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

July 27-28, 2006
Deming Public School Administration Boardg10
Room
400 Cody Road
Deming, NM

The second meeting of the Revenue Stabilization and Tax Policy Committee (RSTP) was called to order by Representative Donald L. Whitaker, chair, at 9:10 a.m. at the Public School Administration Board Room, Deming.

Present
Rep. Donald L. Whitaker, Chair
Sen. John Arthur Smith, Vice Chair
Rep. Janice E. Arnold-Jones
Sen. Carlos R. Cisneros
Rep. Anna M. Crook
Rep. Keith J. Gardner
Rep. Roberto "Bobby" J. Gonzales
Rep. Ben Lujan
Sen. H. Diane Snyder
Rep. Thomas C. Taylor

Absent
Sen. Ben D. Altamirano
Sen. Mark Boitano
Sen. Kent L. Cravens
Sen. Joseph A. Fidel
Rep. George J. Hanosh
Sen. William E. Sharer
Rep. Daniel P. Silva
Sen. James G. Taylor

Designees
Rep. Manual G. Herrera
Sen. Leonard Lee Rawson
Sen. Nancy Rodriguez
Sen. John C. Ryan
Rep. Joe M Stell

Sen. Sue Wilson Beffort
Rep. Donald E. Bratton
Sen. Phil A. Griego
Sen. John T.L. Grubesic
Rep. Irvin Harrison
Sen. Stuart Ingle
Sen. Cisco McSorley
Sen. Steven P. Neville
Rep. Andy Nunez
Rep. Bill Rehm
Rep. Debbie A. Rodella
Rep. Henry Kiki Saavedra
Sen. Bernadette M. Sanchez
Rep. Don L. Tripp
Rep. Luciano "Lucky" Varela

Visiting Legislators

Sen. Dianna J. Duran
Rep. Dona G. Irwin

Staff
Tim Crawford, Legislative Council Service (LCS)
Norton Francis, Legislative Finance Committee (LFC)
Cleo Griffith, LCS
Pam Ray, LCS
Doug Williams, LCS

Guests
The guest list is in the meeting file.

Copies of all handouts and written testimony are in the meeting file.

<u>Thursday, July 27</u>

Welcome
—Mayor Andres Silva, Deming

The mayor welcomed the committee to Deming. He noted that the City of Deming is growing and its infrastructure is developing. He said that approximately 450 national guard troops will be stationed in Deming in the near future along with an increase in the United States Border Patrol. A new high school is being planned and developers are planning seven new housing subdivisions. Solar Ventures is planning to locate in Deming and will be employing between 300 and 400 people. Deming also is working to improve retention of police and firefighters.

Speaker of the House Lujan asked about the Deming gross receipts tax (GRT) rate. The mayor responded that the rate in Deming is seven percent.

Senator Ryan asked what Solar Ventures does. The mayor said that Solar Ventures is planning the largest electric generating plant in the world based on solar technology.

Luna Energy Facility Property Tax and Gross Receipts Tax Issues
—Scott Vinson, Luna County Manager
—Rick Holdridge, Chair, Luna County Board of County Commissioners
—Steve Duran, Finance Director, City of Deming

Duke Energy originally planned and began development of the natural gas-fired electric generation plant located a few miles north of Deming. The plant was originally valued at $375 million but it was placed in mothballs when the cost of natural gas soared and the California market for power decreased. Eventually, the Public Service Company of New Mexico (PNM), Phelps Dodge and Tucson Electric (the PNM group) purchased the plant for $40 million.

The issue with the power plant is that it was independently appraised at $300 million. However, it has been valued for property tax purposes at a "distressed" value of $140 million because it was considered "construction in progress". Luna County would like to have the tax value closer to the appraised value. The PNM group is protesting $100 million of the assessed value and paying property tax only on the $40 million purchase price. Ultimately, the PNM group will have to pay property tax on the full value of the property. The facility is already operating at close to 50 percent of anticipated capacity.

