

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

**October 21-22, 2013  
Room 307, State Capitol  
Santa Fe**

The fifth meeting in 2013 of the Revenue Stabilization and Tax Policy Committee (RSTP) was called order by Senator Carlos R. Cisneros, chair, on Monday, October 21, 2013, at 10:09 a.m. in Room 307 of the State Capitol in Santa Fe.

**Present**

Sen. Carlos R. Cisneros, Chair  
Rep. Edward C. Sandoval, Vice Chair  
Sen. Sue Wilson Beffort  
Rep. Anna M. Crook  
Rep. Brian F. Egolf, Jr.  
Sen. Timothy M. Keller  
Rep. Rodolpho "Rudy" S. Martinez  
Sen. Mark Moores (10/22)  
Sen. Clemente Sanchez  
Sen. William E. Sharer  
Sen. John Arthur Smith  
Rep. James R.J. Strickler  
Rep. Thomas C. Taylor (10/21)  
Sen. Lisa A. Torracco  
Rep. Jim R. Trujillo (10/21)  
Sen. Peter Wirth

**Designees**

Rep. Jason C. Harper  
Rep. Tim D. Lewis

**Absent**

Rep. Henry Kiki Saavedra  
Rep. Bob Wooley

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. Sandra D. Jeff  
Sen. Gay G. Kernan  
Rep. Bill McCamley  
Sen. George K. Munoz

Rep. Paul A. Pacheco  
Rep. Dennis J. Roch  
Rep. Debbie A. Rodella  
Sen. Nancy Rodriguez  
Sen. John M. Sapien  
Rep. Carl Trujillo  
Rep. Luciano "Lucky" Varela  
Sen. Pat Woods

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

### **Staff**

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

### **Guests**

The guest list is in the meeting file.

### **Handouts**

Handouts and other written testimony are in the meeting file.

## **Monday, October 21**

### **Tax Expenditure Report**

Demesia Padilla, secretary of taxation and revenue, Ryan Gleason, tax policy and research director, Taxation and Revenue Department (TRD), and Elisa Walker-Moran, chief economist, TRD, discussed the 2013 TRD-produced New Mexico Tax Expenditure Report, which was distributed to committee members. Also distributed were Senate Finance Committee Substitute for Senate Public Affairs Committee Substitute for Senate Bill 7, as amended (2013), and Senate Executive Message No. 47 explaining the veto of that bill.

Mr. Gleason gave an overview of the report and indicated that it enables policymakers to periodically review whether a given tax expenditure is necessary and effective. In preparing the report, its writers had to determine the definition of a tax expenditure. Generally, they considered tax credits, exemptions and deductions as expenditures. But some tax programs, such as certain wage exemptions and tax rate differentials, were not treated as expenditures.

Ms. Walker-Moran stressed that the report was not a comprehensive review, but rather an overview of tax expenditures. She named principles of good tax policy — adequacy, equity, efficiency, simplicity and accountability — that can be used to review tax expenditure programs and noted that the lack of reliable, readily available data posed a challenge for report compilers in

determining whether certain tax expenditures fit within that framework. Tax credits are generally associated with reliable data, but exemptions and deductions are not. Further complicating the analysis are considerations of other externalities that make it difficult to say whether, for instance, a given credit spurred economic development. Ms. Walker-Moran also noted that some information was redacted because of confidentiality requirements. She highlighted major sections of the report and key changes from the previous year's report. Namely, the most used and the most underused tax expenditures are listed in this year's report.

Mr. Gleason added that not all unused tax expenditures are useless; some function as safety nets for certain industries. For example, one tax program remains dormant until the price of oil and gas falls to a particular threshold. Nevertheless, unused tax programs should be evaluated for whether, in a case like that, the threshold level is appropriate, or whether the programs are underutilized because of competition with other programs.

Committee members' questions and comments and the presenters' responses to them are summarized as follows.

