

**MINUTES
of the
SECOND MEETING
of the
ECONOMIC AND RURAL DEVELOPMENT COMMITTEE**

**July 29-30, 2010
Room 322, State Capitol
Santa Fe**

The second meeting of the Economic and Rural Development Committee (ERDC) was called to order as a subcommittee by Representative Mary Helen Garcia, chair, at 10:04 a.m. on Thursday, July 29, 2010, in Room 322 of the State Capitol.

Present

Rep. Mary Helen Garcia, Chair
Sen. Bernadette M. Sanchez, Vice Chair
Rep. Andrew J. Barreras
Sen. Mark Boitano
Rep. Ernest H. Chavez (7/30)
Rep. Nora Espinoza
Sen. Mary Jane M. Garcia (7/29)
Rep. William J. Gray
Sen. Clinton D. Harden, Jr.
Sen. Timothy M. Keller
Rep. Patricia A. Lundstrom
Sen. Richard C. Martinez

Advisory Members

Sen. Rod Adair (7/30)
Sen. Sue Wilson Beffort
Rep. Nathan P. Cote
Sen. Carroll H. Leavell
Rep. Andy Nuñez
Rep. Shirley A. Tyler
Sen. David Ulibarri
Rep. Richard D. Vigil

Absent

Rep. Dianne Miller Hamilton
Sen. Howie C. Morales
Rep. Debbie A. Rodella
Sen. William E. Sharer

Rep. Zachary J. Cook
Sen. Dianna J. Duran
Rep. John A. Heaton
Rep. Sandra D. Jeff
Rep. James Roger Madalena
Rep. Antonio "Moe" Maestas
Sen. George K. Munoz
Rep. William "Bill" R. Rehm
Sen. John M. Sapien

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

Staff

Peter Kovnat
Sandy Mitchell

Guests

The guest list is in the meeting file.

Handouts

Handouts and other written materials are in the meeting file.

Thursday, July 29

Economic and Rural Development Impact of the Transportation Infrastructure, the Trucking Tax's Impact on New Mexico and House Memorial 9 (2010), the Sustainable Transportation Fund

A panel of presenters from the Department of Transportation (DOT), including Gary Giron, secretary, William E. Mueller, chief economist, Max Valerio, deputy secretary of programs and infrastructure, and Domingo Sanchez, III, deputy secretary, Office of Business Support, provided an update on the DOT's revenues, operations and budget.

Secretary Giron explained how the current economic situation is affecting the DOT. He explained that the DOT receives no general fund support for roads. Federal funds are received on a reimbursement basis; therefore, money from the State Road Fund must first be expended. The downturn in the economy has led to a reduction in State Road Fund revenues in fiscal year 2008 that, in turn, has led to over \$120 million in budget and spending reductions in the past three years. Long-range planning is hampered because of the uncertainty as to the amount of federal funds the DOT will receive in the future.

The presenters provided a chart showing construction program trends. With Governor Richardson's Investment Partnership (GRIP) coming to end and federal American Recovery and Reinvestment Act of 2009 (ARRA) funds winding down, construction projects are expected to level out at \$142 million and stay there through 2015. A chart was also provided showing the trends in the "big four" revenues for the DOT: gasoline tax, special fuels tax, weight/distance tax and vehicle registration fees. Beginning in 2008, the troubled economy led to a drop in the demand for goods, which resulted in a decline in shipping across the state and decreased revenues to the state. Revenues are not expected to return to 2007 levels until 2014. The loss of revenues and slow recovery mean that the DOT will not have the funds it needs to perform maintenance. This may lead to an increase in liability for tort claims. The DOT is also considering closing highway rest areas.

Secretary Giron reported on the DOT's actions in response to the decrease in State Road Fund revenues. The DOT has reduced the rollover of budgeted encumbrances to preserve cash balances, implemented strategic budget cuts, engaged in aggressive employee outreach to seek cost-savings ideas and voluntarily reduced its work force by about 10%.

Mr. Mueller discussed how investment in transportation drives economic growth. He also provided an overview of the weight distance tax and explained that New Mexico is one of only four states that has it. As trucks cross the state, they are charged a tax based on weight and how

far they drive across the state. The tax is collected quarterly. Revenue from the weight distance tax has declined because of a decline in truck traffic.

An alternative to the weight distance tax is a higher registration fee. New Mexico's registration rate is lower than other states because the state collects money on the weight distance tax. The New Mexico system taxes truck drivers in proportion to their usage of the roads, which is something the federal government has been advocating.