Luna County issued industrial revenue bonds (IRBs) to aid Duke Energy in the development of the power plant. After reviewing a report developed by Dr. Brian McDonald, an economist, based on data provided by the PNM group, Luna County chose to retire the bonds voluntarily to facilitate the sale between Duke Energy and the PNM group. Had the county not done so, the City of Deming would have acquired ownership of the plant and could have sold it, and received $40 million.

Speaker Lujan asked about the status of the plant at the present time. Mr. Vinson responded that the plant is up and running. John Gillis, representing PNM, stated that the purpose of the plant is wholesale energy sales to other states. The capacity of the plant is 560 megawatts. The plant employs 23 Deming residents and the average salary is $71,000. The PNM group purchases natural gas from the Waha hub in Texas and pays the state five percent compensating tax. The City of Deming does not receive any GRT from the purchase of the natural gas because the point of purchase of the natural gas is out of state, not at the plant gate. As a consequence, Deming is losing $1.5 million per year and Luna County is losing $800,000 ($1.8 million total, including the property tax) that was originally anticipated had the natural gas been subject to the GRT. The City of Deming is supporting the creation of a local option compensating tax.

Senator Smith noted that the blue ribbon commission recommended that the GRT rate and compensating tax rate be the same. The current difference in rates promotes the purchase of out-of-state products.

Other lines of questioning from the committee were to clarify why the IRBs had been retired and whether the city or the county had commissioned a separate review of the economic and tax potential of the plant. There was no separate analysis conducted because the city and the county knew the work of Dr. McDonald and were willing to rely on his analysis. Had the PNM group been able to provide Dr. McDonald with what they now consider to be correct data, the report would have indicated other results that the city and county would have relied on to evaluate the alternative actions available to them. Mr. Vinson stated that, at the time and based on the information that was available to it, the city did not want to take possession of the plant. The city and the county wanted to see the plant functioning not in mothballs.

Another committee inquiry questioned when the Taxation and Revenue Department (TRD) established the $300 million appraisal value. TRD responded that the evaluation was established as of January 1, 2006. The PNM group believes the valuation should be based on purchase price plus the dollar value of completing the plant ($140 million total), not the original $375 million valuation of the plant.

In the Matter of the Protest of Wal-Mart Stores, Inc.
—Dr. Tom Clifford, Chief Economist, TRD

New Mexico, like most states, uses federal taxable income as the starting point for determining New Mexico base income. That income is then apportioned among the states using a formulary apportionment system called UDITPA (Section 7-4-10 NMSA 1978). The formula assumes that income is generated by a corporation's property, payroll and sales in each state. The average of the combined percentages of those factors in New Mexico (the New Mexico percentage) is then applied against New Mexico base income.

Wal-Mart created a Delaware holding company in 1991 (WMR) and transferred its trade name to that entity. The holding company then charged the company operating in New Mexico and other states a two percent gross sales royalty for the right to use the Wal-Mart name. The holding company then loaned the income back to the parent company. This arrangement allowed Wal-Mart Stores to significantly reduce its New Mexico tax liability because it was able to report deductions for both royalty payments to the holding company and interest payments on the loans from the holding company.

New Mexico has asserted the right to tax WMR and similar holding companies even though they lacked a physical presence outside of Delaware or Nevada. The state's right to do so from a constitutional perspective was upheld in the *Kmart* decision of 2006. (*Kmart Corporation v. Taxation and Revenue Department*, 2006-NMSC-006.) Most other state courts have reached similar conclusions.

Wal-Mart conceded that the state had a right to tax the income of its holding company under the United States Constitution, but asserted that the state's formulary apportionment system would not assign any income from the holding company to New Mexico. Without question, UDITPA was never intended to tax specialty subsidiaries like WMR. It is a system designed to tax an integrated mercantile or manufacturing business on a combined or consolidated basis. It is not a system well-suited to tax an entity that has little or no property, payroll or sales, yet makes billions of dollars from licensing intangibles to a related entity.

