

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

**September 18-19, 2023
Villanueva Victory Club
Stan Fulton Athletics Center
Las Cruces**

The second meeting of the Revenue Stabilization and Tax Policy Committee for the 2023 interim was called to order by Senator Benny Shendo, Jr., chair, on Monday, September 18, 2023, at 10:23 a.m. in the Stan Fulton Athletics Center at New Mexico State University (NMSU) in Las Cruces.

Present

Sen. Benny Shendo, Jr., Chair
Rep. Derrick J. Lente, Vice Chair
Sen. William F. Burt
Rep. Micaela Lara Cadena
Sen. Pete Campos
Rep. Christine Chandler
Rep. Mark Duncan
Rep. Doreen Y. Gallegos (9/18)
Sen. Ron Griggs
Sen. Elizabeth "Liz" Stefanics (9/18)

Absent

Sen. Craig W. Brandt
Rep. Jason C. Harper
Rep. Susan K. Herrera
Sen. George K. Muñoz
Sen. Harold Pope
Rep. Larry R. Scott
Rep. Linda Serrato
Sen. Peter Wirth

Designees

Rep. Ambrose Castellano
Sen. Katy M. Duhigg
Rep. Joanne J. Ferrary
Rep. Yanira Gurrola
Sen. Antonio Maestas
Rep. Alan T. Martinez
Rep. Rod Montoya
Rep. Kristina Ortez
Sen. Gerald Ortiz y Pino
Sen. Shannon D. Pinto
Sen. Antoinette Sedillo Lopez
Sen. William E. Sharer

Special Advisory Member

Sen. Bill Tallman

Guest Legislators

Rep. Raymundo Lara

Rep. Nathan P. Small (9/18)

Sen. Jeff Steinborn (9/19)

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

Staff

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

Ric Gaudet, Researcher, LCS

Rebecca Griego, Records Officer, LCS

Sonya Snyder, Committee Coordinator, 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.

Monday, September 18

Welcome and Introductions (10:25 a.m.)

Senator Shendo welcomed members, staff, presenters and those attending in person and via the webcast. Members of the committee introduced themselves.

Jay Gogue, Ph.D., president, NMSU, welcomed the committee to the NMSU campus. He discussed the increased revenues that NMSU has realized in the past year and also discussed the issue of how to adequately fund female sports after the recent realignment of athletic conferences.

Revenue Forecast (10:47 a.m.)

Stephanie Schardin Clarke, secretary, Taxation and Revenue Department (Tax & Rev); Wayne Propst, secretary, Department of Finance and Administration (DFA); Leo Delgado, chief economist, DFA; and Ismael Torres, chief economist, Legislative Finance Committee, discussed the revenue forecast for the state. Secretary Schardin Clarke began by discussing the economic outlook for the nation and for New Mexico. She discussed the outlook for a national recession, gross domestic product figures, employment figures, inflation, the labor market, oil and gas

production revenues, including severance taxes and royalties paid to state beneficiaries, and personal income tax and gross receipts tax (GRT) revenues.

Secretary Propst discussed the outlook for the General Fund, which is mostly good news for the state. He discussed recent legislative changes that will increase revenues to the Severance Tax Permanent Fund, General Fund reserve projections, expected growth to General Fund revenues and reserves and risks to the forecast.

Mr. Torres discussed details of the revenue outlook, including severance taxes and fees and royalties paid in the state. He also discussed the stress testing that was performed on the revenue estimate and the long-term revenue outlook for the state. The presentation materials can be found here:

<https://www.nmlegis.gov/Committee/Handouts?CommitteeCode=RSTP&Date=9/18/2023&ItemNumber=1>.

Burdens, Presumptions and Evidence in Tax Protest Disputes (1:11 p.m.)