Secretary Giron discussed the correlation between the gasoline tax and the price of gas at the pump. He said there is very little correlation. He also discussed the revenue that could be raised from a tax increase. Every \$.01 increase in the tax on gasoline raises \$8.34 million. Every \$.01 increase in the tax on special fuels (diesel) raises \$4.3 million.

Secretary Giron also discussed the actions taken in response to House Memorial 9 that was passed in 2010. He said that the DOT is doing public surveys on revenue-enhancement mechanisms. By October, the technical committee created pursuant to the memorial will recommend alternative funding strategies for use by decision-makers to aid in addressing sustainable transportation systems for New Mexico.

Members of the ERDC complimented the DOT and its staff on the quality of the roads in New Mexico. Several members expressed concern over the potential closing of rest areas. A suggestion was made that perhaps funds could be diverted from the Tourism Department for the rest areas.

Questions were raised concerning the effect of ARRA projects ending, including the effect on unemployment in the state. Secretary Giron said there will be an impact on private contractors, but he did not have the figures on potential job losses. It was suggested that the Association of Contractors might have information concerning job losses that will result when ARRA funds end. Secretary Giron said he would provide that information to the committee. A question was raised as to how many out-of-state contractors are hired by the DOT. Secretary Giron stated that most (90% to 92%) of the road construction is done with New Mexico contractors.

In response to questions concerning the maintenance of roads, the presenters explained that there is no federal money for it. The State Road Fund is the only source of funding for maintenance. Questions were also raised on the reductions that were made to the work force. The presenters said they would provide the trend rate in vacancies to the committee.

The presenters were asked to explain how they prioritize what cuts to make to road maintenance. The presenters explained that each district is having to tackle it individually. Decisions are made by district engineers, in collaboration with leadership in the department.

Economic Development Department (EDD) Initiatives, Emerging Economic Sectors and Methods of Attracting New Businesses and Cultivating Existing Businesses

Fred Mondragon, secretary, EDD, provided an overview of the state's economy. The unemployment rate is 8.2% in New Mexico, which is the same rate as in Texas and lower than the rates in California and Arizona. The unemployment rate is 8.6% in Albuquerque and 6.7% in Santa Fe. The eastern part of the state is doing well. The southwestern area of the state (Luna and Grant counties specifically) is not doing as well, partly due to layoffs in the mines.

Secretary Mondragon outlined the EDD's economic development priorities. They are: rural economic development, small business support programs, community development and capacity building, technology-based economic development, film and media expansion, international trade and foreign direct investments, Spaceport America, tribal economic development and private and public partnerships. Emerging economic sectors include green energy, oil and gas and uranium. New Mexico has had a 62% increase in green jobs from 1995 to 2007.

Toni Balzano, deputy secretary, EDD, described rural activities conducted by the department. The Main Street Program is celebrating its twenty-fifth anniversary. There are 23 member communities.

Ms. Balzano described how the department works with its community partners. Over the last year, the EDD has conducted economic summits and meetings with local economic development officers and community leaders across the state. She described how the department has changed its financial development team's priorities. The financial development team visits three to five new businesses a week to discuss the current status of business, job retention and expansion opportunities.

Secretary Mondragon described the state's business incentives, including its most popular program, the Job Training Incentive Program (JTIP). Other incentives include the high-wage jobs tax credit, the rural jobs tax credit, New Mexico 9000 (a certification program that allows businesses to sell to the federal government), the manufacturing investment tax credit, the alternative energy product manufacturers tax credit, the renewable energy production tax credit and the angel investment tax credit. The angel investment tax credit is due to expire in July 2012. Rural businesses that have qualified for some of these incentives include Marietta Biscuit in Alamogordo, Sunland Peanuts in Portales, Southwest Cheese in Clovis, AerSale in Roswell and Urenco in Lea County.

Secretary Mondragon described some of the regional competition New Mexico faces for jobs. Arizona has a new \$10 million program for marketing and loans. Colorado has an incentive fund. Texas provides a sales tax refund on equipment installed, no corporate income tax and an enterprise fund of \$397 million that has been a real challenge for the EDD. Secretary Mondragon introduced two guests, one from Pre-check and one from Southwest Cheese, who described how the incentives that New Mexico offers encouraged them to locate in the state.

Questions were raised concerning regulations placed on the dairy industry, including a proposed rule to subject containers that store milk to oil spill rules. Ms. Balzano said the EDD is looking at being a liaison to overcome some of these issues for the industry. Committee

members discussed other regulations that affect business in the state.