On May 1, 2006, the hearing officer for the New Mexico TRD issued a 40-page decision and order upholding the assessment of $6.8 million in corporate income taxes against Wal-Mart Stores, Inc. With interest, the current liability amount is approximately $11.4 million. Wal-Mart has appealed the decision to the New Mexico Court of Appeals.

Mandatory combined reporting is one answer to the problems of domestic transfer pricing and entity isolation. Under combined reporting, all commonly owned and controlled corporations with intercompany transactions are required to file a single return, eliminating intercompany charges. New Mexico's apportionment percentage would be smaller, because more entities are included, but the percentage would be applied to a larger base.

Dr. Clifford stated that, for tax year 2003, corporate income tax filers were divided into three categories:

- 46 percent were separate entity filers;
- 10 percent were combined entity filers; and
- 44 percent were federal consolidated filers.

Representative Arnold-Jones stated that legislators need more information concerning corporate tax filers in order to make an intelligent decision before mandating combined filing.

Dr. Clifford said that TRD has both resource and systems issues with respect to corporate tax filers.

Speaker Lujan asked what TRD is doing with respect to HR 1956. Dr. Clifford stated that the Governor's Office is working with New Mexico's delegation to defeat the bill.

Corporate Income Tax Combined Reporting
—Bill Jordan, Deputy Director for Policy, New Mexico Voices for Children
—Gerry Bradley, Research Director, New Mexico Voices for Children

Combined reporting is one of two basic approaches to state corporate income tax "apportionment". Apportionment is the calculation by which the profit of a multistate corporation is divided for income tax purposes among the states in which it is doing business producing goods/services and/or making sales.

Apportionment is done by simple algebraic formulas. Formulas generally assign a share of the nationwide profit of a corporation to a particular state in proportion to the shares of its nationwide property, payroll and sales located in that state. New Mexico's formula gives equal (one-third) weight to sales, property and payroll.

There are two approaches to apportionment: combined reporting vs. separate entity:

- "separate entity" applies the formula to the profit of each separate corporation as calculated by the business itself (subject to ad hoc adjustment on audit); and
- "combined reporting" combines (adds together) the profits of parents and subsidiaries before applying the formula.

The goals of combined reporting are to:

- stop corporate income tax avoidance based on artificially shifting income to commonly owned corporations in low-tax or no-tax states that are beyond the income tax reach of New Mexico; and
- ensure that a corporation's income tax liability to New Mexico is the same regardless of the corporation's legal structure.

Some of the tax-avoidance strategies nullified by combined reporting are:

- passive investment companies;

- transfer pricing;
- intangible asset spin-offs; and
- isolating profitable activities from the nexus.

Combined reporting nullifies these tax avoidance strategies by:

- treating the commonly owned in-state and out-of-state corporations as one corporation for apportionment purposes (adds profits together); and
- nullifying any tax benefits from shifting income to (or isolating income in) the out-of-state corporation.

House Bill 123 from the 2006 session would have mandated unity corporate filing.

Representative Arnold-Jones asked if there is anything beyond combined reporting in the future of corporate taxes. Mr. Jordan indicated that combined reporting is the next step for the states and he cannot envision a different system at this time.

Senator Snyder asked why Voices for Children is interested in maintaining the integrity of the revenue system. Mr. Jordan responded that Voices for Children believes it is important for state government to have sufficient revenue to support essential programs. Senator Snyder said that she believes Voices for Children will be seeking additional funding if combined reporting results in additional revenue.

Relative Reliance of New Mexico on Gross Receipts, Income and Property Taxes
—Dr. Tom Clifford, Chief Economist, TRD

Dr. Clifford reviewed the history of gross receipts, personal income and property tax collections and how they relate to total tax collections. The results are summarized in the following Table 1.

