



NEW MEXICO LEGISLATURE

# REVENUE STABILIZATION AND TAX POLICY COMMITTEE

2022 INTERIM FINAL REPORT

LEGISLATIVE COUNCIL SERVICE  
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## INTERIM SUMMARY



## **Revenue Stabilization and Tax Policy Committee 2022 Interim Summary**

The Revenue Stabilization and Tax Policy Committee held six meetings in 2022. The committee began the interim taking an in-depth look at the gross receipts tax, the income tax and how the state funds transportation infrastructure. As with previous interims, a comparison of these taxes and funding structures was made to those in other states, and again, caution was advised that comparisons are difficult and that maps and charts provided by tax policy organizations may be unintentionally biased and often do not include all of the information that would provide a complete portfolio of the structures of the states being compared.

July saw the return of what has been dubbed the "tax summit". Tax reform has been a recurring idea for many years, and this interim's tax summit included a presentation on New Mexico's experiences with its attempts at tax reform in the past. In addition, legal experts gave their perspectives on federal, tribal and state constitutional limitations on the state taxing authority. A presentation was made on the many tax cuts multiple states, including New Mexico, have enacted in 2021 and 2022 in response to the COVID-19 pandemic, comparing who benefited from the tax cuts and showing that some states' tax cuts primarily benefited higher-income households while others, like New Mexico, primarily benefited lower-income households. Another presentation discussed the implementation of tax cuts in New Mexico since 2003 and suggested that there is little evidence that the tax cuts spurred job creation.

The focus of the October meeting was revenue stabilization, and presentations were made on the state's rainy day funds and permanent funds. Due to the state's reliance on oil and gas, New Mexico's revenues are the fourth most volatile in the nation, but the Tax Stabilization Reserve helps the state prepare for shocks in the oil and gas market and economic downturns. Information was also presented on the establishment of the Severance Tax Permanent Fund (STPF), and several scenarios were modeled that illustrate the estimated change in distributions to the General Fund if the STPF received additional inflows. One scenario estimated the \$560 million per year currently expected to be distributed to the General Fund by fiscal year 2050 could be increased to nearly \$3 billion per year if certain oil and gas revenues are invested in the STPF.

A presentation in November discussed the economic impacts and costs of climate change and that the costs are expected to continue increasing. In December, the annual revenue forecast was presented by executive and legislative chief economists, who provided that recurring revenues for fiscal year 2022 are up 19.7% from fiscal year 2021 due to continuing high inflation, strong consumer spending and record revenues from the oil and gas industry, but cautioned that the forecast faces significant risks for a downturn.



## WORK PLAN AND MEETING SCHEDULE



**2022 APPROVED  
WORK PLAN AND MEETING SCHEDULE  
for the  
REVENUE STABILIZATION AND TAX POLICY COMMITTEE**

**Members**

Rep. Christine Chandler, Chair  
Sen. Benny Shendo, Jr., Vice Chair  
Sen. Craig W. Brandt  
Sen. William F. Burt  
Rep. Micaela Lara Cadena  
Sen. Pete Campos  
Rep. Doreen Y. Gallegos  
Sen. Ron Griggs  
Rep. Jason C. Harper  
Rep. Susan K. Herrera  
Rep. Antonio Maestas  
Rep. Javier Martínez  
Sen. George K. Munoz  
Sen. Harold Pope  
Rep. Larry R. Scott  
Sen. Elizabeth "Liz" Stefanics  
Rep. James R.J. Strickler  
Sen. Peter Wirth

**Designees**

Rep. Kay Bounkeua  
Rep. Rebecca Dow  
Sen. Katy M. Duhigg  
Rep. Joshua N. Hernandez  
Rep. Tara L. Lujan  
Rep. Rod Montoya  
Rep. Kristina Ortez  
Sen. Gerald Ortiz y Pino  
Sen. Shannon D. Pinto  
Rep. Linda Serrato  
Sen. William E. Sharer  
Sen. Mimi Stewart  
Sen. Bill Tallman  
Rep. Luis M. Terrazas

**Work Plan**

The Revenue Stabilization and Tax Policy Committee is a statutorily created joint interim legislative committee. Pursuant to Section 2-16-3 NMSA 1978, the committee is directed to "examine the statutes, constitutional provisions, regulations and court decisions governing revenue stabilization and tax policy in New Mexico and recommend legislation or changes if any are found to be necessary . . . ". In the 2022 interim, as time permits, the committee will:

1. hear from national and local experts on best practice recommendations in regard to tax reform, what tax reform has looked like in other states and what tax reform could look like in New Mexico;
2. receive an overview of the gross receipts tax and the principle behind its enactment, as well as issues caused by the structure of the tax and legislative changes to improve the structure of the tax;
3. receive an overview of the Income Tax Act, the role of income tax expenditures and the impact that proposed changes to the act may have on individuals, businesses and revenue stabilization;

4. receive an overview of the property tax, what the tax funds and the impact of certain provisions of the Property Tax Code, including the twenty-mill limitation, valuation caps on residential property, yield control and the effect of providing property tax relief;

5. hear from local governments in regard to how they are funded and the fiscal issues they face and legislative changes that may address those issues;

6. review the state's primary revenue sources and options for long-term revenue stabilization, including revenues attributable to the oil and gas industry and the risks associated with too much reliance on volatile revenue sources, options for increasing the state's reliance on more stable and diverse resources and the status and use of certain reserves and other funds with significant value;

7. examine the effectiveness and value of tax expenditures and other economic development incentives and the state's ability to report and track the effectiveness of those expenditures and incentives;

8. hear a presentation on how the state funds transportation infrastructure and how the gasoline and special fuel excise taxes, the motor vehicle excise tax and vehicle registration fees are distributed; and

9. determine legislative actions necessary to implement changes identified by committee members that will improve the state's tax system and revenue stabilization.

**Revenue Stabilization and Tax Policy Committee  
2022 Approved Meeting Schedule**

<u>Date</u>	<u>Location</u>
May 13	Santa Fe, State Capitol, Room 322
July 5-6	Santa Fe, State Capitol, Room 322
August 11-12	Santa Fe, State Capitol, Room 322
October 6-7	Santa Fe, State Capitol, Room 322
November 1-2	Santa Fe, State Capitol, Room 322
December 20	Santa Fe, State Capitol, Room 322



# AGENDAS AND MINUTES



**TENTATIVE AGENDA  
for the  
FIRST MEETING  
of the  
REVENUE STABILIZATION AND TAX POLICY COMMITTEE**

**May 13, 2022  
State Capitol, Room 322  
Santa Fe**

**Friday, May 13**

- 10:00 a.m.    (1)    **[Post-Session Fiscal Review](#)**  
                              —Ismael Torres, Chief Economist, Legislative Finance Committee (LFC)  
                              —David Abbey, Director, LFC
- 11:00 a.m.    (2)    **[Discussion of Work Plan and Meeting Schedule](#)**  
                              —Revenue Stabilization and Tax Policy Committee Members
- 12:00 noon        **Adjourn**



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

**May 13, 2022  
State Capitol, Room 322  
Santa Fe**

The first meeting of the Revenue Stabilization and Tax Policy Committee for the 2022 interim was called to order by Representative Christine Chandler, chair, on Friday, May 13, 2022, at 10:02 a.m. in Room 322 of the State Capitol in Santa Fe.

**Present**

Rep. Christine Chandler, Chair  
Sen. Benny Shendo, Jr., Vice Chair  
Sen. Craig W. Brandt  
Sen. William F. Burt  
Rep. Micaela Lara Cadena  
Rep. Doreen Y. Gallegos  
Sen. Ron Griggs  
Rep. Jason C. Harper  
Rep. Susan K. Herrera  
Rep. Antonio Maestas  
Sen. Harold Pope  
Sen. Elizabeth "Liz" Stefanics  
Rep. James R.J. Strickler  
Sen. Peter Wirth

**Designees**

Rep. Kristina Ortez

**Absent**

Sen. Pete Campos  
Rep. Javier Martínez  
Sen. George K. Munoz  
Rep. Larry R. Scott

Rep. Kay Bounkeua  
Rep. Rebecca Dow  
Sen. Katy M. Duhigg  
Rep. Joshua N. Hernandez  
Rep. Tara L. Lujan  
Rep. Rod Montoya  
Sen. Gerald Ortiz y Pino  
Sen. Shannon D. Pinto  
Rep. Linda Serrato  
Sen. William E. Sharer  
Sen. Mimi Stewart  
Sen. Bill Tallman  
Rep. Luis M. Terrazas

**Special Advisory Member**

Rep. Pamela Herndon

**Staff**

Pam Stokes, Staff Attorney, Legislative Council Service (LCS)

Anthony Montoya, Staff Attorney, LCS

Clinton Turner, Research and Fiscal Policy Analyst, LCS

**Guests**

The guest list is in the meeting file.

**Handouts**

Handouts and other written testimony are in the meeting file and on the legislature's website at [www.nmlegis.gov](http://www.nmlegis.gov).

**References to Webcast**

The time reference noted next to each agenda item in this document is cross-referenced to the webcast of the committee meeting, which can be found at [www.nmlegis.gov](http://www.nmlegis.gov), under the "Webcast" tab. The presentations made and committee discussions for agenda items can be found on the recorded webcast for this meeting.