- Legislators who must defend measures that they advocate for wish to know the value of tax programs — to the individuals benefiting from them and in terms of revenue to the state. Information like that appears to be missing from the report.
- Does the governor consider enacting a sunset provision of a credit a tax increase? Secretary Padilla replied that any sunset provision will be perceived as a tax increase, since it would render at least one taxpayer unable to take advantage of it; nevertheless, it would be good to remove programs that are expired, are unused or have outlived their usefulness. Other programs, as laid out, are confusing and could be improved through better drafting. A member commented that wisely targeting certain programs that are no longer effective and making them sunset, if done in a revenue-neutral way, is not a tax increase, but rather effective policy. Further, the "losers" would not lose much, and the state would benefit from eliminating certain programs. Another member clarified the difference between a "sunset" and a "repeal": a sunset of a tax credit or deduction requires that its proponents substantiate their claim at some point in the future.
- In order to get more data for analysis, simplicity would be compromised. Simplicity should be the guiding principle behind tax policy. Too few — if any — taxpayers understand the system and know the details of their tax obligations. To overcome this complexity, they must pay professionals to figure it out, and this is a drain on resources. If it were a simple system, most taxpayers would pay what they owed. Another member argued that a way for policymakers to determine the effectiveness of a program without excessively burdening the taxpayer should be sought. Secretary Padilla noted that reporting requirements exist for deductions and credits, but not for exemptions. A way to encourage the availability of information is to avoid enacting exemptions. She advised not making the combined reporting system more burdensome for taxpayers, since local governments depend on the monthly distribution of revenue from that program; similarly, deductions, unlike credits that

- take longer for taxpayers to collect, produce a monthly cash flow to businesses, a frequency that is important to them. Mr. Gleason added that increasing the taxpayer's burden would discourage companies from conducting business in the state.
- Would the administration support a measure to change exemptions to credits and deductions for the purpose of imposing simple reporting requirements? Secretary Padilla replied that she would willingly look at proposals and attempt to negotiate a measure that would strike a balance between the executive's, the legislature's and taxpayers' interests.
  - Are the omissions of some tax expenditures from last year's report, which are referenced in one of the memoranda, included in this year's report? Secretary Padilla and Ms. Walker-Moran answered that the included tax programs are listed in section three of the table of contents. Some programs might be missing because they were not clearly considered tax expenditures or because they lack associated data. The member remarked that it would be helpful for legislators if even programs without data were listed and identified accordingly.
  - When will information on programs' cost-effectiveness, referred to in the executive order requiring that the report be compiled, be included in the report? Ms. Walker-Moran replied that certain tax programs, such as the film production tax credit, are being analyzed on a contractual basis. Others programs are too small to warrant an analysis. Others are time-consuming, expensive and undertaken when there is a specific need or request. Secretary Padilla added that, in the case of recently enacted tax exemptions, it is sometimes simple to compare relevant pre- and post-exemption periods to determine the costs of the exemptions.
  - When information on a given tax program is not made available to the legislature, it can be assumed that the program functions as a huge subsidy. Furthermore, the executive and legislative branches should strive to strike a balance in the approach to considering whether a sunset provision is a tax increase. Without such cooperation, good tax policy, the principles of which are frequently invoked, will never be realized. Meanwhile, the state's resources are eroding. Above all, adequacy and sustainability should be considered in making changes to the tax system.
  - Report compilers should explain why they decided that certain programs were not tax expenditures. Mr. Gleason replied that, in the future, compilers would delineate which programs are definitely tax expenditures, which are arguably tax expenditures — noting the arguments for and against that classification — and which are clearly not tax expenditures.
  - The requirement for the provision of this type of information is not in statute. Since the governor has vetoed attempts to put this requirement in statute, the TRD should consider promulgating a rule to that effect. Secretary Padilla said that a statute authorizing rulemaking in that area would be required before such a rule could be properly promulgated.
  - There seems to be a proliferation of nonprofit organizations, the definition of which is expressed in federal law. Some nonprofit organizations that appear to be financially prosperous might be abusing the state tax system by taking advantage of tax benefits

associated with the "nonprofit" designation.

