

MINUTES
of the
FIRST MEETING IN 2010
of the
REVENUE STABILIZATION AND TAX POLICY COMMITTEE

June 7, 2010
Room 307, State Capitol
Santa Fe

The first meeting of the Revenue Stabilization and Tax Policy Committee (RSTP) for 2010 was called to order by Representative Edward C. Sandoval, chair, at 10:12 a.m. in Room 307 of the State Capitol in Santa Fe

Present

Rep. Edward C. Sandoval, Chair,
Sen. John Arthur Smith, Vice Chair
Rep. Nathan P. Cote
Rep. Anna M. Crook
Sen. Dianna J. Duran
Rep. Keith J. Gardner
Sen. Timothy Z. Jennings,
Sen. Gay G. Kernan
Rep. Ben Lujan, Speaker of the House
Rep. Rodolpho "Rudy" S. Martinez
Sen. Howie C. Morales
Rep. Henry Kiki Saavedra
Sen. William E. Sharer
Rep. Thomas C. Taylor
Rep. Jim R. Trujillo

Designees

Rep. Antonio "Moe" Maestas (guest)
Sen. Nancy Rodriguez

Absent

Sen. Carlos R. Cisneros
Sen. Tim Eichenberg
Sen. Timothy M. Keller

Rep. Ray Begaye
Sen. Mark Boitano
Rep. Donald E. Bratton
Rep. Zachary J. Cook
Sen. Kent L. Cravens
Rep. Miguel P. Garcia
Sen. Clinton D. Harden, Jr.
Rep. Sandra D. Jeff
Sen. Carroll H. Leavell
Sen. Steven P. Neville
Rep. Debbie A. Rodella
Sen. Bernadette M. Sanchez
Sen. John M. Sapien

Rep. James R.J. Strickler
Rep. Don L. Tripp
Rep. Luciano "Lucky" Varela
Sen. Peter Wirth

Staff

Pam Ray, Staff Attorney, Legislative Council Service (LCS)
Doris Faust, Staff Attorney, LCS
Ric Gaudet, Research and Committee Staff, LCS

Monday, June 7

Coordination with the Government Restructuring Task Force (GRTF) and Other Administrative Issues

Paula Tackett, director, LCS, briefed the committee on directives from the New Mexico Legislative Council to interim committees. The council wants to significantly reduce executive and legislative staff travel expenses during the interim. Committees have been directed to meet in Santa Fe, and the number of meeting days for most committees has been reduced.

The GRTF has requested that interim committees report their recommendations about specific restructuring ideas for the departments under their area of study. Ms. Tackett said that interim committees should make their recommendations to the GRTF as soon as possible so that the task force can make effective restructuring recommendations to the legislature.

A committee member cautioned fellow legislators about travel expenses. He said there may not be enough money to pay for regular committee expenses if members have significant out-of-state travel expenses this year.

A committee member said the GRTF is studying many short-term and long-term solutions to the government structure issue. Some of the long-term solutions would require constitutional amendments; however, there are short-term ideas to increase efficiency. One example would be to make the magistrate court a court of record for DWI cases, which could save money and make the court system much more efficient.

A committee member asked if a regulatory reform committee would be appointed during the 2010 interim. Ms. Tackett said that the New Mexico Legislative Council did not create that committee, but it may do so at the June 29 meeting.

Representative Sandoval thanked Ms. Tackett for her many years of service, and the committee and audience gave the retiring director a standing ovation to express their gratitude for her service.

Post-Session Fiscal Review

Tom Clifford, chief economist, Legislative Finance Committee (LFC), provided the committee with an update of New Mexico's fiscal picture since the end of the 2010 legislative sessions. He began by reviewing the LFC's adopted tax policy principles and the cumulative annual impacts of significant general fund tax measures since 2003, which in fiscal year 2011 will decrease revenues by \$420 million. Prior to the start of the session, the cumulative annual decrease was predicted to be \$600 million. Mr. Clifford identified other areas in which the state could increase revenue and described the fiscal impact of the 2010 Senate Bill 248, which would have eliminated or reduced the amount of available tax credits and exemptions for certain activities. The increased revenue from that bill would have been \$45 million in fiscal year 2011.