**Friday, May 13****Welcome and Introductions**

Representative Chandler welcomed the members to the first interim committee meeting and then asked individual members of the committee to introduce themselves.

**Post-Session Fiscal Review (10:07 a.m.)**

David Abbey, director, Legislative Finance Committee (LFC), and Ismael Torres, chief economist, LFC, provided the committee with a summary of the LFC's post-session fiscal review of the Second Session of the Fifty-Fifth Legislature, including the LFC's financial projections for state revenue. Mr. Abbey emphasized the importance of revenue stabilization in policymaking due to the uncertain nature of revenue, both historically and prospectively. The presentation can be found here:

<https://www.nmlegis.gov/handouts/RSTP%20051322%20Item%201%20LFC%20Post%20Session%20Fiscal%20Report.pdf>.

**Discussion of Work Plan and Meeting Schedule (11:26 a.m.)**

Members of the committee discussed the contents of the proposed work plan and meeting schedule for the committee during the 2022 interim. The document can be found here:

<https://www.nmlegis.gov/handouts/RSTP%20051322%20Item%202%20Proposed%20Work%20Plan.pdf>.

**Adjournment**

There being no further business before the committee, the meeting adjourned at 11:38 a.m.

**TENTATIVE AGENDA  
for the  
SECOND MEETING  
of the  
REVENUE STABILIZATION AND TAX POLICY COMMITTEE**

**July 5-6, 2022  
State Capitol, Room 322  
Santa Fe**

**Tuesday, July 5**

- 11:00 a.m. (1) [New Mexico Tax Policy Overview](#)  
—Stephanie Schardin Clarke, Secretary, Taxation and Revenue Department (TRD)  
—Ismael Torres, Chief Economist, Legislative Finance Committee (LFC)  
—Richard Anklam, President and Executive Director, New Mexico Tax Research Institute (NMTRI)
- 1:00 p.m. **Lunch**
- 1:30 p.m. (2) [Overview and Issues: The Gross Receipts Tax](#)  
—Benjamin C. Roybal, Partner, Betzer, Roybal and Eisenberg, LLC  
—Richard Anklam, President and Executive Director, NMTRI
- 3:30 p.m. **Recess**

**Wednesday, July 6**

- 9:00 a.m. (3) [The Complexities of Comparing New Mexico's Tax Structure to Other States](#)  
—Richard Anklam, President and Executive Director, NMTRI
- 10:00 a.m. (4) [New Mexico Property Tax Overview and Comparison With Other States](#)  
—Santiago Chavez, Director, Property Tax Division, TRD  
—Jennifer Faubion, Economist, LFC
- 11:30 a.m. **Lunch**
- 12:30 p.m. (5) [New Mexico Income Tax Overview and Comparison With Other States](#)  
—Mark Chaiken, Director, Tax Policy, TRD  
—Jennifer Faubion, Economist, LFC

1:30 p.m. (6) [How New Mexico Funds Transportation Infrastructure; Comparing Other States' Transportation-Related Funding Sources](#)  
—Mallika Pung, Ph.D., Economist, Department of Transportation (DOT)  
—Mallery Manzanares, Director, Administrative Services, DOT  
—Ismael Torres, Chief Economist, LFC

3:30 p.m. **Adjourn**

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

**July 5-6, 2022  
State Capitol, Room 322  
Santa Fe**

The second meeting of the Revenue Stabilization and Tax Policy Committee for the 2022 interim was called to order by Representative Christine Chandler, chair, on Tuesday, July 5, 2022, at 11:01 a.m. in Room 322 of the State Capitol in Santa Fe.

**Present**

Rep. Christine Chandler, Chair  
Sen. Benny Shendo, Jr., Vice Chair  
Sen. Craig W. Brandt  
Rep. Micaela Lara Cadena  
Sen. Pete Campos  
Sen. Ron Griggs  
Rep. Antonio Maestas  
Rep. Javier Martínez  
Sen. George K. Munoz (7/5)  
Sen. Harold Pope  
Rep. Larry R. Scott  
Sen. Elizabeth "Liz" Stefanics  
Rep. James R.J. Strickler

**Designees**

Rep. Tara L. Lujan  
Rep. Kristina Ortez  
Sen. Mimi Stewart (7/5)  
Sen. Bill Tallman

**Absent**

Sen. William F. Burt  
Rep. Doreen Y. Gallegos  
Rep. Jason C. Harper  
Rep. Susan K. Herrera  
Sen. Peter Wirth

Rep. Kay Bounkeua  
Rep. Rebecca Dow  
Sen. Katy M. Duhigg  
Rep. Joshua N. Hernandez  
Rep. Rod Montoya  
Sen. Gerald Ortiz y Pino  
Sen. Shannon D. Pinto  
Rep. Linda Serrato  
Sen. William E. Sharer  
Rep. Luis M. Terrazas

**Special Advisory Members**

Rep. Pamelya Herndon  
Sen. Gay G. Kernan

## **Guest Legislator**

Sen. Linda M. Lopez

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

## **Staff**

Anthony Montoya, Staff Attorney, Legislative Council Service (LCS)

Rebecca Griego, Records Officer, LCS

Nancy Martinez, Research Assistant, LCS

Pam Stokes, Staff Attorney, LCS

Clinton Turner, Research and Fiscal Policy Analyst, LCS

## **Guests**

The guest list is in the meeting file.

## **Handouts**

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## **Tuesday, July 5**

### **Welcome and Introductions**

Representative Chandler welcomed the members to the second interim committee meeting, and members of the committee introduced themselves.

### **New Mexico Tax Policy Overview (11:07 a.m.)**

Richard Anklam, president and executive director, New Mexico Tax Research Institute, Stephanie Schardin Clarke, secretary, Taxation and Revenue Department (TRD), and Ismael Torres, chief economist, Legislative Finance Committee (LFC), provided an overview of New Mexico's tax policy and revenue structure. Mr. Anklam outlined the General Fund's revenue sources and the state's primary taxes. Secretary Schardin Clarke described the TRD's Tax Expenditure Report, including the types and categories of tax expenditures and the top ten tax expenditures by cost. Mr. Torres reviewed recent steps that the legislature has taken toward tax reform and opportunities for tax reform in the future, including the need to address the volatility of New Mexico's General Fund revenues, as evidenced by the whipsawing changes that have occurred over the past two decades. The joint presentation can be found here:

<https://www.nmlegis.gov/handouts/RSTP%20070522%20Item%201%20Tax%20Policy%20Overview.pdf>.

### **Approval of Minutes (12:52 p.m.)**

The minutes of the May 13, 2022 meeting were approved without changes.

### **Overview and Issues: The Gross Receipts Tax (1:38 p.m.)**

Benjamin C. Roybal, partner, Betzer, Roybal and Eisenberg, LLC, and Mr. Anklam provided an in-depth overview of the gross receipts tax and compensating tax; discussed significant changes made to the gross receipts tax in recent years, including changes prompted by the *South Dakota v. Wayfair, Inc.* decision on sales by internet sellers and the recent changes made to the sourcing rules, including the implications those rules changes may have on certain local governments; and explained the purpose of many gross receipts tax and compensating tax exemptions, deductions and credits. The joint presentation can be found here:

<https://www.nmlegis.gov/handouts/RSTP%20070522%20Item%202%20GRT%20Overview%20and%20Issues.pdf>.

### **Wednesday, July 6**

### **The Complexities of Comparing New Mexico's Tax Structure to Other States (9:06 a.m.)**

Mr. Anklam compared certain aspects of New Mexico's tax structure to other states, cautioning that comparisons are difficult and that maps and charts provided by tax policy organizations may be unintentionally biased and often do not include all of the information that would provide a complete portfolio of the structures of the states being compared. Mr. Anklam also discussed recent tax cuts and rebates that many states, including New Mexico, have enacted in the past few years. The presentations can be found here:

<https://www.nmlegis.gov/Committee/Handouts?CommitteeCode=RSTP&Date=7/5/2022&ItemNumber=3>.

### **New Mexico Property Tax Overview and Comparison With Other States (10:33 a.m.)**

Santiago Chavez, director, Property Tax Division (PTD), TRD, explained the services that the PTD and its bureaus provide to the state and local governments and New Mexico's score of C+ on a scorecard of property tax administrative systems in the state. Jennifer Faubion, economist, LFC, provided context on maps created by the Tax Foundation comparing New Mexico with other states. Ms. Faubion explained that New Mexico relies less on property taxes than other states and that the amount of property taxes paid by New Mexicans is moderately low. In addition, Ms. Faubion described national trends in property tax and certain legislation introduced during the 2022 regular legislative session. The presentations can be found here:

<https://www.nmlegis.gov/Committee/Handouts?CommitteeCode=RSTP&Date=7/5/2022&ItemNumber=4>.

### **New Mexico Income Tax Overview and Comparison With Other States (12:42 p.m.)**

Mark Chaiken, director, Tax Policy, TRD, gave an overview of the structure of New Mexico's personal income tax (PIT); explained the history of the changes made to PIT rate brackets; noted that the current rate brackets are progressive, especially at lower income levels, and marginal; and discussed the purpose of certain PIT expenditures and tax rebates. Ms.