Senator Cisneros requested that the TRD prepare a list of credits, deductions and exemptions that are unused, unusable or archaic.

### **Effect of *Gillette* Litigation on New Mexico**

Nelson Goodin, chief legal counsel, TRD, and Bruce J. Fort, counsel, Multistate Tax Commission (MTC), discussed with the committee a concern raised recently by the National Conference of State Legislatures (NCSL) in a letter that the NCSL sent to state leaders. Committee members received a copy of the letter and a memo from the MTC produced in response to the letter.

Mr. Fort remarked on some of the NCSL letter's content and stressed that its message sounds an unnecessary alarm. The letter suggests that, by joining the Multistate Tax Compact, states (including New Mexico) might have forfeited some of their right to determine how to tax corporations. This conclusion (presented to an NCSL task force by a law firm representing taxpayers) was based in part on ongoing litigation in California and other states. A critical difference between what was at issue in the California case — California's *mandate* that corporations calculate tax using a division-of-income formula different from the compact's formula provisions — and New Mexico's approach is that New Mexico allows corporations to elect to calculate tax by using either the compact's formula or New Mexico's heavily weighted sales factor alternative. Moreover, it is premature for state leaders to worry about the situation, given that court opinion on the subject remains unsettled.

Mr. Fort pointed out what he sees as other errors in the law firm's reasoning. The Multistate Tax Compact, unlike interstate water compacts, is not binding on its member states. Rather, the MTC makes rules that states can choose to adopt or not to adopt.

Although a state can withdraw from the compact at any time, Mr. Fort identified reasons New Mexico should not. The state relies on the audit program and other functions provided by the MTC. In the case of the audit program, the MTC performs work that, if performed independently by New Mexico, would be cost-ineffective because of the scale of the state. Of further benefit, the audit function allows the state to select which taxpayers to audit.

Senator Cisneros requested that the presenters continue to inform the committee about pertinent developments in the litigation.

### **Evaluating Tax Incentives for Jobs and Growth**

Robert Zahradnik, director of state policy, state fiscal health and economic growth for The Pew Charitable Trusts (Pew), testified on Pew's recommendations, which derive from the findings of Pew studies, for states that offer tax incentives. (Corresponding reports are "Evidence Counts: Evaluating State Tax Incentives for Jobs and Growth" and "Avoiding Blank Checks: Creating Fiscally Sound State Tax Incentives".) Mr. Zahradnik furnished copies of his

testimony, an accompanying slide handout and an overview of Rhode Island's plan for evaluating tax incentives.

Mr. Zahradnik noted that the studies' reports outline policies and practices that states can implement to ensure that those states: 1) have evidence of tax incentives' effectiveness; and 2) are properly managing the financial risks of tax incentives. Pew found that, in general, lawmakers make tax incentive-related decisions using unreliable information. Pew chiefly recommends that, instead, those lawmakers plan carefully to ensure fiscal soundness of a new or expanded tax incentive and that they routinely and rigorously evaluate the economic impact of tax incentives. Much of that planning should be directed toward making cost estimates of and putting limits on tax incentives.

Mr. Zahradnik discussed the principles behind Pew's recommendations and provided examples from some states that have put the principles to use. He noted that no state has yet mastered all of the principles, but some have been more successful than others.

In response to Mr. Zahradnik's presentation, committee members offered the following comments and questions.