Mr. Clifford reviewed recent U.S. and New Mexico economic indicators. Although the nationwide economic outlook has improved slightly since December 2009, New Mexico has lagged behind in the recovery. However, the state's personal income growth has shown signs of improvement, predicted to be 3.3 percent this year, and New Mexico's job losses bottomed out in January 2010. Taxable gross receipts have also shown strong growth since March, which could be the beginning of an economic rebound, said Mr. Clifford.

Oil price futures for July are currently trading at \$72.00 per barrel, which is close to the December 2009 consensus revenue group's estimate of \$75.00. Natural gas futures are also trading at \$4.80, much higher than this time last year. Additionally, there has been an increase in the price of natural gas liquids, which has encouraged more gas production in the state.

Corporate earnings have fallen more than 50 percent since 2007 but appear to be slowly rebounding for fiscal year 2011. Tax credits, especially the film production tax credit, have accounted for much of the drop in state corporate income tax (CIT) collections in the past three years.

While the past two fiscal years have seen large revenue decreases, fiscal year 2011 is predicted to show a six percent increase, but the previous high revenues in fiscal year 2008 are not expected to return until fiscal year 2015. Fiscal year 2011 growth is expected to be from many sectors, including a large increase from oil and gas revenues.

The LFC's revenue tracking has shown a total of \$46 million less in total revenue than was predicted in the December 2009 forecast. While oil and gas revenues have performed better than expected, gross receipts tax (GRT) and CIT revenues are far below projections. Personal income tax (PIT) revenues are only slightly below projections, said Mr. Clifford.

Mr. Clifford then compared budgeted state expenditures for fiscal year 2011 to previous years. Public school spending declined 1.8 percent from fiscal year 2010 and 5.7 percent from fiscal year 2009. Higher education spending declined 3.5 percent and 7.4 percent, respectively. Medicaid spending was reduced only slightly from the previous two years, and other agencies have seen 12 percent reductions. Many revenue measures were

enacted during the regular and special sessions, with a fiscal year 2011 impact projected to be \$173 million. Fiscal year 2010 is expected to have year-end reserves of 5.2 percent, which is a decrease of more than \$500 million. Reserves would have fallen well below zero but for the \$1.1 billion in solvency measures enacted in the past few sessions. In addition, if the federal government does not extend the enhanced matching formula for Medicaid funding, the state's reserves will again be at risk.

The challenges facing policymakers in developing the fiscal year 2012 budget are many. Assuming six percent growth in revenues over fiscal year 2011 and added revenue from recently enacted provisions, the state should generate \$5.6 billion in general fund revenue. However, the state still needs to replace nearly \$500 million in one-time funds and savings and would face a \$236 million shortfall, assuming a flat budget from fiscal year 2011.

A committee member said that many businesses in Roswell have reported gross receipts 11 percent lower than last year. He questioned whether New Mexico's economy has yet reached the bottom of the recession. Another legislator agreed and said that the Farmington economy, based mostly on gas production, usually lags behind the rest of the state. Currently, there are only nine active gas rigs in the state, but 45 are needed just to maintain the current gas flow.

Mr. Clifford was asked to research whether the increase in copper prices will bring job growth to the southwestern part of New Mexico.

A committee member asked whether the recent growth in jobs is a reflection of hiring by the U.S. Census Bureau. Mr. Clifford said that the jobs numbers do not reflect an increase in hiring by the private sector.

A committee member commented that the economic woes of Greece, which he said were caused by pensions that are too generous, could be a lesson for New Mexico, which also has generous pensions for its public sector. Public employees in some cases can work for 20 years and then receive a pension for the next 40 years.