Faubion provided informational data on both the PIT and the corporate income tax, including how much those taxes contribute to the General Fund and noting the recent significant but unexplained growth in PIT revenues; the revenue cost of recently enacted tax deductions, exemptions, credits and rebates; and additional context on the PIT brackets, including how many taxpayers fall into each bracket and how much revenue each bracket provides. Ms. Faubion also reviewed maps created by the Tax Foundation comparing New Mexico's PIT and business competitiveness with other states. The presentations can be found here:

<https://www.nmlegis.gov/Committee/Handouts?CommitteeCode=RSTP&Date=7/5/2022&ItemNumber=5>.

### **How New Mexico Funds Transportation Infrastructure; Comparing Other States' Transportation-Related Funding Sources (2:01 p.m.)**

Mallika Pung, Ph.D., economist, Department of Transportation (DOT), provided a joint presentation on revenue sources that fund transportation infrastructure, including the gasoline tax, the special fuel excise tax, the weight distance tax, registration fees and the motor vehicle excise tax; how the revenue from the revenue sources is distributed; and trends and forecasts for the State Road Fund and other transportation-related funds. Mallery Manzanares, director, Administrative Services, DOT, explained the difference between the Local Governments Road Fund and the recently created Transportation Project Fund, both of which are intended to provide local governments with funding for transportation infrastructure. Mr. Torres provided information on and context to comparisons of New Mexico's transportation-related revenue sources with those of other states, including differences in fuel taxes, registration fees and motor vehicle excise taxes; and national trends in road funding, including challenges relating to the transition to higher fuel efficiency and electric vehicles and changes to people's transportation habits. Mr. Torres also provided maps comparing additional registration fees on electric and plug-in electric vehicles and a brief overview of road usage charges as an alternative to fuel taxes as a funding source. The presentations can be found here:

<https://www.nmlegis.gov/Committee/Handouts?CommitteeCode=RSTP&Date=7/5/2022&ItemNumber=6>.

### **Adjournment**

There being no further business before the committee, the meeting adjourned at 3:13 p.m.

Revised: August 11, 2022\*

**TENTATIVE AGENDA  
for the  
THIRD MEETING  
of the  
REVENUE STABILIZATION AND TAX POLICY COMMITTEE**

**August 11-12, 2022  
State Capitol, Room 322  
Santa Fe**

**Thursday, August 11**

- 9:30 a.m. (1) [Introduction to The Tax Summit](#)  
—Representative Christine Chandler, Chair  
—Richard Anklam, President and Executive Director, New Mexico Tax  
Research Institute
- 9:35 a.m. (2) [The COST Scorecard](#)  
—Patrick J. Reynolds, Senior Tax Counsel, Council on State Taxation
- 10:40 a.m. (3) [Experiences with Tax Reform in New Mexico](#)  
—Robert J. Desiderio, Esq., Professor Emeritus, University of New Mexico  
School of Law  
—Benjamin C. Roybal, Partner, Betzer, Roybal and Eisenberg, LLC
- 11:40 a.m. (4) [Federal, Tribal and State Constitutional Limitations on State Tax  
Authority](#)  
—Helen Hecht, Esq., C.P.A., Uniformity Counsel, Multistate Tax  
Commission (MTC)  
—Joe Lennihan, Esq.  
—Jeremy Farris, Esq., D.Phil., Executive Director, State Ethics Commission
- 12:45 p.m. **Lunch**
- 1:50 p.m. (5) [Overview of Who Pays: A Distributional Analysis of New Mexico's Tax  
System](#)  
—Carl Davis, Research Director, Institute on Taxation and Economic  
Policy (*via webcast*)
- 2:40 p.m. (6) [Tax Competitiveness and New Mexico's Place in the Region](#)  
—Timothy Vermeer, Senior Policy Analyst, Center for State Tax Policy,  
Tax Foundation

3:30 p.m. (7) [\*\*Tax Administrators' Perspectives on Tax Policy\*\*](#)  
—Helen Hecht, Esq., C.P.A., Uniformity Counsel, MTC

4:30 p.m. **Recess**

**Friday, August 12**

9:00 a.m. (8) [\*\*Taxing the Digital Economy\*\*](#)  
—Marc H. Pfeiffer, Senior Policy Fellow and Assistant Director, Bloustein  
Local Government Research Center, Rutgers University (*via webcast*)

10:00 a.m. (9) [\*\*Overview: The Year of State Tax Cuts\*\*](#)  
—Richard C. Auxier, Senior Policy Associate, Urban-Brookings Tax Policy  
Center (*via webcast*)

11:00 a.m. (10) [\*\*Taxes, Incentives and State Economic Performance\*\*](#)  
—Greg LeRoy, Executive Director, Good Jobs First (*via webcast*)  
—Michael Mazerov, Senior Fellow, State Fiscal Project, Center on Budget  
and Policy Priorities (*via webcast*)

12:00 noon **Public Comment**

12:30 p.m. **Adjourn**

\*The agenda has been revised to accommodate delays due to unforeseen traffic conditions impacting presenters and members.

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

**August 11-12, 2022  
State Capitol, Room 322  
Santa Fe**

The third meeting of the Revenue Stabilization and Tax Policy Committee for the 2022 interim was called to order by Representative Christine Chandler, chair, on Thursday, August 11, 2022, at 9:28 a.m. in Room 322 of the State Capitol in Santa Fe.

**Present**

Rep. Christine Chandler, Chair  
Sen. Benny Shendo, Jr., Vice Chair (8/11)  
Sen. Craig W. Brandt  
Sen. William F. Burt  
Sen. Pete Campos (8/12)  
Rep. Doreen Y. Gallegos  
Sen. Ron Griggs  
Rep. Susan K. Herrera  
Rep. Antonio Maestas (8/12)  
Rep. Javier Martínez  
Sen. Harold Pope  
Rep. Larry R. Scott  
Sen. Elizabeth "Liz" Stefanics  
Rep. James R.J. Strickler  
Sen. Peter Wirth

**Designees**

Rep. Rod Montoya  
Sen. Bill Tallman

**Absent**

Rep. Micaela Lara Cadena  
Rep. Jason C. Harper  
Sen. George K. Munoz

Rep. Kay Bounkeua  
Rep. Rebecca Dow  
Sen. Katy M. Duhigg  
Rep. Joshua N. Hernandez  
Rep. Tara L. Lujan  
Rep. Kristina Ortez  
Sen. Gerald Ortiz y Pino  
Sen. Shannon D. Pinto  
Rep. Linda Serrato  
Sen. William E. Sharer  
Sen. Mimi Stewart  
Rep. Luis M. Terrazas

## **Special Advisory Members**

Rep. Pamelya Herndon

## **Staff**

Pam Stokes, Staff Attorney, Legislative Council Service (LCS)

Anthony Montoya, Staff Attorney, LCS

Rebecca Griego, Records Officer, LCS

Clinton Turner, Research and Fiscal Policy Analyst, LCS

Martin Fischer, Bill Drafter, LCS

## **Guests**

The guest list is in the meeting file.

## **Handouts**

Copies of all handouts and written testimony are in the meeting file and posted on the legislature's website.

## **References to Webcast**

The time reference noted next to each agenda item in this document is cross-referenced to the webcast of the committee meeting, which can be found at [www.nmlegis.gov](http://www.nmlegis.gov), under the "Webcast" tab. The presentations made and committee discussions for agenda items can be found on the recorded webcast for this meeting.

## **Thursday, August 11**

### **Introduction to The Tax Summit (9:28 a.m.)**

Representative Chandler welcomed members, staff and presenters and explained that unforeseen traffic conditions had impacted the ability of some presenters to attend the morning session of the meeting and therefore presentations will be reordered to accommodate delays. Representative Chandler then introduced Richard Anklam, president and executive director, New Mexico Tax Research Institute, who gave an overview of the presentations to be provided at the meeting. Mr. Anklam also briefly discussed a fact sheet provided by the Pew Charitable Trusts on the makeup of tax revenue by state, nationwide. The presentation materials can be found here:

<https://www.nmlegis.gov/Committee/Handouts?CommitteeCode=RSTP&Date=8/11/2022&ItemNumber=1>.

### **The COST Scorecard (9:32 a.m.)**

Patrick J. Reynolds, senior tax counsel, Council on State Taxation, gave a brief introduction on the Council on State Taxation and its mission statement. Mr. Reynolds gave an

overview of state and local business tax burdens nationwide and discussed a national scorecard, including New Mexico's scores and how it compares to the scores of other states. The presentation can be found here:

<https://www.nmlegis.gov/handouts/RSTP%20081122%20Item%202%20COST%20Presentation.pdf>.

