

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

**July 19, 2017
Merrion Room, School of Energy, San Juan College
5301 College Boulevard
Farmington**

The second meeting of the Revenue Stabilization and Tax Policy Committee for the 2017 interim was a joint meeting with the Legislative Finance Committee at San Juan College in Farmington.

Present

Sen. Carlos R. Cisneros, Chair
Rep. Jim R. Trujillo, Vice Chair
Rep. Sharon Clahchischilliage
Rep. Roberto "Bobby" J. Gonzales
Rep. Jason C. Harper
Sen. Gay G. Kernan
Rep. Tim D. Lewis
Rep. Antonio Maestas
Rep. Javier Martínez
Sen. George K. Munoz
Sen. Clemente Sanchez
Sen. William E. Sharer
Sen. John Arthur Smith
Rep. James R.J. Strickler
Rep. Carl Trujillo
Sen. James P. White

Designees

Rep. Rod Montoya
Sen. Bill Tallman
Sen. Pat Woods

Absent

Sen. Mark Moores
Sen. Peter Wirth

Rep. David E. Adkins
Rep. Eliseo Lee Alcon
Rep. Cathrynn N. Brown
Sen. William F. Burt
Sen. Jacob R. Candelaria
Rep. Daymon Ely
Rep. Bealquin Bill Gomez
Rep. Bill McCamley
Rep. Debbie A. Rodella
Sen. Nancy Rodriguez
Rep. Patricia Roybal Caballero

Rep. Angelica Rubio
Rep. Patricio Ruiloba
Rep. Tomás E. Salazar
Rep. Larry R. Scott
Rep. Nathan P. Small
Sen. Elizabeth "Liz" Stefanics
Rep. Candie G. Sweetser

Staff

Pam Stokes, Staff Attorney, Legislative Council Service

Guests

The guest list is in the meeting file.

Handouts

Handouts and other written testimony are in the meeting file.

Welcoming Remarks

The Legislative Finance Committee (LFC) and Revenue Stabilization and Tax Policy Committee (RSTP) were welcomed by Tommy Roberts, mayor of Farmington; Jack Fortner, commissioner of San Juan County; and LoRenzo Bates, speaker of the Navajo Nation Council.

Speaker Bates said the uncertain future of the Navajo Generating Station, which generates between \$30 million and \$40 million in revenue annually for the Navajo Nation, is impacting development of the Navajo Nation's FY18 budget. The new fiscal year begins October 1. The budget is already facing other impacts, including a weakened oil and gas industry and reduction in federal funding. The council is currently working to extend the power plant's lease agreement with the current owners to continue production.

Speaker Bates reported issues preventing many tribal members from complying with the New Mexico Real ID Act. Many tribal members do not have a birth certificate, a requirement of the new law. Also, many residences do not have a street address. On behalf of the Navajo Nation, a lobbying firm is working with the Taxation and Revenue Department (TRD) to establish solutions. TRD is considering accepting alternative forms of documentation.

Speaker Bates briefly reported other current issues and activity of the Navajo Nation.

Mayor Roberts said Farmington is facing challenging economic times largely because of a shrinking tax base stemming from increased exemptions, deductions and credits, Internet sales, and job losses. Gross receipts tax (GRT) revenue continues to be below what was collected in 2009. Mayor Roberts is supportive of tax reform that broadens the tax base and reduces the tax rate. He recommends the food and medicine gross receipts tax be reimposed. If tax on food and medicine is reimposed and local hold harmless payments for food and medicine repealed, state

revenue would increase by \$303.5 million. Mayor Roberts also recommends taxing Internet sales.

Commissioner Fortner said it is unclear when the oil and gas industry will bounce back. In the meantime, Farmington is working to strengthen other avenues of business, including the retail and outdoor industries.

Commissioner Fortner expressed concern for doing away with the hold harmless provision without reimposing the food and medicine tax.

In response to Vice Chairman Smith, Mayor Roberts said the underground economy is hurting both state and local government. Mayor Roberts suggested the state invest more dollars to fight noncompliance of the underground economy. Vice Chairman Smith said the Legislature in the past has provided additional dollars for TRD to hire additional compliance personnel; however, those dollars were used to hire other personnel.