Committee members asked about the amount of money devoted to tax credits, whether companies are receiving more than one incentive and how the EDD determines what incentives are working. Secretary Mondragon reported that companies can receive more than one incentive. He said the EDD performs surveys on a yearly basis to determine which incentives are working to draw businesses to the state. Secretary Mondragon was asked whether he has a summary of all the incentives and which ones are most successful. He said a narrative was provided to the Revenue Stabilization and Tax Policy Committee, and he offered to forward it to the ERDC.

Secretary Mondragon was asked about whether there is a proven value for business incentives and if there are any benchmarks set for a return on investment. Secretary Mondragon said the minimum benefit would be a three-to-one return, with a cost of no more than \$5,000 to \$10,000 per job created. Secretary Mondragon was asked whether the department can do a cost-benefit analysis or develop a formula that can be applied to every tax credit. He said the EDD is doing an analysis on every new incentive. For existing tax credits, he can provide a general analysis that is not company-specific.

Lisa Strout, director, New Mexico Film Office, EDD, discussed the film industry and the film tax credits offered by the state. The estimated economic impact of film and digital media productions in fiscal year 2009 was \$786 million. Ten thousand direct and indirect jobs were created in the state by the film industry. Two hundred nine of the television and film locations used between 2008 and 2010 were in rural locations or pueblos.

Ms. Strout was asked whether the job figures include just day jobs. She said the film office does not include work as "extras" in its job totals. Ms. Strout was asked about collaboration with the Workforce Solutions Department and the universities to develop worker skills. She said the EDD works closely with both. She said the EDD has worked on retraining to help those hurt by the downturn in the construction field, and there was a great response from the community. Ms. Strout was asked about helping veterans enter the film industry. She said she had just heard about this idea a few days ago and would be happy to pursue it further. Ms. Strout was asked whether a person needs to be a part of a union to get hired in the industry. She replied that the industry is a union industry. The state does not impose union requirements.

At 1:20 p.m., Senate President Pro Tempore Timothy Z. Jennings appointed Senator Ulibarri and Senator Beffort as temporary voting members for the purpose of taking action as a committee.

On a motion seconded and adopted, the minutes from the June 16, 2010 meeting were approved.

ARRA — Jobs for New Mexico

Former Governor Toney Anaya, executive director, New Mexico Office of Recovery and

Reinvestment (NMORR), discussed the impact of the ARRA on New Mexico. New Mexico's share of ARRA money was \$4.77 billion. He reported that more than 14,500 New Mexicans were put to work through a portion of these funds. The state general fund was boosted by more than \$534 million. Education received almost \$500,000,000. He said the multi-billion dollar infusion averted a much bigger recession in New Mexico.

Governor Anaya provided an overview of the ARRA, a list of projects funded by the ARRA and new financing options provided by it. He reported that the ARRA has spurred more than \$190 million in loans to 419 recipients in New Mexico. He reported that the ARRA will deliver more than \$1.45 billion for more than 500 infrastructure projects. He provided a list of some of the recipients of funds for local infrastructure projects. He provided information on the jobs created by the ARRA. The top four categories of jobs created were education, transportation, environment and the New Mexico Finance Authority (NMFA) for drinking water projects.

Governor Anaya explained that the NMORR does not fund projects. It is a small office that tracks the ARRA money coming into the state. It has a web site (recovery.state.nm) that is ranked as one of the best recovery web sites in the country. It has spreadsheets categorized by county. Contracts are posted on the site. The office is attempting to provide 100% transparency.

Governor Anaya concluded by saying that the ARRA has had an impact that can be seen on the general fund and on jobs. He said he is thankful that these funds have been made available, and he is pleased to see the end results. He said his office will continue to see that the money gets out and that reporting requirements are followed.

Governor Anaya was asked to provide details on various projects mentioned in his handout. He told the committee he would provide more information on the Superfund grant in Cibola County. He was asked whether there is a deadline to spend all of the ARRA money. He said yes, but different programs have different time limits. Generally, the funds need to be spent within two years. If the money is not spent, it goes back to the federal government.

Committee members discussed how unemployment could rise when these funds run out. Governor Anaya was asked about the types of jobs created in education. Beth Savage, deputy director, NMORR, reported that they were mostly classroom teacher jobs, but because the Office of Management and Budget did away with the distinction between created and retained jobs, most of the classroom teacher jobs were probably retained, not created.

In response to questioning, Governor Anaya explained the application process for receiving funds. He described how, as state agencies started evaluating applications for funding, they had to prioritize those that were shovel-ready. That process hurt a lot of local governments because they ended up at the back of the line. Governor Anaya was asked whether any entities decided not to take advantage of the funding. He said yes, some decided against it because of the red tape involved.