### **Experiences with Tax Reform in New Mexico (10:38 a.m.)**

Mr. Anklam provided a brief introduction for the next presenters: Robert J. Desiderio, Esq., professor emeritus, University of New Mexico School of Law, and Benjamin C. Roybal, partner, Betzer, Roybal and Eisenberg, LLC. Mr. Desiderio described various reform efforts throughout the years, including the 1984 citizens' tax study committee, the 1991 and 1992 tax equity task force, the 1994 through 1998 professional tax study committee and the 2003 blue ribbon tax reform committee, stating that each effort commenced its work accepting the basic principles of tax policy: adequacy, equity, efficiency and simplicity. The groups primarily focused on: 1) the gross receipts tax and how it should be as broad-based as possible; introducing various deductions and exemptions makes the system inefficient and unfair; 2) pyramiding, which causes additional taxation that is also inefficient and unfair; 3) health care providers, whose prices are influenced by Medicare and Medicaid and in turn can affect the supply of providers; 4) the role of tax in economic development and that using the tax system to entice businesses to come or expand should be as limited as possible because there is limited evidence that tax incentives have that result and that businesses more heavily consider other factors, such as crime and education; 5) whether the personal income tax should be more progressive and also the impact of the low income comprehensive tax rebate and its purpose of addressing the regressivity of the gross receipts tax and the property tax; 6) the combined reporting and apportionment of multi-jurisdictional corporations in regard to the corporate income tax; and 7) that industrial revenue bonds should be used as incentives rather than income tax credits. Mr. Roybal elaborated further on the work completed by the professional tax study committee, explaining that equity drove them and therefore most recommendations were to broaden the base of the gross receipts tax. Tables in their report provide the recommended changes, what the changes were designed to do and the rationale for each change. He continued to discuss several recommendations that were implemented at the time and several recommendations and issues that are still relevant now. The presentation materials can be found here:

<https://www.nmlegis.gov/Committee/Handouts?CommitteeCode=RSTP&Date=8/11/2022&ItemNumber=3>.

### **Approval of Minutes (11:41 a.m.)**

On a motion made and seconded, and without opposition, the minutes of the July 5-6, 2022 meeting were approved as submitted.

### **Federal, Tribal and State Constitutional Limitations on State Tax Authority (11:42 a.m.)**

Mr. Anklam explained that this presentation is tailored for local New Mexico concerns about tax limitations and the state's power to tax. He introduced Helen Hecht, Esq., C.P.A., uniformity counsel, Multistate Tax Commission; Joe Lennihan, Esq.; and Jeremy Farris, Esq.,

D.Phil., executive director, State Ethics Commission. Dr. Farris provided an overview of the state constitution's limitation on the power to tax, including a discussion on equal protection, the prohibition on special laws, the prohibition on the remission of debts and the Anti-Donation Clause. Mr. Lennihan discussed the intersection of federal tribal law and how that may interact with tax legislation, explaining that federal law provides strict limits to the state's ability to tax tribal governments, individuals, land and other entities. Ms. Hecht provided an overview of federal constitutional limitations on state taxation, focusing on due process concerns and the Dormant Commerce Clause. The presentation materials can be found here:

<https://www.nmlegis.gov/Committee/Handouts?CommitteeCode=RSTP&Date=8/11/2022&ItemNumber=4>.

### **Overview of Who Pays: A Distributional Analysis of New Mexico's Tax System (1:54 p.m.)**

Carl Davis, research director, Institute on Taxation and Economic Policy (via webcast), briefly discussed the use of tax incidence analysis and models to explain the methodology for the findings provided in his presentation. Mr. Davis then explained the New Mexico-specific findings, including state and local taxes as a share of New Mexico families' incomes and recent changes to the state's tax laws that shifted tax burdens to higher-income families. Mr. Davis also provided options for further addressing regressivity, such as income tax bracket reform and reducing the capital gains deduction. The presentation can be found here:

<https://www.nmlegis.gov/handouts/RSTP%20081122%20Item%205%20Overview%20of%20Who%20Pays.pdf>.

### **Tax Competitiveness and New Mexico's Place in the Region (2:42 p.m.)**

Timothy Vermeer, senior policy analyst, Center for State Tax Policy, Tax Foundation, provided a tax structure-focused comparison of New Mexico and neighboring states and then discussed proposed tax policies that he argued could promote economic growth and stable revenue collection. He explained the methodology and findings of the state-to-state comparison, covering property taxes, unemployment insurance taxes, corporate taxes, individual taxes and sales taxes. The presentation can be found here:

<https://www.nmlegis.gov/handouts/RSTP%20081122%20Item%206%20New%20Mexico%20Growth%20and%20Stability.pdf>.

### **Tax Administrators' Perspectives on Tax Policy (3:46 p.m.)**

Ms. Hecht provided insight from a tax administrator's perspective. Ms. Hecht emphasized the need for clarity and simplicity, illustrating the point that implementing a single page of legislation can require significant regulations, rulings, case law and staff and, further, can add uncertainty or confusion for taxpayers and other tax professionals. Ms. Hecht provided several examples on how tax policy and tax administration interacts. The presentation can be found here:

<https://www.nmlegis.gov/handouts/RSTP%20081122%20Item%207%20Tax%20Administrators%20Perspectives.pdf>.

## **Recess**

The meeting recessed at 4:29 p.m.

## **Friday, August 12**

### **Taxing the Digital Economy (9:03 a.m.)**

Marc H. Pfeiffer, senior policy fellow and assistant director, Bloustein Local Government Research Center, Rutgers University (via webcast), provided an overview of what is meant by the term "digital economy" and the impact of this concept on tax concerns and issues in implementing targeted tax policy. Mr. Pfeiffer explained that many services or goods that are traditionally taxable can raise issues when those services or goods are offered or facilitated digitally; however, states have begun to recognize these issues and are seeking to ensure clear and uniform tax policies. The presentation materials can be found here:

<https://www.nmlegis.gov/Committee/Handouts?CommitteeCode=RSTP&Date=8/11/2022&ItemNumber=8>.

### **Overview: The Year of State Tax Cuts (10:01 a.m.)**

Richard C. Auxier, senior policy associate, Urban-Brookings Tax Policy Center (via webcast), discussed nationwide trends over the last two years, specifically a national focus on state tax cuts. Mr. Auxier explained that a majority of states have created or expanded what he defined as a "significant" tax cut since calendar year 2021, including rebates and credits, such as child tax credits and versions of what New Mexico calls the Working Families Tax Credit, which piggybacks on the federal Earned Income Tax Credit. Mr. Auxier discussed how this trend has occurred again in calendar year 2022 and described major drivers in this national trend, including a response to the coronavirus disease 2019 pandemic, addressing unequal economic impacts of the pandemic and a consumer shift to purchasing goods from purchasing services. Mr. Auxier also provided a comparison of who benefited from the tax cuts, showing that some states' tax cuts primarily benefited higher-income households and others, like New Mexico, primarily benefited lower-income households. The presentation can be found here:

<https://www.nmlegis.gov/handouts/RSTP%20081122%20Item%209%20Post%20Pandemic%20State%20Tax%20Cuts.pdf>.

### **Taxes, Incentives and State Economic Performance (11:07 a.m.)**

Michael Mazerov, senior fellow, State Fiscal Project, Center on Budget and Policy Priorities (via webcast), discussed the implementation of tax cuts in New Mexico since 2003 and suggested that there is little evidence that they spurred job creation. Mr. Mazerov then provided a history and analysis of the Kansas tax cut policy that spanned from 2017 through 2021 and how that state restored some of the taxes to address the budget crisis and bond rating downgrades that had resulted from the cuts. Mr. Mazerov provided his recommendations on tax policy and the investment of state revenue, arguing that New Mexico already has a competitive business tax structure and that investing in human capital will help address New Mexico's competitiveness

problems. Greg LeRoy, executive director, Good Jobs First (via webcast), elaborated on advantages that states have in attracting business by focusing on education and public amenities and argued that taxes are a less important factor. The presentation materials can be found here:

<https://www.nmlegis.gov/Committee/Handouts?CommitteeCode=RSTP&Date=8/11/2022&ItemNumber=10>.

**Adjournment**

There being no further business before the committee, the meeting adjourned at 12:13 p.m.