- New Mexico is deficient in tax incentive reporting and in measuring effectiveness, in large part because of political interference with attempts to improve in those areas.
- New Mexico has made some progress toward the goals of improved reporting and effectiveness: the state has a requirement that tax incentive legislation name a purpose; a requirement that the Economic Development Department report on economic development incentives; and a push for a reporting requirement to attach to all new tax incentives.
- Sunset provisions on tax incentive legislation can deter businesses from coming to the state, since businesses seek predictability. Mr. Zahradnik replied that laws can be structured to grandfather in existing taxpayer beneficiaries in order to avoid having a tax benefit unexpectedly disappear.
- New Mexico's incentives should differ from those of neighboring states in order to reduce competition with those states.
- In designing tax incentives, policymakers should capitalize on New Mexico's labor force and natural resources.
- How can the economic impacts of a tax bill be accurately determined before that bill's passage, particularly given New Mexico's lack of access to sophisticated software systems? Mr. Zahradnik commented that most states do not have sophisticated analytical ability. Up-front evaluations are much more difficult than post-implementation evaluations of tax incentive measures. Even after tax incentives have been implemented, it is often difficult to determine program effectiveness. But states should nevertheless try to analyze effectiveness, even if only on the basis of a program's comparison with other state programs.
- What is involved in conducting an effective evaluation system? Mr. Zahradnik estimated that a system to analyze effectiveness of economic development tax

incentives requires two to three full-time employees. It takes approximately three to five years after a program has been implemented to gather the data needed for effective evaluation. A member expressed willingness to support directing more resources to the TRD for this purpose.

- How do other states that offer tax exemptions gather relevant data for analysis, since those who benefit from exemptions do not have to report relevant data? Do they employ extrapolation methods? Mr. Zahradnik replied that states often get information by conditioning receipt of a benefit on reporting, although there is seldom an incentive for businesses to report accurately. Extrapolation methods are helpful and probably used in other states.
- Are there tax incentive programs identified as having generally succeeded or failed, so that states could use such a list in determining what to employ? No, replied Mr. Zahradnik, but some programs — such as those affecting the film industry and enterprise zones — have been studied more than others. Pew has not drawn any conclusion on the matter. Work on the matter done by others, though not definitive, presents some findings from which one could draw conclusions.

### **Capital Outlay Process: Concerns and Options for Improvement**

Linda Kehoe, principal analyst, Legislative Finance Committee (LFC), brought to the committee's attention issues in local capital outlay funding and options for improving the funding process. Mr. Gleason spoke about the capital outlay process's effects on the development of water systems. Debbie Romero, bureau chief, Department of Finance and Administration (DFA), was in the audience and offered input on certain topics relevant to the DFA.

Ms. Kehoe provided background and elaborated on those issues. Post-recession efforts to recover unspent money appropriated for local capital outlay projects shed light on the need for more careful scrutiny of local project planning, funding and progress. Between 2002 and 2008, the legislature authorized over \$3 billion for more than 14,500 local projects. In 2008, \$670 million dedicated to almost 3,000 projects went unspent; and so in 2010, over \$280 million of that sum was redirected to the general fund. Since 2012, when capital outlay funding resumed, the legislature has authorized \$168.8 million for almost 1,200 local projects. The governor vetoed \$25 million for 264 of those projects, reasoning that the earmarks were for projects with little or no vetting and that many of those appropriations covered less than 10% to 20% of the projects' costs.

Ms. Kehoe referred to Exhibit A of her handout, a sample list of 2012 and 2013 projects that she said appear to be significantly underfunded. She commented that if no local, federal or other-source money matches the state appropriations, the appropriations will remain unexpended or recipients might expect the state to provide future appropriations to make up the balances. A committee member inquired whether it was known that those projects were to be funded by other sources. Ms. Kehoe responded that the LFC does not have this information, but that it could attempt to get it. Ms. Romero indicated that the DFA has collected some of that information. Committee members emphasized the importance of the timely relaying of that information to

legislators so that they can make better informed project-sponsorship decisions. They also expressed a need to follow through on information collection so that legislators could track whether funding from those other sources materialized.