Mr. Clifford was asked whether any changes in federal law regarding internet sales are expected this year. Mr. Clifford said that the committee should revisit this issue and that New Mexico may have a better legal basis to collect the GRT on internet sales than other states because of the nature of the tax.

Approval of Committee Work Plan and Meeting Schedule

Ms. Ray presented to the committee a proposed work plan and meeting schedule for the 2010 interim. The committee's work plan has been reduced from the 2009 plan, due to the New Mexico Legislative Council directive to reduce the number of interim committee meeting days. After discussion and the addition of a few more items to study, the committee adopted its work plan as follows:

A. In the 2010 interim, the committee will:

1. examine state taxes and discuss each tax based on sound tax policy principles and the contribution to state revenue made by each tax;
2. review the revenue status of the state, examine the implementation and effectiveness of revenue enhancement methods already adopted and discuss the need and opportunities for further revenue enhancement;
3. continue to review the effectiveness and value to the state of tax incentives and review exemptions, deductions and credits to determine the state's ability to track and identify methods to determine value;
4. review the implementation and effect of the tax amnesty program and identify taxes where amnesty was most heavily used by taxpayers, and follow the implementation of the gaming tax credit and the business retention GRT;
5. examine the effectiveness and efficiency of appropriations and revenue generation programs in the Taxation and Revenue Department (TRD) and other departments in the state that generate revenue to determine if such funds are fully used for the purposes for which they were raised;
6. identify methods of obtaining data and information on a more timely basis;
7. review trends in state investment earnings; and
8. respond to the requests of the GRTF.

B. Other matters that will be addressed by the committee include:

1. ongoing property tax issues;
2. the relative costs and benefits of holding local governments harmless when the legislature reduces GRTs;
3. the effectiveness of collecting the weight-distance tax after recent cuts to the Department of Public Safety and a review of balances in the State Road Fund;
4. use of industrial revenue bonds in the state, including revenue lost and the value of the benefits gained by local communities;
5. a review of oversight of and access to data from local GRT collections and distributions;

6. the progress of implementation of the solar energy loan districts;
7. New Mexico's ability to tax internet transactions; and
8. the balances in and performance of severance tax and land grant permanent funds and the revenue from gaming in New Mexico.

The committee adopted its proposed schedule, with the direction that staff research the extra costs associated with holding its August meeting in Rio Rancho. The dates on which the RSTP has proposed to meet are:

<u>Date</u>	<u>Location</u>
June 7 (M)	Santa Fe, State Capitol, Room 307
July 8-9 (Th-F)	Santa Fe, State Capitol, Room 322
August 23-24 (M-Tu)	Santa Fe, State Capitol, Room 322
September 14-15 (Tu-W)	Santa Fe, State Capitol, Room 322
October 25-26 (M-Tu)	Santa Fe, State Capitol, Room 322
November 29-30 (M-Tu)	Santa Fe, State Capitol, Room 322
December 15 (W)	Santa Fe, State Capitol, Room 307

Tax Legislation Review

Marilyn Hill, deputy secretary, TRD, and Al Maury, acting chief economist, TRD, reviewed for the committee tax laws enacted during the 2010 legislative sessions. Ms. Hill first updated the committee on ongoing TRD programs, including the provision of courtesy lines at Motor Vehicle Division offices for elderly and disabled persons; the increased requirements for certain taxpayers to file tax returns electronically, which will greatly speed up the department's data reporting; and the tax amnesty program, which is in effect starting today and is expected to bring in more revenue to the state. She clarified that the amnesty program does not apply to existing liabilities; it only applies to tax payments that have not yet been identified.