Revised: October 5, 2022

**TENTATIVE AGENDA  
for the  
FOURTH MEETING  
of the  
REVENUE STABILIZATION AND TAX POLICY COMMITTEE**

**October 6-7, 2022  
State Capitol, Room 322  
Santa Fe**

**Thursday, October 6**

- 9:00 a.m. (1) [\*\*The New Mexico Economic Forecast: Recent Developments and Outlook\*\*](#)  
—Michael O'Donnell, Director, Bureau of Business and Economic Research, University of New Mexico
- 10:15 a.m. (2) [\*\*State Land Office Update\*\*](#)  
—Sunalei Stewart, Deputy Commissioner of Operations, State Land Office
- 11:00 a.m. (3) [\*\*State Reserves: The Differing Roles of Permanent Trust Funds and State Rainy Day Funds\*\*](#)  
—Jennifer Janson, Senior Associate, Fiscal and Economic Policy, State Fiscal Health Project, The Pew Charitable Trusts
- 12:00 noon **Lunch**
- 1:00 p.m. (4) [\*\*Overviews of the Tax Stabilization Reserve and the Early Childhood Education and Care Fund\*\*](#)  
—Ismael Torres, Chief Economist, Legislative Finance Committee (LFC)
- 2:00 p.m. (5) [\*\*The Severance Tax Permanent Fund: History, Performance and Projections\*\*](#)  
—Ismael Torres, Chief Economist, LFC  
—Steven K. Moise, State Investment Officer, State Investment Council
- 3:15 p.m. (6) [\*\*Overview of Excise Taxes on Alcoholic Beverages, Cannabis, Cigarettes and Tobacco Products in New Mexico\*\*](#)  
—Mark Chaiken, Director of Tax Policy, Taxation and Revenue Department (TRD)  
—Lucinda Sydow, Chief Economist, TRD

4:15 p.m. (7) [Two Cannabis Business Owners' Perspectives on the Cannabis Excise Tax](#)  
—Duke Rodriguez, President and Chief Executive Officer, Ultra Health  
—Mathew Muñoz, Chief Innovation and Finance Officer, Carver Family Farm

5:00 p.m. **Recess**

**Friday, October 7**

9:00 a.m. (8) [A Comparison of Alcohol, Cannabis and Cigarette Taxes](#)  
—Richard Auxier, Senior Policy Associate, Urban-Brookings Tax Policy Center

10:00 a.m. (9) [The Gross Receipts Tax and the Health Care Industry](#)  
—Mark Chaiken, Director of Tax Policy, TRD

10:30 a.m. (10) [Health Care Practitioners' Perspective on State Taxation of the Industry](#)  
—Kathy Fresquez-Chavez, D.N.P., M.S.N., F.N.P.-C., Chief Executive Officer, Bella Vida Health Care Clinic and Medi-Spa  
—Todd Williams, M.D., Vice President, New Mexico Medical Society  
—Lynn Paul, Chief Financial Officer, Eye Associates of New Mexico

12:00 noon **Public Comment\***

12:30 p.m. **Adjourn**

\*This meeting will be webcast and can be viewed by clicking the video icon beneath the meeting agenda on the Revenue Stabilization and Tax Policy Committee [web page](#). Members of the public may make comments during the public comment portion of the meeting by following instructions under the "Extra Information" portion of the [web page](#).

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

**October 6-7, 2022**  
**State Capitol, Room 322**  
**Santa Fe**

The fourth meeting of the Revenue Stabilization and Tax Policy Committee for the 2022 interim was called to order by Representative Christine Chandler, chair, on Thursday, October 6, 2022, at 9:01 a.m. in Room 322 of the State Capitol in Santa Fe.

**Present**

Rep. Christine Chandler, Chair  
Sen. Benny Shendo, Jr., Vice Chair  
Sen. Craig W. Brandt  
Sen. William F. Burt  
Rep. Micaela Lara Cadena  
Sen. Pete Campos  
Sen. Ron Griggs (10/6)  
Rep. Susan K. Herrera (10/6)  
Rep. Antonio Maestas (10/6)  
Rep. Javier Martínez  
Sen. George K. Munoz  
Sen. Harold Pope  
Rep. Larry R. Scott  
Sen. Elizabeth "Liz" Stefanics  
Rep. James R.J. Strickler  
Sen. Peter Wirth

**Absent**

Rep. Doreen Y. Gallegos  
Rep. Jason C. Harper

**Designees**

Rep. Tara L. Lujan  
Rep. Rod Montoya  
Rep. Kristina Ortez  
Sen. Mimi Stewart (10/6)  
Sen. Bill Tallman (10/6)

Rep. Kay Bounkeua  
Rep. Rebecca Dow  
Sen. Katy M. Duhigg  
Rep. Joshua N. Hernandez  
Sen. Gerald Ortiz y Pino  
Sen. Shannon D. Pinto  
Rep. Linda Serrato  
Sen. William E. Sharer  
Rep. Luis M. Terrazas

**Special Advisory Member**

Rep. Pamela Herndon

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

**Staff**

Pam Stokes, Staff Attorney, Legislative Council Service (LCS)  
Lenaya Montoya, Staff Attorney, LCS  
Anthony Montoya, Staff Attorney, LCS  
Rebecca Griego, Records Officer, LCS  
Nicole Waguespack, Researcher, LCS

**Guests**

The guest list is in the meeting file.

**Handouts**

Copies of all handouts and written testimony are in the meeting file and posted on the legislature's website.

**References to Webcast**

The time reference noted next to each agenda item in this document is cross-referenced to the webcast of the committee meeting, which can be found at [www.nmlegis.gov](http://www.nmlegis.gov), under the "Webcast" tab. The presentations made and committee discussions for agenda items can be found on the recorded webcast for this meeting.

**Thursday, October 6****Welcome and Introductions (9:01 a.m.)**

Representative Chandler welcomed members, staff and presenters and asked members to introduce themselves.

**The New Mexico Economic Forecast: Recent Developments and Outlook (9:05 a.m.)**

Michael O'Donnell, director, Bureau of Business and Economic Research, University of New Mexico, provided economic outlooks for both the nation and the state. Nationally, jobs have reached pre-pandemic levels, but growth in the second and third quarters was disappointing. In addition, inflation, labor and supply chain disruptions, geopolitical events and whether the nation is in a recession are cause for concern. For the state, COVID-19 variants continue to be a concern, but the data show improvement; however, the improvement is slowing. The expectation for the next five years is for a slow, more consistent recovery upfront as compared to the national economy. If there is a recession, however, more pessimistic scenarios may occur. The presentation can be found here:

<https://www.nmlegis.gov/handouts/RSTP%20100622%20Item%201%20BBER%20NM%20Economic%20Forecast.pdf>.

**State Land Office Update (10:32 a.m.)**

Sunalei Stewart, deputy commissioner of operations, State Land Office, provided an update on the State Land Office's revenue generation and diversification efforts, including a summary of recommendations from an analysis performed by Headwaters Economics. Included

in the presentation was an overview of the trust land held by the state and the money generated for beneficiaries. The presentation can be found here:

<https://www.nmlegis.gov/handouts/RSTP%20100622%20Item%202%20NMSLO%20Presentation.pdf>.

### **State Reserves: The Differing Roles of Permanent Trust Funds and State Rainy Day Funds (11:21 a.m.)**

Jennifer Janson, senior associate, Fiscal and Economic Policy, State Fiscal Health Project, The Pew Charitable Trusts, discussed various types of state funds, specifically trust funds and rainy day funds, and the use of those funds in stabilizing revenue generation. The presentation can be found here:

<https://www.nmlegis.gov/handouts/RSTP%20100622%20Item%203%20Pew%20State%20Reserves.pdf>.

### **Overviews of the Tax Stabilization Reserve and the Early Childhood Education and Care Fund (1:02 p.m.)**

Ismael Torres, chief economist, Legislative Finance Committee, presented an overview of the Tax Stabilization Reserve and the Early Childhood Education and Care Fund, commonly referred to as the "Early Childhood Trust Fund". Mr. Torres discussed the history of the funds and their projected growth. Mr. Torres explained that, due to New Mexico's reliance on oil and gas, New Mexico's revenues are the fourth most volatile in the nation, but the Tax Stabilization Reserve, which operates as the state's rainy day fund, helps the state prepare for shocks in the oil and gas market and economic downturns. Mr. Torres further explained that soaring oil and gas prices and production have led to unexpectedly large distributions to the Early Childhood Education and Care Fund, which is forecast to have an estimated balance of almost \$9 billion by fiscal year 2027. The presentation can be found here:

<https://www.nmlegis.gov/handouts/RSTP%20100622%20Item%204%20LFC%20Overviews%20of%20the%20TSR%20and%20ECECF.pdf>.

### **The Severance Tax Permanent Fund (STPF): History, Performance and Projections (1:28 p.m.)**

Mr. Torres provided background on the STPF, explaining that revenue from the oil and gas severance tax is first distributed to the Severance Tax Bonding Fund for capital outlay, and any remaining money is transferred to the STPF. Each year, 4.7% of the five-year average balance of the STPF is distributed to the General Fund. Steven K. Moise, state investment officer, State Investment Council (SIC), who was joined by Charles Wollmann, director of communications, legislative and client relations, SIC, and Dawn Iglesias, investment strategist, SIC, presented information on the establishment of the STPF, its historical growth and performance and several modeled scenarios that illustrate the estimated change in distributions to the General Fund if the STPF received additional inflows. One scenario estimated the \$560 million per year expected to be distributed by fiscal year 2050 under current law could be increased to nearly \$3 billion per year if certain oil and gas revenues are invested in the STPF. The presentation materials can be found here:

<https://www.nmlegis.gov/Committee/Handouts?CommitteeCode=RSTP&Date=10/6/2022&ItemNumber=5>.

### **Overview of Excise Taxes on Alcoholic Beverages, Cannabis, Cigarettes and Tobacco Products in New Mexico (3:08 p.m.)**

Mark Chaiken, director of tax policy, Taxation and Revenue Department (TRD), and Lucinda Sydow, chief economist, TRD, provided an overview of excise taxes in general and then provided a focused discussion on excise taxes related to alcoholic beverages, cannabis, cigarettes and tobacco products. The presentation can be found here:

<https://www.nmlegis.gov/handouts/RSTP%20100622%20Item%206%20TRD%20Excise%20Tax%20Presentation.pdf>.