Ms. Kehoe reviewed Exhibit B of her handout, which outlines the nature of the capital outlay problem, details of the challenges inherent in the problem and changes proposed to improve the situation. She noted that none of those changes would dilute the legislature's authority to review and advance projects for funding. One proposed change, which would be enacted through legislative rule and would provide that an interim committee vet projects for the full legislature's consideration, provoked a committee member to suggest that the fairness of that proposal might be compromised by political interference. Mr. Gleason responded by citing examples of other, similar processes that serve as examples in which such a concern is largely unwarranted.

Mr. Gleason described the major challenges to coordinating resources for maximizing efficiency in the funding of local water-related capital projects, and he offered a non-comprehensive list of the funding sources available to various types of entities. In short, decision-making authority is spread among many funding-source entities. Those entities' priorities conflict, and their processes are not mutually aligned. In most cases, no one source has enough money to fully fund any one project. State programs are not coordinated for applicant ease, and local, state and federal governments do not function in unison to ease project implementation. As an example, Mr. Gleason cited a situation in which Silver City-area local governments agreed many years ago to collaborate on a wastewater project. As a result of some of the inefficiencies that Mr. Gleason had described, payment for the project came over time from various sources. Inflation then drove up the project's cost by several times its initial cost, and the community's enjoyment of the project's benefits were unnecessarily delayed for 10 years. Mr. Gleason pointed to another sample result of the situation: last year, millions of dollars in loans and grants available to the state through the United States Department of Agriculture rural development program were not used, despite the great need for rural development.

Committee members made the following comments and received the following responses.

- The capital outlay system is dysfunctional, unfair and in need of an overhaul. The time it takes for a project to be fully funded leads to its obsolescence, cost inflation and a delay in the realization of its benefits. Money tied up in unused appropriations exacerbates the problem.
- New Mexico's capital outlay process is ranked low compared with other states. The state should look at other states' approaches to glean ideas for improvement.
- Some local governments are not contributing enough of their existing resources. Bill Fulginiti, executive director of the New Mexico Municipal League (NMML), noted that many local governments are bearing a substantial share of debt for capital projects.
- The impetus and a specific approach for systemwide change should originate in the

executive branch, because it is a high level of government. Ms. Romero noted that leaders in the executive branch are trying to address some of the problems and that the process for water-related projects has improved because relevant agencies collaborate to prioritize projects for funding. She suggested that a similar approach be used for other types of projects. A member commented that having state agencies work together has delayed some projects and interfered with the paramount goal of prompt execution.

- The current policy surrounding state funding for nonprofit organizations seems inconsistent with past practices. There should be more consistency in this area. Ms. Romero responded that the DFA relies on bond counsel for guidance as to what projects can be lawfully funded. Ms. Kehoe added that, in the past, the policy around funding for nonprofit organizations was loose. Then rating agencies and the State Board of Finance raised concerns, which led to the tightening of the policy.

### **Approval of Minutes**

Upon a motion made and seconded, the minutes of the September RSTP meeting were approved without change.

### **Heritage Series License Plates, House Bill (HB) 625 (2013)**

Representative Lewis, who was joined by Mark Williams, director of the Motor Vehicle Division (MVD) of the TRD, and Mac Lewis, MVD policy and procedure manager of the TRD, discussed the possibility of adding a "heritage" series of license plates to the existing set of license plate choices. Representative Lewis, who introduced the bill in the last session, brought it to the committee at the recommendation of the House Transportation and Public Works Committee. He named four key aspects of the plates: 1) they promote tourism by highlighting notable aspects of the state's history and character; 2) their simple designs improve readability for scanning devices used by law enforcement personnel; 3) they are cost-effective and feasible to produce on an on-demand basis; and 4) they can be personalized.

In response to questions posed by committee members, Mr. Williams clarified some aspects of the proposal. The bill would not diminish the existing spectrum of available plates. It also would not impose an added fee for the benefit of any organization, as many existing license plate options do. A committee member commented that part of the point of many special license plates is to generate revenue for certain causes.