Representative Harper said New Mexico's tax policy is an outlier compared with the nation; however, great progress is being made to pass meaningful tax reform. Representative Harper said, according to the New Mexico Municipal League, repeal of the food tax has hurt low-income families most, countering who it is meant to help. Representative Harper said legislators should do what is right to fix the state's issues rather than what is popular to be reelected.

Adoption of Minutes

The minutes from the June 19, 2017 RSTP meeting were adopted without changes.

Utility Regulation

Sandy Jones, chair of the Public Regulation Commission (PRC), said it is the job of PRC to balance the interests of industry and consumers, ensuring safe, reliable, and affordable utilities. However, its job has become especially challenging in the last 10 years because of policy changes impacting the industry and the intrusion of nonregulated entities and deregulated markets.

The utility industry is evolving; more and more consumers want new technologies to manage and monitor their utilities, a demand that requires significantly more investment. Renewable energy is another demand, which Commissioner Jones said costs just as much to generate. As the industry evolves, more investment will need to be made to address cyber security.

Ernest Archuleta, chief of staff of PRC, gave brief background information about PRC. Five elected officials serve on the commission. In 2005, PRC tasked utility providers with establishing an integrated resource plan (IRP) that evaluates renewable energy, energy efficiency, load management, distributed generation and conventional supply-side resources on a

consistent and comparable basis and takes into consideration risk and uncertainty of fuel supply, price volatility, and costs of anticipated environmental regulations in order to identify the most cost-effective portfolio of resources to supply the energy needs of consumers.

Cydney Beadles, director of the Legal Division of PRC, said the commission is committed to ensuring transparency in the utility industry, allowing for public participation in the process. Similar to a court, cases are brought before PRC for determination of rates and applications for a new generating station or the abandonment of one. Intervenors of cases may include the attorney general, municipalities, and public interest groups. PRC's Utility Division staff participates in all cases, advocating for the public interest.

Ms. Beadles said the Public Service Company of New Mexico (PNM) recently submitted its 2017 IRP, recommending shut-down of the San Juan Generating Station after the current coal supply agreement ends in June 2022. PNM's abandonment case will be brought forth to PRC in 2018.

New Mexico's consumption of electricity is lower than the national average. John Reynolds, economics bureau chief of the Utility Division of PRC, said residential households in New Mexico average a lower monthly bill than those in other states. In 2016, almost 17 percent of U.S. electricity consumption derived from renewable resources, a source that is inconsistent because it is weather-dependent. Gas-fired generation serves as the best back-up because it can respond quickly. Mr. Reynolds said increased availability of shale gas has kept gas prices low. Also, gas-fired generation is less costly to construct.

In 2004, the Legislature enacted the Renewable Energy Act, creating a state renewable portfolio standard. By 2020, investor-owned utilities are required to generate 20 percent of total retail sales from renewable energy resources, and rural electric cooperatives are required to generate 10 percent of total retail sales from renewable energy resources. It is estimated that by 2023 only a small fraction of the energy generated will be coal-based.

Mr. Archuleta briefly talked about other issues impacting the state. For example, the entry of Uber ride-share services in New Mexico has led to several job losses in the taxi community.

Representative Montoya expressed concern for the significant job loss that would result from shutting down the San Juan Generating Station. Chairwoman Lundstrom requested a letter be sent on behalf of LFC and RSTP to PRC requesting information on the station's abandonment case, specifically what the economic impact would be if the station closed and what the plan would be and cost of returning the area to greenfield condition. The committee voted in favor of sending the letter (see attached letter).

Senator Burt commented that the renewable energy industry should be subject to the same rules and regulations as the extractive industry. Senator Burt pointed out some wind farms in

New Mexico are producing energy for other states, yet, except for the land owner, New Mexico is not receiving any incentive, such as tax revenue, on the resources being tapped.

In response to Vice Chairman Smith, Commissioner Jones said PRC has nine months from when a case is submitted to make a determination. Up to three one-month extensions may be granted. Extensions are often requested by PRC because of the limited staff it has to prepare for a case.