Table 1
History of Major Tax Revenues

	FY 1996	FY 1997	FY 1998	FY 1999	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
"Big Three" tax:										
Gross receipts tax	$1,565	$1,623	$1,729	$1,790	$1,850	$2,010	$2,062	$2,167	$2,316	$2,538
Personal income tax	665	771	800	808	881	911	1,032	942	1,031	1,106
Property tax	511	546	578	634	676	743	735	817	840	910
Subtotal "Big Three"	2,741	2,940	3,107	3,232	3,407	3,664	3,829	3,926	4,187	4,554
Total All Taxes	$3,733	$4,065	$4,262	$4,283	$4,616	$5,295	$5,123	$5,277	$5,762	$6,528
Tax as share of all taxes:										
Gross receipts tax	41.9%	39.9%	40.6%	41.8%	40.1%	38.0%	40.2%	41.1%	40.2%	38.9%
Personal income tax	17.8%	19.0%	18.8%	18.9%	19.1%	17.2%	20.1%	17.9%	17.9%	16.9%
Property tax	13.7%	13.4%	13.6%	14.8%	14.6%	14.0%	14.3%	15.5%	14.6%	13.9%
Subtotal "Big Three"	73.4%	72.3%	72.9%	75.5%	73.8%	69.2%	74.7%	74.4%	72.7%	69.8%

Tax as share of "Big Three":										
Gross receipts tax	57.1%	55.2%	55.6%	55.4%	54.3%	54.9%	53.9%	55.2%	55.3%	55.7%
Personal income tax	24.3%	26.2%	25.7%	25.0%	25.9%	24.9%	27.0%	24.0%	24.6%	24.3%
Property Tax	18.6%	18.6%	18.6%	19.6%	19.8%	20.3%	19.2%	20.8%	20.1%	20.0%

Senator Rawson asked which tax should be reduced. Dr. Clifford suggested examining the mix of tax revenue as a share of personal income and comparing the results to other states.

The state retains about 60 percent of total GRT collections; 40 percent is county and local revenue.

Senator Rawson observed that the underground economy pays the GRT even though it does not pay the income tax.

Speaker Lujan noted that business decisions are not made exclusively on the basis of taxes.

State Revenue Sources — Comparison with Surrounding States
—Jim Eads, Executive Director, New Mexico Tax Research Institute

There are different methods to calculate the tax burden of a resident of a state. Table 2 presents the results of two of those methods. The first method is to calculate taxes paid as a percentage of $1,000 of personal income. Thus, as is shown in Table 2, the average person in the United States pays $34.80 in property taxes for each $1,000 of income. In New Mexico, the average resident pays $18.00 in property taxes per $1,000 of income, which puts New Mexico in forty-sixth position in a ranking of all the states.

Using the same method, a resident of New Mexico pays $47.80 per year in GRT, per $1,000 earned, which ranks seventh in the nation. Thus, the GRT paid per $1,000 of income in New Mexico is 179 percent of the United States average.

The second method is to calculate the per capita tax burden, dividing taxes collected by population. In the United States, the average homeowner has to pay $1,086 in property taxes per year; while in New Mexico the average homeowner pays $441, which puts New Mexico in forty-eighth position in the nation. Using the same method, GRT collection is $2,861 per capita, per year, which ranks New Mexico tenth in the nation on a per capita basis.

Personal income taxes in New Mexico are $21.50 per $1,000 earned and $529 per year on a per capita basis. New Mexico ranks thirty-fourth using the first method and thirty-sixth using the second method. Both of these are lower than the national average.

Table 2
Tax Burdens: How New Mexico Compares to the United States Average

State and local revenues	METHOD 1: Per $1,000 of Personal Income US	NM	Rank	% of US	METHOD 2: Per Capita US	NM	Rank	% of US
Selected tax revenues								
Property	$34.8	$18.0	46	52%	$1,086.0	$441.0	48	41%
Individual income	$23.5	$21.5	34	92%	$734.0	$529.0	36	72%
General sales	$26.7	$41.8	7	156%	$836.0	$1,028.0	10	123%
Total state and local taxes	$110.3	$116.0		105%	$3,447.0	$2,861.0		83%

The heaviest burden of the New Mexico tax system is channeled through the GRT system, in part because the GRT system has a broad base that includes services and because business services are taxed, including some pyramiding. In both standards of measurement, the burden of New Mexico's GRT ranks among the 10 highest in the nation.