Mr. Maury reviewed the tax law, motor vehicle and other changes enacted by the legislature during the regular and special sessions. The legislation includes:

- approval of the Las Cruces tax increment development district and authority for the district to issue \$75 million in bonds;
- a memorial requesting the TRD to aggressively enforce GRT laws and collect GRTs;
- the establishment of a temporary tax amnesty program to allow taxpayers to pay taxes that would otherwise be late without the accrual of penalties or interest;

- the elimination of the state and local income tax deduction from the calculation of New Mexico income tax due, which had been seen as an unfair double deduction for higher-income taxpayers;
- the requirement that certain pass-through entities remit oil and gas withholding tax payments and other payments to the state, which has an estimated positive fiscal impact to the state of \$10 million annually;
- the increase of the state GRT by one-eighth percent to 5.125 percent;
- the provision of an advanced energy deduction to be taken against gross receipts and compensating tax due for certain types of eligible costs associated with renewable and clean coal energy production facilities;
- approval of a new local option business retention GRT and a corresponding gaming tax credit, designed to help Ruidoso Downs continue its racetrack operations by reducing the amount of gaming tax it pays to the state in exchange for a countywide GRT that is partially shared with the state;
- the loosening of restrictions on which counties are able to impose a capital outlay GRT;
- allowing counties to pledge the one-sixteenth increment of the county GRT to the payment of bonds currently authorized by Section 4-62-1 NMSA 1978;
- expansion of the allowable uses of the county hospital emergency GRT to include the construction of county hospitals and acquiring associated land and buildings;
- the increase of the compensating tax on using tangible property in New Mexico from five percent to 5.125 percent. The compensating tax on the use of services rendered in New Mexico, however, remains at five percent;
- the imposition of the compensating tax on certain out-of-state businesses that are determined to have nexus in New Mexico;
- the expansion to all counties of the use of affordable housing tax credits;
- the provision of an agricultural biomass tax credit of \$5.00 per wet ton of material transported to a qualified biomass energy production facility;
- a memorial supporting the bond election of the Albuquerque Public Schools;
- a proposal to amend the Constitution of New Mexico to exempt from property taxation property owned by veterans' organizations;

- the exclusion from consideration of "physical improvements" to property for property tax assessment purposes of certain solar energy or heat systems to residential property;
- increasing the distribution of the oil and gas conservation tax to the Oil and Gas Reclamation Fund and increasing the rate of the tax to .24 percent when the average price of oil reaches a threshold of \$70.00 per barrel;
- increasing the cigarette tax by \$.75 per pack and providing for tribal governments to maintain the current \$.91 differential between tribal and non-tribal sales. The law was passed by the legislature to be temporary and to distribute a portion of the revenue for education and youth services, but the governor's line-item vetoes made the increase permanent, distributed all of the increase to the general fund and repealed existing law that distributed a portion of the tax to municipalities and counties;
- providing for interlock device fees for DWI offenders to partially offset the device costs for indigent offenders;
- a memorial asking for the study of antabuse as an alternative to ignition interlock devices;
- requiring training for law enforcement officers about parking access for persons with disabilities;
- allowing the renewal of driver's licenses by telephone or other electronic means;
- the imposition of a magistrate courts operations fee of \$4.00 to be imposed on penalty assessment misdemeanors;
- enacting the Colonias Infrastructure Act and providing an annual severance tax bond issuance of five percent of bonding capacity, plus an annual distribution of \$10 million from the newly created (yet not funded) Colonias Infrastructure Trust Fund, beginning in fiscal year 2012;
- extension of tribal gasoline tax-sharing agreements from 10 to 20 years;
- enacting the Sunshine Portal Transparency Act, which requires the Department of Information Technology to develop an internet-based tool that displays state agency budget and cash balance information;
- providing five percent of bonding capacity of severance tax bonds for tribal infrastructure projects beginning in fiscal year 2012;

- requiring the enabling legislation for new economic development tax incentives to follow certain guidelines and requiring the Economic Development Department to publish an annual aggregate list of incentives; and

- allowing state agencies to accept payment by credit card or electronic means and allowing agencies to charge a convenience fee for those transactions.

There being no further business, the committee adjourned at 1:02 p.m.