### **Two Cannabis Business Owners' Perspectives on the Cannabis Excise Tax (4:15 p.m.)**

Duke Rodriguez, president and chief executive officer, Ultra Health, and Mathew Muñoz, chief innovation and finance officer, Carver Family Farm, discussed their specific perspectives on recent cannabis legislation and cannabis excise taxes.

### **Recess**

The meeting recessed at 4:56 p.m.

## **Friday, October 7**

### **A Comparison of Alcohol, Cannabis and Cigarette Taxes (9:09 a.m.)**

Richard Auxier, senior policy associate, Urban-Brookings Tax Policy Center, began his discussion with the goals and purposes of taxes, specifically, alcohol, cannabis and cigarette taxes. Mr. Auxier then discussed those specific taxes and national comparative data. The presentation materials can be found here:

<https://www.nmlegis.gov/Committee/Handouts?CommitteeCode=RSTP&Date=10/6/2022&ItemNumber=8>.

### **The Gross Receipts Tax and the Health Care Industry (10:19 a.m.)**

Mr. Chaiken discussed current issues relating to taxation and the health care industry, specifically the Gross Receipts Tax and distinctions that exist among differing types of health care providers. The presentation can be found here:

<https://www.nmlegis.gov/handouts/RSTP%20100622%20Item%209%20TRD%20Healthcare%20GRT%20Presentation.pdf>.

### **Health Care Practitioners' Perspective on State Taxation of the Industry (11:05 a.m.)**

Kathy Fresquez-Chavez, D.N.P., M.S.N., F.N.P.-C., chief executive officer, Bella Vida Health Care Clinic and Medi-Spa; Todd Williams, M.D., vice president, New Mexico Medical Society; and Lynn Paul, chief financial officer, Eye Associates of New Mexico, discussed the specific health care services that their organizations provide and then explained their individual

perspectives as health care providers about the effects of taxes on their practices. The presentation materials can be found here:

<https://www.nmlegis.gov/Committee/Handouts?CommitteeCode=RSTP&Date=10/6/2022&ItemNumber=10>.

**Approval of Minutes (11:51 a.m.)**

On a motion made and seconded, and without any objections, the committee approved the minutes of the August 11-12, 2022 meeting.

**Adjournment**

There being no further business before the committee, the meeting adjourned at 12:17 p.m.



**TENTATIVE AGENDA  
for the  
FIFTH MEETING  
of the  
REVENUE STABILIZATION AND TAX POLICY COMMITTEE**

**November 2, 2022  
State Capitol, Room 322  
Santa Fe**

**Wednesday, November 2**

- 9:00 a.m. (1) [\*\*Climatenomics: The Economic Costs of Climate Change and the Economic Benefits of Climate Action in New Mexico\*\*](#)  
—Bob Keefe, Executive Director, E2
- 10:30 a.m. (2) [\*\*Taxation of Digital Products in the States\*\*](#)  
—Helen Hecht, Uniformity Counsel, Multistate Tax Commission (MTC)
- 11:30 a.m. (3) [\*\*Status of Taxing Digital Advertising in New Mexico\*\*](#)  
—Mark Chaiken, Director of Tax Policy, Taxation and Revenue  
Department (TRD)
- 12:00 noon **Lunch**
- 1:00 p.m. (4) [\*\*Taxation of Income from Pass-Through Entities\*\*](#)  
—Helen Hecht, Uniformity Counsel, MTC
- 2:00 p.m. (5) [\*\*Corporate Income Tax: Apportionment\*\*](#)  
—Helen Hecht, Uniformity Counsel, MTC
- 3:00 p.m. (6) [\*\*Remote Workers Income Tax Withholding Issues\*\*](#)  
—Mark Chaiken, Director of Tax Policy, TRD
- 3:45 p.m. (7) [\*\*Update on the 2022 Income Tax Rebates\*\*](#)  
—Stephanie Schardin Clarke, Secretary, TRD
- 4:30 p.m. **Public Comment**
- 5:00 p.m. **Adjourn**



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

**November 2, 2022  
State Capitol, Room 322  
Santa Fe**

The fifth meeting of the Revenue Stabilization and Tax Policy Committee for the 2022 interim was called to order by Representative Christine Chandler, chair, on Wednesday, November 2, 2022, at 9:06 a.m. in Room 322 of the State Capitol in Santa Fe.

**Present**

Rep. Christine Chandler, Chair  
Sen. Benny Shendo, Jr., Vice Chair  
Sen. Craig W. Brandt  
Sen. William F. Burt  
Rep. Susan K. Herrera  
Rep. Antonio Maestas  
Sen. Harold Pope  
Sen. Elizabeth "Liz" Stefanics  
Rep. James R.J. Strickler  
Sen. Peter Wirth

**Designees**

Rep. Tara L. Lujan  
Rep. Kristina Ortez  
Sen. Bill Tallman

**Absent**

Rep. Micaela Lara Cadena  
Sen. Pete Campos  
Rep. Doreen Y. Gallegos  
Sen. Ron Griggs  
Rep. Jason C. Harper  
Rep. Javier Martínez  
Sen. George K. Munoz  
Rep. Larry R. Scott

Rep. Kay Bounkeua  
Rep. Rebecca Dow  
Sen. Katy M. Duhigg  
Rep. Joshua N. Hernandez  
Rep. Rod Montoya  
Sen. Gerald Ortiz y Pino  
Sen. Shannon D. Pinto  
Rep. Linda Serrato  
Sen. William E. Sharer  
Sen. Mimi Stewart  
Rep. Luis M. Terrazas

**Staff**

Pam Stokes, Staff Attorney, Legislative Council Service (LCS)  
Rebecca Griego, Records Officer, LCS  
Anthony Montoya, Staff Attorney, LCS  
Clinton Turner, Research and Fiscal Policy Analyst, LCS

## **Guests**

The guest list is in the meeting file.

## **Handouts**

Handouts and other written testimony are in the meeting file and posted on the legislature's website.

## **References to Webcast**

The time reference noted next to each agenda item in this document is cross-referenced to the webcast of the committee meeting, which can be found at [www.nmlegis.gov](http://www.nmlegis.gov), under the "Webcast" tab. The presentations made and committee discussions for agenda items can be found on the recorded webcast for this meeting.

## **Wednesday, November 2**

### **Welcome and Introductions (9:06 a.m.)**

Representative Chandler welcomed members, staff, presenters and those watching in person and on the webcast.

### **Climatenomics: The Economic Costs of Climate Change and the Economic Benefits of Climate Action in New Mexico (9:07 a.m.)**

Bob Keefe, executive director, E2, discussed the economic impacts and costs of climate change. Mr. Keefe discussed a recent report produced by E2 that posits that the economic costs of climate change and natural disasters have increased in recent years and those costs are expected to continue increasing; however, federal legislation has been recently passed to attempt to address climate-related damage and invest in alternative energy and climate remediation. Of particular local concern, Mr. Keefe discussed recent increases in wildfires and droughts and the downstream effects of climate-related disasters, such as increases in crop prices, infrastructure and other consumer costs. The presentation can be found here:

<https://www.nmlegis.gov/handouts/RSTP%20110222%20Item%201%20BKeefe%20Presentation.pdf>.

### **Approval of Minutes (10:17 a.m.)**

On a motion made and seconded, and without objection, the minutes of the October 6-7, 2022 meeting were approved.

### **Taxation of Digital Products in the States (10:17 a.m.)**

Helen Hecht, uniformity counsel, Multistate Tax Commission (MTC), presented on the taxation of digital products and expanding the tax base by effectively accounting for digital goods and products sold through electronic means. Ms. Hecht discussed some of the historical state constraints on digital taxation and the administration and collection of taxing digital goods,

including physical presence requirements; similarity requirements for tangible goods sold over the internet and sold through other means; overall policies against taxing inputs and consumption; and sourcing issues. The presentation can be found here:

<https://www.nmlegis.gov/handouts/RSTP%20110222%20Item%202%20HHecht%20Taxation%20of%20Digital%20Products.pdf>.

#### **Status of Taxing Digital Advertising in New Mexico (11:20 a.m.)**

Mark Chaiken, director of tax policy, Taxation and Revenue Department (TRD), presented on the current administrative process to ensure proper application of existing law for digital advertising. Mr. Chaiken explained that the presentation is not about a new tax; rather it is about clarifying existing taxes and how they apply to a new product. Digital advertising is the use of advertising to market products and services through a digital medium. This form of advertising allows very specific targeting, but there is difficulty in determining when and how digital advertising is viewed. Mr. Chaiken explained that the state's gross receipts tax applies to all advertising; however, there are current attempts to create regulations to clarify the administration of taxing digital advertising. The presentation can be found here:

<https://www.nmlegis.gov/handouts/RSTP%20110222%20Item%203%20TRD%20Digital%20Advertising%20and%20GRT.pdf>.

#### **Taxation of Income from Pass-Through Entities (1:17 p.m.)**

Ms. Hecht provided an in-depth discussion of pass-through income taxation, including background on what constitutes a pass-through entity, the reason for taxing pass-through income and a history of this form of taxation federally and in New Mexico. Ms. Hecht provided some examples of pass-through income taxation and issues that commonly arise. The presentation can be found here:

<https://www.nmlegis.gov/handouts/RSTP%20110222%20Item%204%20HHecht%20Taxation%20of%20Pass-through%20Entities.pdf>.