The relatively high burden of the GRT is ameliorated by the property tax system, whose burdens are very low when compared to the rest of the nation. Although not as low as the property tax, the individual income tax burden is also low when compared nationally.

The total state and local tax burden in New Mexico is about average when the first methodology is used, 96 percent of the average state and local tax burden in the United States. Based on the per capita calculation, the burden is even lower, ranking at 83 percent of the United States average.

Speaker Lujan asked if it is true that the tax burden is heaviest on the poor. Mr. Eads explained that the GRT is inherently regressive and results in low-income families spending a greater share of their income in consumption taxes than upper-income families.

Oil and Gas Revenue and Price Update — Gasoline Price Update
—Dr. Tom Clifford, Chief Economist, TRD

Dr. Clifford reported on the conditions in the oil and gas markets. With respect to oil, he observed that:

- oil prices are currently at their highest level ever in nominal dollars; inflation-adjusted oil prices exceeded $90.00 a barrel in 1981 dollars;
- there is a lack of supply growth:
  - shortages of rigs, materials and labor: costs are up 50 percent since 2003;
  - resource nationalism: Nigeria, Venezuela, Russia and Iran;
  - OPEC has little spare capacity; minor increase in 2006;
  - non-OPEC has poor track record;
  - hurricane losses have reduced production; and

  - improved supply outlook in 2007 depends on non-OPEC producers (including the United States and former Soviet Union);
- demand growth continues due to economic growth:
  - China, India and other lesser-developed countries make up 85 percent of growth; and
  - a major economic downturn is the one thing that could drive prices down; and
- each $1.00 change in the price of crude oil per barrel equals $4 million to the general fund.

With respect to natural gas, Dr. Clifford observed that:

- storage levels are at record highs — this will almost certainly persist through the 2006-2007 heating season — putting downward pressure on gas prices;
- production is increasing, especially in the Rockies, onshore Gulf of Mexico and Canada (record levels of exports to the United States);
- some increasing Rockies production will be pushed through the San Juan Basin, putting downward pressure on San Juan Basin and Permian Basin prices;
- demand is growing: high oil prices are causing some shift of demand to natural gas; manufacturing demand has grown but is limited by increased efficiency;
- off-shore Gulf of Mexico production will suffer permanent losses equivalent to 1.5 percent of total United States supply; and
- the liquified natural gas supply has been slow to grow due to competing demand in Europe and Asia.

Dr. Clifford summarized the revenue from oil and gas in Table 3:

Table 3
State and Local Revenues from Oil and Gas Production
Forecast Update: January 2006

Fiscal Year:	2002	2003	2004	2005	2006	2007	2008	2009	2010
					Forecast				
Average natural gas price	$2.67	$3.60	$4.68	$5.80	$7.50	$6.10	$5.80	$5.50	$5.50
Natural gas sales volume	1,616	1,570	1,534	1,565	1,527	1,504	1,489	1,474	1,459
Average oil price	$21.98	$27.80	$31.97	$42.95	$58.00	$55.00	$53.00	$50.00	$50.00
Oil sales volume	69.20	68.00	66.50	63.50	62.50	61.60	60.70	59.80	58.90
State general fund:					**Million dollars**				
O&G emergency school tax	$193	$229	$295	$382	$487	$408	$370	$351	$347
O&G conservation tax	$10	$12	$15	$19	$24	$20	$19	$18	$18
Natural gas processors tax	$22	$21	$15	$22	$28	$34	$35	$30	$28
Federal land royalties	$215	$270	$337	$423	$535	$444	$419	$394	$389
State land rents & bonus payments	$16	$21	$25	$31	$39	$34	$32	$30	$30
Subtotal — general fund	**$456**	**$555**	**$687**	**$877**	**$1,113**	**$940**	**$875**	**$823**	**$812**
Other state funds:									
O&G severance tax	$183	$221	$294	$374	$478	$401	$366	$347	$343
State land royalties	$198	$220	$279	$354	$452	$377	$356	$333	$329
Subtotal — state revenues	**$836**	**$995**	**$1,260**	**$1,605**	**$2,043**	**$1,718**	**$1,597**	**$1,502**	**$1,484**
Local revenues:									
O&G ad valorem production tax	$53	$64	$83	$105	$134	$113	$104	$98	$97
O&G production equipment Ad valorem tax	$14	$14	$12	$15	$18	$23	$24	$21	$20
Subtotal — local revenues	**$67**	**$78**	**$95**	**$120**	**$153**	**$136**	**$128**	**$119**	**$117**
Grand total state & local revenues	**$903**	**$1,073**	**$1,355**	**$1,725**	**$2,196**	**$1,854**	**$1,725**	**$1,622**	**$1,601**
Total of all state & local taxes	$474	$562	$713	$917	$1,169	$1,000	$918	$865	$853
Total rents, royalties & bonuses	$429	$511	$642	$808	$1,026	$854	$807	$757	$748