Public Service Company of New Mexico Integrated Resource Plan

Sayuri Yamada, director of Government Affairs of PNM, said change in the energy industry is taking place more now than has happened in the last 100 years PNM has been doing business in New Mexico. As a regulated utility, PNM is obligated to provide their service at a fair rate but still given the opportunity to recover costs of providing that service and turn a profit.

PNM's current integrated resource plan (IRP), posted on its website, includes recommendation to retire operations at the San Juan Generating Station (SJGS) after the coal supply agreements end in June 2022. Pat O'Connell, director of Planning and Resources, said the integrated resource planning incorporates a public advisory process; 17 public meetings were held this past year. PNM is planning for a coal-free resource portfolio by 2031. Mr. O'Connell said the goal is to transition to a more flexible energy supply and increase renewable energy. To create more wind energy, PNM will need to invest in new transmission.

Several factors support PNM's retirement of coal-based energy production, including load forecast and price of natural gas. By moving to a more flexible energy supply and increasing renewable energy, PNM will achieve cost-savings that will also benefit its customers.

PNM's IRP was filed June 3, 2017. Next, PNM will be issuing a request for proposals (RFP), requesting bids on energy resources and storage that meets the IRP. The SJGS retirement case will be filed with the PRC in 2018.

Ms. Yamada said she understands what the impact will be to the community should the SJGS close. Ms. Yamada said it is important to PNM to be transparent, adding that PNM and the community need to work together to find solutions.

In response to Chairwoman Lundstrom, Mr. O'Connell said it is not a requirement of the IRP to include plans and costs of returning the SJGS to green-field condition. The IRP does include decommissioning costs. In response to Senator Neville, the power lines will continue to be in operation, exporting power generated by wind farms to California and Arizona.

In response to Senator Muñoz, Mr. O'Connell said it will cost approximately \$400 million to replace the energy no longer supplied by the SJGS with energy supplied by a new gas-fired power plant. Mr. O'Connell said natural gas energy emits fewer pollutants per mega watt hour than coal energy.

Environmental Regulation

Butch Tongate, secretary of the Department of Environment (NMED), said changes imposed by the new federal administration are changing the way NMED conducts its oversight.

Richard Goodyear, interim director of NMED's Environmental Protection Division, and bureau chief of the Air Quality Bureau, said construction of a new power plant requires three permits: a construction permit, operating permit, and prevention of significant deterioration permit. There are currently 21 power plants in the state.

Mr. Goodyear gave a brief overview of federal and state regulation. Federal regulation is authorized by the Clean Air Act. State regulation is authorized by the Air Quality Control Act. Additional detail was provided on the regulation of the San Juan Generating Station (SJGS). Under the Regional Haze Rule of the Clean Air Act, the SJGS is required to have best available retrofit technology (BART), used to control emissions.

In response to Representative Crowder, Mr. Goodyear said many of the standards mandated by the state are equivalent to federal standards. Representative Crowder said he is concerned the standards mandated by the state but not the federal government could be hindering economic development in New Mexico.

In response to Senator Sanchez, Secretary Tongate said NMED has improved the permit processing time significantly. Current processing times are similar to neighboring states.

Outlook for the Energy Industry

Ken McQueen, secretary of the Energy, Minerals and Natural Resources Department (EMNRD), said most wells drilled today are horizontal oil wells. There are currently 59 rigs operating in New Mexico. The number of rigs operating largely depends on the price of oil and gas. The majority of the rigs operating in the United States are in Permian Basin. New Mexico is currently the fifth largest producer of crude oil in the United States.

Natural gas production in New Mexico remains steady. Secretary McQueen said natural gas produced by the San Juan Basin is decreasing because of lack of drilling. For the first time last fall, the Permian Basin produced more natural gas than the San Juan Basin. Oil production in New Mexico has doubled since 1994, hitting a high of over 440 thousand barrels of oil produced per day on average in February 2017. Eighty-two percent of total oil production in New Mexico in 2017 will be produced by 11 publicly-traded companies, including Concho Resources Inc. and EOG Resources.

Secretary McQueen said drilling technologies and techniques are evolving. Extended reach horizontal wells are increasing. Many operators are now using multi-well pads for drilling, providing several advantages, including decreased surface disturbance and improved gas capture. Drillers are increasing their use of nonpotable water sources.