Resource Planning in New Mexico at the State, County and City Levels

Lou Baker, lobbyist, American Planning Association, New Mexico Chapter, discussed resource planning in the state. She detailed some of the history of planning in the state and some of the various statutory changes that have taken place over the years. In 2005, a report by the governor's task force advocated the creation of a state planning office.

Ms. Baker discussed the need for a state planning and community design office. She said state agencies often operate independently and are unaware of each other's data and assumptions, forecasts, policies, plans and priorities. She explained that state planning is a growth management plan. It allows the state to look at where it wants to be in 10 or 20 years.

Ms. Baker discussed some of the legislative efforts concerning state planning in recent years, including HJM 76 in 2009 and SB 300 and HJM 40 in 2010. HJM 40 was the only one that passed.

Ms. Baker was asked why the state planning office was abolished. She said that she has heard rumors about it, but does not know for sure. Ms. Baker was asked if she could provide a copy of the governor's task force report. She said she will try to get an electronic copy of it to committee staff to distribute it to those members who want it. A suggestion was made that perhaps the NMFA could play a role in state planning, given the role it currently plays with financing. A suggestion was also made that the Department of Finance and Administration (DFA) could possibly play a role in state planning.

The committee recessed at 4:55 p.m.

Friday, July 30

The meeting was reconvened at 9:19 a.m. by Representative Garcia.

Mr. Kovnat, staff attorney, Legislative Council Service, announced the agenda items for the September 20-21 ERDC meeting, which will include a whistle-stop tour of Spaceport America.

Representative Lundstrom announced that the Government Restructuring Task Force, as part of its reorganizing efforts, has recommended the creation of a department of commerce. She said that the ERDC may want to make recommendations regarding the creation of this department.

Senator Sanchez announced that the ERDC needs to get its suggestions on reorganization completed soon. She asked Mr. Kovnat to provide a copy of the chart showing the organization of state boards and commissions to the members. Mr. Kovnat asked the committee members to provide him with their recommendations for reorganization.

Committee members discussed the process that will take place after recommendations are made to the task force, whether the changes will be made administratively or statutorily and whether dollar figures will be attached to the proposed changes.

Effects of the Ailing Economy on New Mexico Tourism, State Tourism Initiatives with Mexico, the Potential for Promoting "Adventure/Eco-Travel" and the Use of House Bill 189 (2010) as a Funding Source

Jennifer Hobson, deputy secretary, Tourism Department, started her presentation by stating that it is important for the department to have a cabinet-level designation and not be consolidated with other agencies. She then provided statistics on the tourism industry from 2009. Tourism in New Mexico was down 5.8% from 2008. While business travel was up 2.2%, leisure travel was down 6.7%. Hotel occupancy declined from 61.5% in 2008 to 56.3% in 2009. All major markets saw decreases in occupancy, with Albuquerque down from 62.1% to 57.0% and Santa Fe down from 61.6% to 56.7%. For the first quarter of 2010, occupancy was flat at 50.9%. Ms. Hobson provided anecdotal information on local conditions throughout the state, including information on gross receipts collections, restaurant business and lodger's tax collections.

Ms. Hobson discussed tourism initiatives with Mexico. Mexico was second only to Canada among the top international countries in 2008 in terms of credit card holder transactions in New Mexico. She said that Mexicans tend to buy newspapers on Sundays, so the department plans to continue to saturate that market. The department has conducted an aggressive marketing campaign in Mexico, employing every facet of media, including radio and television interviews, presentations to government officials and travel agencies, magazine articles and web site exposure.

Ms. Hobson discussed the potential for promoting adventure travel and eco-tourism in the state. She explained how there is a huge trend in international travel toward eco-tourism. She said New Mexico should take advantage of this form of travel and focus on rural areas. Visitors could do activities such as meeting with local pottery makers. She said the Tourism Department is acting as a portal for information on eco adventures and has a web site with information (newmexico.org/ecotourism).

Martin Leger, advertising manager, Tourism Department, discussed the need for a dedicated source of revenue for advertising. He stated that New Mexico is losing market share to its competitors. New Mexico is spending \$2.1 million on its advertising contract in fiscal year 2011. Neighboring states all spend considerably more: \$14.4 million in Colorado, \$6.95 million in Utah, \$25 million in Texas and \$2.2 million in Arizona. He explained that legislation introduced last year (HB 189) provided for a surtax of one-fourth of one percent on certain restaurant receipts to be dedicated for advertising. The tax would generate revenues of \$6.5 million. Similar legislation is planned to be introduced during the 2011 session.