Finally, Dr. Clifford provided Table 4, which details the impact of oil and gas on the general fund.

Table 4
Oil and Gas Revenue Share of General Fund
Forecast Update: January 2006

Fiscal Year:	**2004**	**2005**	**2006**	**2007**	**2008**	**2009**	**2010**
				Forecast			
			Million dollars				
Gross receipts tax	$27	$37	$55	$38	$36	$33	$33
Personal income tax	$63	$70	$74	$77	$80	$80	$78
Corporate income tax	$63	$126	$182	$162	$154	$147	$140
Production taxes	$325	$423	$539	$462	$424	$399	$393
Rents, royalties & bonuses	$362	$454	$574	$477	$451	$424	$419

Total	$840	$1,110	$1,424	$1,216	$1,144	$1,083	$1,063

Speaker Lujan asked about the productivity of oil and gas wells. Dr. Clifford responded that the cost of drilling has increased and the yield of wells has declined. Therefore, it is much more costly to produce oil and gas than in the past.

Representative Crook asked if the permitting process for new wells can be expedited. It was noted that the Oil and Gas Association is currently working with the Governor's Office on this issue.

Public Shooting Range Dedicated Tax Proposal
—Howard Staub, Deming

Mr. Staub proposed an excise tax on manufactured ammunition for the purpose of developing new public shooting ranges. Law enforcement and federal agencies would be exempt from the excise tax. Mr. Staub suggested that shooting ranges are a tourist attraction. There is currently a 10 percent federal excise tax on ammunition. He suggests a five percent or 10 percent state excise tax.

Senator Smith requested that staff explore the Tennessee ammunition tax.

Representative Crook asked how much revenue would be generated. Mr. Staub had no idea.

Senator Ryan asked how much is needed for building shooting ranges. Mr. Staub did not know but envisioned that new public ranges could be sited at nominal cost on public-owned land.

Representative Stell asked who would own the shooting range. Mr. Staub envisioned municipal ownership.

Representative Gonzales asked how much land is needed. Mr. Staub estimated that about 60 acres is sufficient.

Public Comment

Former State Representative G.X. McSherry emphasized the importance of water conservation, especially in agriculture. He suggested that the legislature support conservation initiatives through tax policy. Specifically, he would like a GRT deduction for drip-irrigation equipment.

Senator Smith noted that a drip system uses as much as 60 percent less water than conventional irrigation.

Senator Ryan observed that a GRT deduction by itself may not be a sufficient incentive to promote water conservation efforts.

Friday, July 28

Taxation and Revenue Department Bills
—Dr. Tom Clifford, Chief Economist, TRD

Dr. Clifford outlined the purpose of the technical corrections bill (202.163160.1). Dr. Clifford also reviewed a bill draft (202.163163.1) that amends the tax auditing provisions of New Mexico tax law. The first section would permit TRD to use statistical sampling techniques when conducting a tax audit.

Members of the committee had reservations about the statistical sampling section of the bill draft (202.163163.1) and Mr. Clifford said that TRD will review the language of the bill and return to the committee at a later date.