Committee members offered the following suggestions for revising the bill:

- require that the plates be produced in the United States; and
- curtail the proliferation of proposed plate designs brought to the legislature for its approval, create broad design criteria and authorize the MVD to promulgate rules through which plate design options are created.

Senator Cisneros directed Representative Lewis to continue work on the bill and to bring it to a future meeting.

## **Recess**

The committee recessed at 5:15 p.m.

## **Tuesday, October 22**

The committee reconvened at 9:09 a.m. on Tuesday, October 22, 2013, with Senator Cisneros chairing the meeting.

## **Local Government Legislative Priorities**

Mr. Fulginiti and Tasia Young, legislation liaison for the New Mexico Association of Counties (NMAC), talked about municipal and county priorities for the next legislative session.

Referring to a handout on the topic, Ms. Young cited and briefly described five tax-related issues and corresponding measures that the NMAC will pursue in the 2014 legislative session. Discussion on the topics ensued. Ms. Young described, and the committee discussed, those issues as follows.

- Property Tax Equity — The NMAC will promote a bill from the 2013 legislative session, as that bill was amended by the House Taxation and Revenue Committee, that will do away with tax "lightning" and improve equity, transparency and ease of understanding in the property tax system. A committee member remarked that the current system was adopted, in part, with the support of county commissioners and assessors.
- Real Property Sales Disclosure — The measure, also introduced in the 2013 legislative session and which will be reintroduced in its amended form in the upcoming legislative session, would provide for the disclosure to a county assessor (not a clerk, so as to remain confidential to the public) of sales data for all but some real property. Not included is agricultural land because, Ms. Young explained, cattle growers as a group opposed that inclusion. One committee member commented that their noninclusion would seem to invite more government intrusion, since assessors would be required to conduct site visits in order to conduct assessments. Another committee member responded that assessing agricultural land is a complex undertaking for which the state lacks expertise. Referring to sales of subsurface mineral rights — the other proposed exclusion — Cline Ward, a lobbyist in the audience, articulated that assessments are based on factors other than market value.
- Delinquent Property Tax Payments and Delinquent Property Tax Lists — County treasurers have requested changes to improve the efficiency and effectiveness of collecting delinquent property tax payments. The NMAC has met with the TRD on these issues, but the entities have not reached consensus on how to address the matters.
- County Correctional Facility Gross Receipts Tax — The measure would increase the existing county local option gross receipts tax for county correctional facilities. The remainder of the handout provided a chart that illustrated what Ms. Young

characterized as the complexity of the county gross receipts tax system. A committee member commented that the counties need the increase — or some alternate source of increased revenue, such as a federal per diem for housing out-of-state prisoners — in part because the state has cut back its appropriations to counties for correctional facility-related costs.

Ms. Young added that two non-tax items, notice of liens and Medicaid benefits suspension, are issues that the NMAC also wishes to address in the upcoming legislative session. The Medicaid benefits suspension issue concerns hospital funding; the NMAC is working with the Human Services Department to ensure that Medicaid benefits are suspended, not terminated, when people are incarcerated in county detention centers.

Mr. Fulginiti indicated that the NMML board of directors met recently to discuss the NMML's priorities for the next session. Those priorities include: 1) addressing some implications of the prior session's HB 641; 2) encouraging the reimposition of a local tax on food, a measure that 67 of 68 municipalities voted to support; and 3) examining the state's tax expenditures, particularly those that are part of the gross receipts tax system. Elaborating on the third priority, Mr. Fulginiti indicated that the many state credits, deductions and exemptions offered as tax relief have hurt local governments.

