senator Cisneros presented, and Representative Gonzales gave input on, proposed legislation that would make changes to the special method of valuation in property taxation for agricultural properties, an issue that has surfaced in Taos and that was the subject of a presentation at the previous meeting. He said that the legislation would also apply the special method to land used for large-scale gardening. He reminded the committee that, under the current law, many taxpayers' properties have undergone radical increases in valuation due to their declassification as agricultural, which in many cases was caused by the effects of drought and the ensuing infeasibility of continuing to put land to agricultural use. He added that, if the matter were left unaddressed, it would eventually become a statewide issue. Representative Gonzales commented that the legislation represents the culmination of much work and community involvement, and he emphasized the importance of working toward a solution, even if that progress is incremental. Senator Cisneros said that part of his goal in giving the presentation was to solicit recommendations for changes in the draft.

Committee members responded with their reactions to the proposal. Namely, they argued that: 1) the issue might be more appropriately addressed at a local level, given that its statewide application might have unintended consequences; further, more training and resources should be provided to county assessors' offices; 2) if the measure were enacted, taxpayers — particularly those in urban areas — might abuse the leniency it offers; 3) importing the United States Forest Service's definition of "livestock" is inappropriate in this context; and 4) the agricultural classification should be tied to agricultural production. In response to a comment, Mr. Ward spoke briefly about having met with the federal secretary of agriculture on the issue and said it is difficult to draw a line between agricultural and non-agricultural use for assessment purposes and that some states have abandoned that approach in this context.

Adjournment

There being no further business, the RSTP adjourned at 11:52 a.m.

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