Mr. Clifford outlined other legislative initiatives that have not yet been drafted.

Representative Arnold-Jones noted that sometimes a taxpayer overpays and is advised that TRD cannot cash the check. Moreover, TRD advises the taxpayer that if a replacement check is not received as soon as possible, penalties and interest will apply.

Senator Rawson suggested that instead of assessing penalties, TRD should be creative and offer incentives to file a return. Dr. Clifford said that long experience teaches that, if there are no penalties, a return will not be filed.

Representative Arnold-Jones said she would like draft legislation to be sent to committee members in advance of the meeting.

Dr. Clifford plans to return to the committee in September with bill drafts and fiscal impact reports.

Speaker Lujan said that TRD should identify those bills that have passed both bodies in the past so that they may be fast-tracked in the committee endorsement process and possibly in the next session.

Real ID Implementation, Costs and Challenges
—Kenneth Ortiz, Director, Motor Vehicle Division, TRD
—John Salazar, Acting Chief Information Officer, TRD

The Real ID Act established minimum requirements for driver's licenses and identification cards (DL/ID) issuance standards. It also set forth requirements for capture, verification and retention of identity source documents, in addition to physical security of DL/ID production sites and security clearance for employees who produce DL/ID documents. The act also set minimum security DL/ID standards, including overt, covert and forensic security features and the ability to provide electronic access to its database, including data fields on the DL/ID and associated driving histories, to all other states.

Residents of states that do not issue Real ID compliant driver's licenses or identification cards will not be able to:

- use their driver's license to board an airplane;
- access federal buildings (national laboratories, district courts, etc.) or military bases; or
- present a driver's license in another state to prove identity.

Noncompliant DL/IDs must clearly indicate nonacceptability and must use a unique design or color to alert law enforcement and other officials who may use the documents that the credential is noncompliant. The following is a detailed listing of the proposed rules, including impact, cost and legislation for New Mexico to be compliant with Real ID. Real ID minimum document requirements includes:

- full legal name;
- date of birth;
- DL or ID number;
- digital photograph;
- principal residence address;
- signature;
- physical security features, including polycarbonate; and
- PDF 417 (2-D) barcode.

Total estimated cost for Real ID implementation

Nonrecurring	Recurring
$13,053,000	$6,044,000

Representative Stell observed that Real ID will require a large increase in staff.

Representative Arnold-Jones recommends a letter from the committee to the New Mexico congressional delegation concerning the availability of polycarbonate and its overseas production.

Speaker Lujan made a motion directing staff to draft a memorial recommending to Congress the repeal or modification of Real ID. The motion was adopted.

Real ID Issues

—Jay Stanley, Public Education Director, Technology and Liberty Project, American Civil Liberties Union (ACLU)

The ACLU believes that Real ID will result in identity theft and invasion of privacy. Three key things to remember are:

- problems with the Real ID Act are severe;
- New Mexico is not alone; and
- rules for implementing Real ID are in flux.

Alabama attempted to verify names contained in its motor vehicle records with social security numbers. The result was chaos. Also, there is no flexibility in Real ID with respect to masking the address of domestic abuse victims.

National Conference of State Legislatures estimates the nationwide cost of Real ID to be between $9 and 13 billion. The National Governor's Association, the ACLU, the State of New Hampshire and the State of Virginia have all announced opposition to Real ID.

The deadline for compliance is impossible to meet. The ACLU believes Congress will have to revisit Real ID. The legislation was attached as a rider to a "must pass" bill needed to finance the war in Iraq and provide Katrina relief.

Senator Rawson observed that the ACLU is causing tremendous tension in Las Cruces.

Senator Rodriguez stated the Real ID is an unfunded mandate that will place a burden on innocent individuals.

Senator Snyder said that back in the 1930s when the federal government first mandated states to issue driver's licenses, all of the same objections were raised that are being raised now with Real ID, yet today no one thinks twice about the routine procedure for obtaining a driver's license.

Other Business

The minutes of the June 21, 2006 meeting were unanimously adopted.

The committee adjourned at 12:30 p.m.