The Oil Conservation Division of EMNRD is currently working on five regulatory initiatives, addressing gas capture, horizontal rules, spill rules, stimulation reporting, and online filing. Providing an outlook for the future, Secretary McQueen said the Permian Basin will continue to be the most active basin in the United States. Natural gas prices are expected to remain depressed because of over-supply.

Ryan Flynn, executive director of the New Mexico Oil and Gas Association, said, in 2016, the oil and gas industry provided the state \$1.6 billion in revenue and 100 thousand jobs. Oil and gas prices are extremely volatile and hard to predict. In September of 2013, the price of oil was \$110 per barrel (bbl); the price of oil is currently averaging \$46/bbl.

According to Director Flynn, the U.S. Bureau of Land Management (BLM) permitting process is constraining the oil and gas industry in New Mexico. Director Flynn estimates that BLM permitting wait time is costing the state approximately \$2.3 million in potential revenue per day. The Department of the Interior recently submitted an order to address the wait time, which Director Flynn said should result in quicker action.

Director Flynn said greenhouse gas emissions are decreasing even as production is increasing. According to NMED data, greenhouse gas emissions are on track to fall 33 percent from 2012 levels by the end of this year. According to Environmental Protection Agency data, methane emissions from petroleum systems have decreased by almost 29 percent since 1990. Director Flynn attributed the decrease to new innovations and the transition of more gas-fired energy generation and less coal-fired energy generation. New innovations are also helping decrease water consumption of the industry.

Director Flynn said hydraulic fracturing, also known as fracking, has proven to be a safe technology. Director Flynn said studies have found no credible threat to groundwater resulting from fracking and, in the 50 years of using the technology, New Mexico has not had one incident of ground water contamination.

Concluding, Director Flynn said the industry will continue to work hard to generate revenue for the state while operating in a responsible manner.

Tom Mullins, president of the Independent Petroleum Association of New Mexico, reported on the San Juan Basin and briefly addressed issues affecting the industry. The San Juan Basin primarily produces natural gas. Approximately 75 percent of oil and gas wells in New Mexico have a production rate that is marginal, an issue that Mr. Mullins said needs to be considered when imposing regulation.

Clark Mosely, chief executive officer of the Navajo Transitional Energy Company, said the Navajo Generating Station is expected to remain in operation until 2031. Mr. Mosely invited legislators to visit the Navajo mine and observe operations. The mine currently employs 340 people.

Mr. Mosely briefly talked about regulatory issues. Some changes have positively impacted the industry. For example, the Office of Surface Mining Reclamation and Enforcement recently rescinded the stream protection rule.

In response to Representative Garcia, Director Flynn said the state's permitting process is much more efficient than BLM's. The long wait time for obtaining a permit from BLM makes it difficult to plan large scale projects, discouraging oil and gas companies from doing business in New Mexico.

Senator Muñoz asked how the Legislature can help the oil and gas industry. Director Flynn said reporting issues between the State Land Office and the Taxation and Revenue Department is a major issue for the industry. Director Flynn said a central reporting system needs to be established. Secretary McQueen said the oil and gas industry needs reliable, consistent regulatory framework. Mr. Mullins recommended reducing severance tax on natural gas wells operating at a marginal rate.

Promoting Economic Development Department in Northwest New Mexico

Matthew Geisel, secretary of the Economic Development Department (EDD), said, since January 2011, EDD has helped create over 16 thousand jobs. In recent months, the private sector has experienced significant job growth, particularly in the construction industry. Secretary Geisel said increased investment made by the state has helped New Mexico become more competitive with surrounding states. The increased investment has also helped support homegrown businesses, including Skorprios Technologies, Meow Wolf, SolAero Technologies and PESCO. PESCO, a manufacturer of process and production equipment in Farmington, will soon be expanding its business, adding an additional 170 jobs over a five-year period. PESCO is receiving \$100 million from the Local Economic Development Act (LEDA) fund for the expansion. The company is also approved to receive Job Training Incentive Program (JTIP) funds.

