

**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, 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.