#### **Corporate Income Tax: Apportionment (2:14 p.m.)**

Ms. Hecht began her presentation by discussing policy reasons for taxing businesses and a brief history of corporate income taxes. She then discussed apportionment, how income is computed and apportioned and the effect of that process on tax revenue. Specifically, Ms. Hecht discussed the Uniform Division of Income for Tax Purposes Act, which is in effect in New Mexico, and sourcing issues that arise in administering the corporate income tax. The presentation can be found here:

<https://www.nmlegis.gov/handouts/RSTP%20110222%20Item%205%20HHecht%20CIT%20Apportionment.pdf>.

### **Remote Workers Income Tax Withholding Issues (2:40 p.m.)**

Mr. Chaiken presented on current issues related to the withholding tax and remote workers. It was noted that this issue has gained traction due to the increase in remote work. Mr. Chaiken explained that the definitions related to physical presence and taxpayer domicile, along with who is an employer, raise questions when a taxpayer works in a state other than the state in which the taxpayer resides. Mr. Chaiken then provided numerous specific examples of how these issues arise. The presentation can be found here:

<https://www.nmlegis.gov/handouts/RSTP%20110222%20Item%206%20TRD%20Withholding%20Taxes%20in%20NM.pdf>.

### **Update on the 2022 Income Tax Rebates (3:13 p.m.)**

Stephanie Schardin Clarke, secretary, TRD, provided an update on the income tax rebates that were passed during the 2022 regular legislative session through House Bill 163 and during the 2022 third special session through House Bill 2. Secretary Schardin Clarke explained that a vast majority of rebates have been issued and that the TRD is working to ensure that any outstanding rebates are processed. The presentation can be found here:

<https://www.nmlegis.gov/handouts/RSTP%20110222%20Item%207%20TRD%20Rebate%20Update.pdf>.

### **Adjournment**

There being no further business before the committee, the meeting adjourned at 3:31 p.m.

Revised: December 15, 2022

**TENTATIVE AGENDA  
for the  
SIXTH MEETING  
of the  
REVENUE STABILIZATION AND TAX POLICY COMMITTEE**

**December 19-20, 2022  
State Capitol, Room 322  
Santa Fe**

**Monday, December 19**

- 9:00 a.m. (1) **Revenue Forecast**  
—Stephanie Schardin Clarke, Secretary, Taxation and Revenue Department (TRD)  
—Debbie Romero, Secretary, Department of Finance and Administration  
—Ismael Torres, Chief Economist, Legislative Finance Committee
- 11:00 a.m. (2) **New Mexico's Fiscal Future: Finding a Path Forward and the Need to Act**  
—Ryan McNeely, Director, PFM Group Consulting, LLC (PFM)  
—William Fulton, Senior Advisor, PFM
- 12:00 noon **Lunch**
- 1:00 p.m. (3) **TRD Tax Expenditure Report**  
—Stephanie Schardin Clarke, Secretary, TRD
- 2:00 p.m. (4) **Economic Development Tax Incentives**  
—Jon Clark, Deputy Secretary, Economic Development Department (EDD)  
—Mark Roper, Director, Economic Development Division, EDD  
—Ryan Eustice, Economist, EDD  
—Shane Shariff, Economist, New Mexico Film Division, EDD
- 3:30 p.m. (5) **Annual Report: The Laboratory Partnership with Small Business Tax Credit and the Technology Readiness Gross Receipts Tax Credit**  
—Mariann Johnston, Deputy Program Director, Richard P. Feynman Center for Innovation, Los Alamos National Laboratory  
—David Kistin, Manager, Technology and Economic Development, Sandia National Laboratories
- 4:15 p.m. (6) **TRD Legislative Proposals**  
—Stephanie Schardin Clarke, Secretary, TRD
- 4:45 p.m. **Recess**

**Tuesday, December 20**

- 9:00 a.m. (7) **Destination Sourcing: Impacts to Local Governments**  
—Mark Chaiken, Director, Tax Policy, TRD  
—Lucinda Sydow, Chief Economist, TRD
- 10:00 a.m. (8) **Municipal Legislative Priorities**  
—A.J. Forte, Executive Director, New Mexico Municipal League (NMML)  
—Alison Nichols, Director, Policy, NMML
- 10:30 a.m. (9) **County Legislative Priorities**  
—Joy Esparsen, Executive Director, New Mexico Counties (NMC)  
—Grace Philips, General Counsel, NMC  
—Katherine Crociata, Government Relations/Lobbyist, NMC
- 11:00 a.m. (10) **Legislative Proposals**
- 12:00 noon **Public Comment**
- 12:30 p.m. **Adjourn**

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

**December 19-20, 2022  
State Capitol, Room 322  
Santa Fe**

The sixth meeting of the Revenue Stabilization and Tax Policy Committee (RSTP) for the 2022 interim was called to order by Representative Christine Chandler, chair, on Monday, December 19, 2022, at 9:01 a.m. in Room 322 of the State Capitol in Santa Fe.

**Present**

Rep. Christine Chandler, Chair  
Sen. Benny Shendo, Jr., Vice Chair  
Sen. Craig W. Brandt (12/20)  
Rep. Micaela Lara Cadena  
Sen. Pete Campos  
Sen. Ron Griggs  
Rep. Jason C. Harper  
Rep. Javier Martínez  
Sen. Harold Pope  
Rep. Larry R. Scott  
Sen. Elizabeth "Liz" Stefanics  
Rep. James R.J. Strickler  
Sen. Peter Wirth

**Designees**

Rep. Tara L. Lujan  
Rep. Rod Montoya  
Rep. Kristina Ortez (12/19)  
Sen. Bill Tallman

**Absent**

Sen. William F. Burt  
Rep. Doreen Y. Gallegos  
Rep. Susan K. Herrera  
Sen. George K. Munoz

Rep. Kay Bounkeua  
Rep. Rebecca Dow  
Sen. Katy M. Duhigg  
Rep. Joshua N. Hernandez  
Sen. Gerald Ortiz y Pino  
Sen. Shannon D. Pinto  
Rep. Linda Serrato  
Sen. William E. Sharer  
Sen. Mimi Stewart  
Rep. Luis M. Terrazas

**Special Advisory Members**

Rep. Pamelya Herndon  
Sen. Gay G. Kernan

### **Guest Members**

Sen. Crystal R. Diamond (12/20)

Rep. Marsella P. Duarte (12/19)

Sen. Antonio Maestas (12/19)

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

### **Staff**

Rebecca Griego, Records Officer, Legislative Council Service (LCS)

Clinton Turner, Research and Fiscal Policy Analyst, LCS

Pam Stokes, Staff Attorney, LCS

### **Minutes Approval**

Because the committee will not meet again this year, the minutes for this meeting have not been officially approved by the committee.

### **Guests**

The guest list is in the meeting file.

### **Handouts**

Handouts and other written testimony are in the meeting file and posted on the legislature's website.

### **References to Webcast**

The time reference noted next to each agenda item in this document is cross-referenced to the webcast of the committee meeting, which can be found at [www.nmlegis.gov](http://www.nmlegis.gov), under the "Webcast" tab. The presentations made and committee discussions for agenda items can be found on the recorded webcast for this meeting.

### **Monday, December 19**

#### **Welcome and Introductions (9:01 a.m.)**

Representative Chandler welcomed the members to the sixth interim committee meeting, and members of the committee introduced themselves.

#### **Revenue Forecast (9:07 a.m.)**

Dr. Leonardo Delgado, chief economist, Department of Finance and Administration; Lucinda Sydow, chief economist, Taxation and Revenue Department (TRD); and Ismael Torres, chief economist, Legislative Finance Committee, presented the revenue forecast to the committee. Recurring revenues for fiscal year 2022 are \$9.675 billion, up 19.7% from fiscal year 2021 due to continuing high inflation, strong consumer spending and record revenues from the oil and gas industry. The oil and gas revenues are pushing severance tax and federal royalty collections higher than expected, well above their five-year averages, resulting in larger transfers to the Early Childhood Education and Care Fund, commonly referred to as the "Early Childhood

Trust Fund", so that by fiscal year 2027 the balance of the fund is estimated to reach \$10 billion. However, because revenue growth from those sources increased the five-year average so much, the stabilization mechanisms that send excess oil- and gas-related collections to the Tax Stabilization Reserve and Early Childhood Trust Fund are shrinking and becoming obsolete. While the state is experiencing significant revenue growth, the chiefs cautioned that the forecast faces significant risks for a downturn. As stated by Mr. Torres and reflected in his handout, "The economy currently teeters on a knife's edge, with the likelihood of a recession just below that of a coin flip". The presentation materials can be found here:

<https://www.nmlegis.gov/Committee/Handouts?CommitteeCode=RSTP&Date=12/19/2022&ItemNumber=1>.