Barbara Brazil, deputy director of EDD, updated the committee on the status of LEDA and JTIP funding and projects. LEDA funded 14 projects in 2017, resulting in the creation of 543 jobs. JTIP investments resulted in over 2,000 workers trained. JTIP board members increased the minimum wage requirements for JTIP reimbursements. The minimum wage requirement is now \$11 in urban areas and \$9.50 in rural areas. JTIP is funding an internship program to encourage hiring college students. Ms. Brazil said EDD is putting actions in place to ensure accountability of LEDA and JTIP dollars.

Ms. Brazil then shared with the committee some success stories of LEDA and JTIP investments. JTIP dollars have helped the Plenish and Vapour Organic Beauty Company in Taos grow. Raytheon, a defense contractor company, received \$200 thousand from the LEDA fund in 2014 to expand its business of manufacturing sub assembly components. The expansion resulted in 150 new jobs. Secretary Geisel said Facebook is bringing to New Mexico high paying jobs.

Facebook will be employing 104 people at the Los Lunas facility, set for construction in 2017. The construction will likely employ over 1000 people.

The New Mexico Partnership is under contract with EDD to assist businesses with relocation and site selection. Tim Nitti, president and chief executive office of the New Mexico Partnership, said it's the Partnership's belief that the pipelines, across the board among economic development organizations in the state, are not deep enough. The inadequacy of pipelines is attributed to three main issues: lack of awareness about New Mexico, lack of state promotion, and resource constraints. To address these issues, Mr. Nitti said the state needs to maximize effectiveness of existing sales activities, increase pipeline quantity, diversity, and quality by marketing the state and its communities to a much larger audience of decision-makers and influencers, evolve New Mexico's messaging by highlighting the state's unique differentiators and competitive advantages, and maximize cost and resource efficiency to partially mitigate lower available resourcing for economic development statewide.

Reporting on economic development in northwestern New Mexico, Warren Unsicker, chief executive officer of Four Corners Economic Development (4CED), said the struggling oil and gas industry is forcing the economy to become more diversified. Mr. Unsicker said northwest New Mexico has key advantages for economic development. Besides having low energy costs and infrastructure in place to transmit energy, Farmington is centrally located for outdoor business, has certification from the ACT Work Ready Communities, has a college offering over 119 certificates and degrees, and has a dedicated airport.

4CED is recruiting for business similar to the New Mexico Partnership, engaging in trade shows, sales missions, and events. 4CED is also partnering with several entities for economic development opportunities.

Mr. Unsicker talked about the state doing all it can to protect its base jobs. Mr. Unsicker included in his presentation a letter signed by over 250 residents of San Juan County expressing concern for PNM's recommendation to shut down the San Juan Generating Station in 2022. The letter asserted that PRC's evaluation process for decision-making does not take into account full economic impacts. The letter conveyed that while there is an understanding about the uncertainty for long-term viability of coal power, the closure would be premature and detrimental to the economy.

Mr. Unsicker concluded with brief overview of current economic development initiatives in the area.

In response to Representative Crowder, Secretary Geisel said EDD is collaborating with the Tourism Department to leverage the New Mexico True brand for new economic development opportunities.

In response to Representative Garcia, Ms. Brazil said Solo Works, a job training program in Grants, has received strong support from the community. The program has so far graduated 7 individuals; another 7 are nearing completion.

In response to Senator Muñoz, Mr. Nitti said the current success rate of projects in the pipeline is extremely volatile. New Mexico needs to add more relevant projects to the pipeline. Senator Muñoz commented that LEDA investments need to be focused on large scale projects.

Profiles of Aztec, Farmington, and Central Consolidated School Districts

Committee members were given profiles of the Aztec, Farmington, and Central Consolidated school districts. Sunny Liu, analyst for LFC, said the profiles provide information on school district performance. Representatives from the school districts briefly addressed the committee. Colleen Bowman, superintendent of the Central Consolidated School District (CCSD), said closure of the San Juan Generating Station would severely impact the school district. Christina Aspaas, school board secretary of CCSD, said there is great concern about future funding for the school district. Gene Schmidt, superintendent of Farmington Municipal Schools, said the school district is working hard to achieve excellence. Superintendent Schmidt said tax reform is needed to address the many challenges New Mexico is facing, including educational issues. Representative Clahchischilliage said concerns will continue to be voiced and considered while the Legislature does its work.

Adjournment

There being no further business before the RSTP, the committee adjourned at 5:34 p.m.