Committee members asked questions concerning how and where the department conducts its advertising, its efforts to promote parks and trails in the state and its initiatives concerning promotion of the space industry and New Mexico's role in space travel. The pros and cons of a restaurant tax were also discussed. Members asked questions about how the revenue would be used and what would be considered a restaurant for purposes of the legislation. Concern was expressed over increasing taxes during difficult economic times.

Article 42 of the New Mexico Insurance Code Versus the National Association of Insurance Commissioners (NAIC) Model Law; Senate Bill 75 (2009)

Michael Batte, administrator, New Mexico Life Insurance Guaranty Association, explained how life and health insurance policies are insured by the New Mexico Life Insurance Guaranty Association and that if an insurer cannot meet its obligations, the association steps in and pays the claim. He said the funds used to provide coverage come from assets of failed insurers, special deposits held by the Insurance Division of the Public Regulation Commission and assessments paid by member insurance companies. None of the money comes from state funds, directly or indirectly. Since 1977, the association has paid out over \$24 million on behalf of New Mexicans who had insurance policies with impaired or insolvent insurers.

Mr. Batte discussed the need to amend New Mexico law to make it consistent with the current model law developed by the NAIC. New Mexico's law is based on the 1981 version of the model act. He explained that the purpose of updating New Mexico law to the current model law is to permit the New Mexico Life Insurance Guaranty Association to work more efficiently with other state guaranty associations and state receivers to ensure that policyholders of impaired or insolvent insurers are protected. The proposed legislation would also increase the coverage from the current \$100,000 to \$250,000 consistent with increases in coverage for bank deposits.

Senator Leavell explained that last session he sponsored legislation on this issue (SB 75). He said the bill was overwhelming in size, but the goals of the legislation were simple — to protect consumers. He intends to introduce legislation on this issue again next session.

Public Notice under the Open Meetings Act; House Bill 895 (2009) and Senate Memorial 19 (2010)

A panel of presenters, including Arthur Melendres, attorney, Modrall Sperling, Regina Romero, New Mexico Municipal League, Joy Esparsen, intergovernmental relations director, New Mexico Association of Counties, Joy Guillen, executive director, New Mexico School Boards Association, Philip Lucey, executive director, New Mexico Press Association, and Paula Maes, president and chief executive officer, New Mexico Broadcasters Association, discussed the methods of providing notice under the Open Meetings Act.

Mr. Melendres said there is a need for clarity in the law on what is proper notice under the Open Meetings Act. He wants there to be a clear option to use radio broadcasts rather than newspapers as a way of providing public notice. He said that broadcasters plan to download the notices that are read over the airwaves onto a web site so that anyone can find them.

Ms. Romero discussed how municipalities feel about this issue. She said that municipalities have to post notices in the newspaper unless the area does not have access to a newspaper. In that case, the municipality may post notices in six places. She said that the New Mexico Municipal League has adopted resolutions supporting other options for providing public notice, but it does not want to lose the options it currently has. Municipalities do not want to have to incur more costs in this area.

Ms. Esparsen said that the New Mexico Association of Counties does not have a position on this initiative, but county managers will be looking at it soon.

Ms. Maes said that the New Mexico Broadcasters Association is working with school boards on resolutions to provide announcements over the radio.

Mr. Lucey said that the New Mexico Press Association supports the laws that are currently in effect. It opposes changes that would allow notices by radio broadcasting. The advantages of notices by newspaper are that the notices are archiveable and retrievable and they can be read at leisure. The notices are also accessible for free on newspapers' web sites. He argued that newspapers have held or gained circulation in the past decade and no other media format has the permanence level of newspapers.

Ms. Guillen said that the New Mexico School Boards Association supports using radio broadcasts as an alternative means for providing notices by school boards.

Committee members discussed the advantages and disadvantages of providing public notice by either newspaper or radio broadcast. Concern was expressed that newspapers may not be reaching certain rural areas of the state. There was also concern expressed that radio broadcasts might not be appropriate for all types of notices, especially those that are particularly long.

Mr. Melendres was asked whether notices are required to be given in a language other than English. He said yes, but notices could be broadcast on both Spanish and English radio stations. The panel was asked about the costs involved. Ms. Maes said rates will have to be determined and that federal law mandates that the lowest rate be provided for public announcements. She said the rates will vary from city to city; it cannot be a uniform rate. Mr. Melendres was asked how radio stations would be chosen. He said the entity placing the notice would choose the radio station to use. Senator Harden asked how an entity would know what the market is for a particular radio station. Ms. Maes said there are Arbitron ratings for each radio station. She said she could provide rating numbers for Clovis stations to Senator Harden. Ms. Romero was asked about the six places where a municipality can post notice. Ms. Romero said she would provide the list of places to the committee.

The committee adjourned at 11:55 a.m.