#### **New Mexico's Fiscal Future: Finding a Path Forward and the Need to Act (11:12 a.m.)**

Ryan McNeely, director, PFM Group Consulting, LLC (PFM), and William Fulton, senior advisor, PFM, discussed that since PFM's December 2020 report, "State of New Mexico Tax Structure: Key Issues and Alternatives", was presented to the RSTP on December 15, 2020, there have been major shifts in the domestic and global macroeconomic situation, especially in the oil and gas sector, resulting in "windfall" revenues as well as significant changes to the state's tax code. PFM's findings include that the recent windfall is due to a "once-in-a-generation" event; that oil and gas production could peak within the decade; and that if revenue projections are not achieved, significant out-year budget gaps could occur. PFM's recommendations to reduce risk and uncertainty include reforming the income tax structure, eliminating the capital gains deduction, reinstating the estate tax, increasing the motor vehicle excise tax, broadening the gross receipts tax (GRT) base and expanding excise taxes. The presentation can be found here:

<https://www.nmlegis.gov/handouts/RSTP%20121922%20Item%202%20PFM%20Presentation.pdf>.

#### **TRD Tax Expenditure Report (1:06 p.m.)**

Ms. Sydow presented the TRD's annual Tax Expenditure Report. Ms. Sydow included an explanation of what constitutes a tax expenditure, the types of tax expenditures, data reliability, the top 10 expenditures by cost and recommendations for repeal of certain tax credits and deductions. The presentation materials can be found here:

<https://www.nmlegis.gov/Committee/Handouts?CommitteeCode=RSTP&Date=12/19/2022&ItemNumber=3>.

#### **Economic Development Tax Incentives (2:03 p.m.)**

Ryan Eustice, economist, Economic Development Department (EDD), and Shane Shariff, economist, New Mexico Film Division, EDD, described the investment tax credit, Local Economic Development Act GRT share incentive, high-wage jobs tax credit, rural job tax credit, locomotive fuel tax deduction and film tax credit. The presentation can be found here:

<https://www.nmlegis.gov/handouts/RSTP%20121922%20Item%204%20Econ%20Dev%20Tax%20Incentives.pdf>.

### **Approval of Minutes (3:19 p.m.)**

The minutes of the November 2, 2022 meeting were approved without changes.

### **Annual Report: The Laboratory Partnership with Small Business Tax Credit and the Technology Readiness GRT Credit (3:20 p.m.)**

Julia Wise, program lead, Richard P. Feynman Center for Innovation, Los Alamos National Laboratory (LANL), and David Kistin, manager, Technology and Economic Development, Sandia National Laboratories (SNL), presented the annual report for the New Mexico Small Business Assistance Program, which is funded in part by the laboratory partnership with small business tax credit. The presenters said that LANL and SNL invested \$4.63 million and helped 228 businesses in 22 counties in 2021. A progress report on the technology readiness GRT credit, which provides funds "to give New Mexico businesses access to research and technology development services from LANL and SNL to expedite product development", was also presented. The presenters noted that the technology readiness program relatively new, and the full return on investment in the program may not be reflected in economic impact metrics for several years. The presentation materials can be found here:

<https://www.nmlegis.gov/Committee/Handouts?CommitteeCode=RSTP&Date=12/19/2022&ItemNumber=5>.

### **TRD Legislative Proposals (3:52 p.m.)**

Mark Chaiken, director, Tax Policy, TRD, presented two legislative proposals from the department that include various tax administrative changes intended to make it easier for the department to administer the state's taxes and for taxpayers to comply with the state's tax laws. The presentation and proposed legislation can be found here:

<https://www.nmlegis.gov/Committee/Handouts?CommitteeCode=RSTP&Date=12/19/2022&ItemNumber=6>.

## **Tuesday, December 20**

### **Destination Sourcing: Impacts to Local Governments (9:01 a.m.)**

Mr. Chaiken and Ms. Sydow presented information regarding the impacts of destination-based sourcing rules for reporting the GRT and the compensating tax on local governments. The rules were enacted as part of House Bill 6 (2019) but had a delayed effective date of July 1, 2021 to allow time to adjust to the new rules. To help certain industries report correctly, Mr. Chaiken described the TRD's database of location codes that can be connected to tax reporting software, and he emphasized the ability of taxpayers to report reasonable estimates, which can simplify reporting for most taxpayers. Mr. Chaiken explained that destination-based sourcing is the right policy to adapt to current economic realities and to provide an even playing field for New Mexico businesses competing with out-of-state companies. The general impact of destination-based sourcing on state and local government revenues has been positive, with the inclusion of online retail sales and out-of-state businesses now identified in-state. While destination-based sourcing has pulled GRT activity in the oil and gas industry from out-of-state into both counties and municipalities, in the Permian Basin, the rules have caused faster growth of Lea and Eddy counties' tax bases than the cities of Hobbs' and Carlsbad's tax bases. Hobbs'

and Carlsbad's tax bases were already declining in proportion to the counties' tax bases prior to implementation of the rules, but it seems clear that the rules have also had a negative impact on the growth of those cities' revenues. The TRD recommends leaving the tax code generally unchanged with regard to the rules, stating that filers statewide in all industries should not have to face a higher burden to restore diminished revenues to a handful of municipalities and that the TRD's Gentax system is not an efficient vehicle to address these issues. The presentation materials can be found here:

<https://www.nmlegis.gov/Committee/Handouts?CommitteeCode=RSTP&Date=12/19/2022&ItemNumber=7>.

#### **Municipal Legislative Priorities (10:24 a.m.)**

A.J. Forte, executive director, New Mexico Municipal League (NMML), and Alison Nichols, director, Policy, NMML, presented the NMML's 2023 legislative priorities. The NMML supports efforts to modernize and simplify the tax code, but it wants to ensure that the efforts are analyzed for effects on local governments and that those local governments with negative impacts have offsetting mechanisms. Any moratoriums on local option GRT increments could make it difficult for municipalities to plan for the future. The NMML also wants to ensure that tax administration costs are fair and reasonably allocated and noted that the current structure results in fees making up more than 79% of the amount of the TRD's annual budget, but the revenues from the fees go to the General Fund, not to the TRD, which is ultimately more of a tax than a fee. The NMML also would like all of the revenue from the motor vehicle excise tax to fund roads. Currently, almost 60% of the revenue from the motor vehicle excise tax goes to the General Fund. The NMML supports an appropriation to fund airport infrastructure and increased funding for public safety modernization. The presentation materials can be found here:

<https://www.nmlegis.gov/Committee/Handouts?CommitteeCode=RSTP&Date=12/19/2022&ItemNumber=8>.

#### **County Legislative Priorities (11:08 a.m.)**

Joy Esparsen, executive director, New Mexico Counties (NMC); Grace Philips, general counsel, NMC; and Katherine Crociata, government relations/lobbyist, NMC, presented the NMC's legislative priorities. The priorities include increasing funding to the County Detention Facility Reimbursement Fund to reimburse counties for the cost of housing Corrections Department inmates; funding reimbursement to counties that provide transportation for state prisoners; funding assistance to local government emergency medical services (EMS); creating a fire and EMS fund to support the recruitment and retention of volunteer and paid staff; creating a fund for construction and renovation of state district courthouses; and enacting legislation to clearly define how the Inspection of Public Records Act relates to election records and data and to provide clarity on what constitutes a public record while protecting the sanctity of a confidential vote. The presentation can be found here:

<https://www.nmlegis.gov/handouts/RSTP%20121922%20Item%209%20NMC%202023%20Legislative%20Priorities.pdf>.

**Legislative Proposals (11:32 a.m.)**

Six bills were presented to the committee for informational purposes only and not for endorsement. The bills presented are as follows:

- .223149.1 Amend Sourcing Rules for Certain Taxpayers
- .223282.3 Increase the Cigarette Tax and the Tobacco Products Tax
- .223316.1 Increase the Tobacco Products Tax
- .223698.1 Increase Liquor Excise Tax to \$0.25 per Serving
- .222877.1 GRT Deduction for Certain Medical Schools
- .223541.2 Changes to the Tax Administration Act, Corporate Income Tax Filers, GRT and Compensating Tax Rates, Municipal Local Option GRT Rates and Distribution of the Motor Vehicle Excise Tax

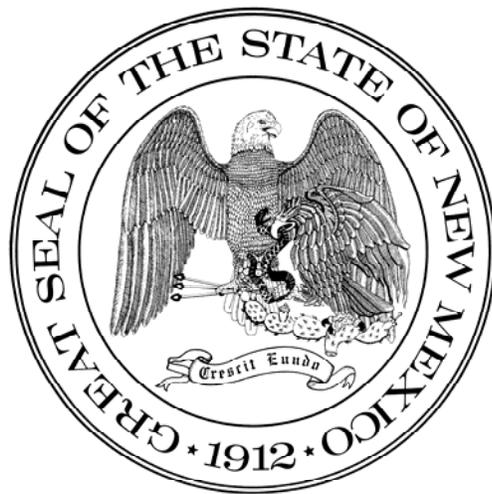
The proposed legislation and supporting materials can be found here:

<https://www.nmlegis.gov/Committee/Handouts?CommitteeCode=RSTP&Date=12/19/2022&ItemNumber=10>.

**Adjournment**

There being no further business before the committee, the meeting adjourned at 12:39 p.m.





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