Mr. Fulginiti explained another issue for municipal governments — tax distribution take-backs by the TRD — and referred to a bill draft, distributed to the committee, that the NMML is using in conversations with representatives from the TRD in an effort to reach consensus on an approach to the situation. Sometimes, the calculation of a local government's share of tax revenue is corrected after a distribution has been made. If there was an overpayment, the TRD takes the money back. The law does not require that notice be given. Some adversely affected local governments have pursued litigation, but the courts have not squarely resolved the issue.

### **Hold Harmless Changes**

Mr. Fulginiti and Peter van Moorsel, chief economist, LFC, spoke about the recent changes to the hold harmless laws, which are embodied in HB 641 (2013).

Mr. Fulginiti cited local governments' chief concerns about the most recent legislative changes to the hold harmless provisions and referred to a table that shows how the new law, had it been in place in 2012, would have affected counties and municipalities. In allowing municipalities and counties to impose an up to 3/8% gross receipts tax increase, the law creates winners and losers among the 21 municipalities whose hold harmless distributions will be phased out. Eleven of those municipalities face a situation in which, even if the municipality imposes the full increase, that imposition would yield less revenue than under the original hold harmless provisions. The prospect of raising the tax rate concerns some municipalities: it might be politically difficult, it might drive consumers from the area, or both. For instance, if Gallup and McKinley County imposed the maximum rate increase, then the gross receipts tax rate on sales in Gallup would exceed 9%, a factor that might induce people to shop in neighboring towns or in

Arizona, thereby reducing the tax base and hampering the local economy.

Mr. van Moorsel summarized options, outlined in a memo to the committee, that the LFC generated in response to concerns voiced by parties in a recent meeting on the topic of the hold harmless provisions changes. Lawmakers could enact measures, as outlined, to address issues such as: "stacking", in which a municipality within a county imposing the increase could also impose the increase and drive the rate up by as much as 3/4%; windfalls to local governments resulting from their taking advantage of timing differences between the tax imposition and the hold harmless phaseout; and the lack of a requirement for referendum.

Committee members expressed the following reactions to the hold harmless provisions changes and to the presenters' comments.

- The intent of the law is to give local governments a way to offset losses from the phase out, not to generate windfalls.
- Given that revenues from oil and gas production have waned and food prices are inflating, had lawmakers not amended the hold harmless provisions, the state would have born a growing financial burden. That burden would have resulted in cuts to education funding.
- It is lamentable that the state forfeited a stable portion of the tax base when it exempted food sales.
- By not putting the tax increase issue to a referendum, the taxes are less stable. That is, they are subject to the whim of local government leaders. Those leaders move in and out of office.
- Many local governments are waiting to see whether lawmakers further adjust relevant provisions before they act within their powers under existing law.

A committee member expressed an interest in knowing the likely fiscal impact of the combined reporting provision and other aspects of HB 641 in order to better analyze the bill in its full context. Ms. Walker-Moran offered that the fiscal impact report on the bill suggests that the combined reporting measure will initially increase revenue, but that that revenue will taper off as companies adjust in an effort to keep their tax payment obligations to a minimum. Senator Cisneros requested that this information be reviewed at in the next meeting.

Senator Cisneros directed staff to work with Mr. Fulginiti and others to seek input from TRD and the LFC staff and to bring draft legislation to an upcoming RSTP or LFC meeting for committee consideration.

### **Compensating Tax Deduction — Equipment Used in the Production and Processing of Chile**

Charlie Marquez, lobbyist, brought to the committee a draft of a bill that would create a three-year deduction from the gross receipts and compensating taxes for the purchase of equipment used in the production and processing of New Mexico chile. A version of the bill has been introduced in past sessions and was endorsed by the RSTP last year. The current version

has an added section that would allow the TRD to reveal taxpayer-related information for the purpose of reporting to the RSTP and the LFC. Mr. Marquez indicated that a sponsor has agreed to introduce the current version of the bill at the next session and that Mr. Marquez would seek the committee's endorsement of the bill at the committee's next meeting.

**Adjournment**

There being no further business, the RSTP adjourned at 12:02 p.m.