Brian VanDenzen, chief hearing officer, Administrative Hearings Office (AHO), and Jacob Streeter, hearing officer, AHO, discussed the evolution of the standards of burden of proof and presumptions of correctness in tax protest hearings administered by the AHO. After the New Mexico Court of Appeals clarified the presumption of correctness framework in a tax protest proceeding in 2023, the AHO has revised how it handles tax protest cases into a three-stage process. In the first stage, the taxpayer has the burden to produce countervailing evidence that disputes Tax & Rev's claim of tax liability; in the second stage, if the taxpayer has passed the first stage, the burden shifts to the department to provide evidence that its assessment was correct; and in the third stage, the AHO hearing officer decides the matter based on the merits of the opposing parties' evidence and arguments. The presentation can be found here:

<https://www.nmlegis.gov/handouts/RSTP%20091823%20Item%202%20AHO%20Burdens%20Presumptions%20and%20Evidence.pdf>.

New Mexico Certified Tax Policy Professional Classes (1:58 p.m.)

Christy Green, program manager, Education Designed to Generate Excellence in the Public Sector (NM EDGE), Cooperative Extension Service, College of Agricultural, Consumer and Environmental Sciences, NMSU; Tasia Young, instructor, NM EDGE; and Kevin Powers, instructor, NM EDGE, discussed the tax professional education programs provided by NM EDGE. NM EDGE provides professional training to a wide range of public sector employees and has recently begun providing tax professional classes. The presentation can be found here:

<https://www.nmlegis.gov/handouts/RSTP%20091823%20Item%203%20NM%20EDGE%20Presentation.pdf>.

Proposals for GRT Deductions for Child Care Services (2:19 p.m.)

Angela Garcia, president, Full Circle Children, Family and Educator Services (Full Circle), and owner, The Toy Box Early Learning and Childcare Center; Daisy Lira, vice president, Full Circle, and owner, The Hive Education; and Barbara Tedrow, board member and policy chair, New Mexico Child Care and Education Association, owner, A Gold Star Academy and Child Development Center, and owner, Smiling Faces Child Care Center, discussed the need to eliminate the GRT on child care services. They said that there is a disparity in available operating revenues between nonprofit and for-profit child care service providers because the GRT is imposed on for-profit providers. Some for-profit providers may be forced to pass along the GRT to parents of children in their programs, which could be a burden on working families. Many parents of children in child care programs spoke about how difficult it would be to pay the GRT on child care services, sometimes as much as \$250 per month, for families with multiple children in child care. The presentation can be found here:

<https://www.nmlegis.gov/handouts/RSTP%20091823%20Item%204%20NMCCEA%20Presentation.pdf>.

Perspectives on Tax Competitiveness in the Border Region (3:27 p.m.)

Eric Montgomery, regional director, Governmental Affairs, El Paso Electric Company; Jerry Pacheco, president and chief executive officer, Border Industrial Association, executive director, International Business Accelerator, and owner, GPI, Inc.; and James Ortiz, principal, State and Local Tax, REDW LLC, discussed robust economic activities in the Santa Teresa border area. Mr. Pacheco discussed multiple new large construction projects for various companies taking advantage of the multi-modal and international port in Santa Teresa and adjacent San Jeronimo in Mexico. Mr. Ortiz discussed a GRT pyramiding problem for construction services that he says is making some companies develop in neighboring El Paso, Texas, rather than in New Mexico. The presentation can be found here:

<https://www.nmlegis.gov/handouts/RSTP%20091823%20Item%205%20Perspectives%20on%200Competitiveness%20in%20Border%20Region.pdf>.

Recess

The meeting recessed at 4:38 p.m.

Tuesday, September 19

Reconvene

The meeting was reconvened by Senator Shendo at 9:12 a.m.

Overview of New Mexico's Film Incentive and Industry (9:14 a.m.)

Amber Dodson, director, New Mexico Film Division, Economic Development Department, and Shane Shariff, economist, New Mexico Film Division, discussed the film industry in the state and the importance of film incentives to the viability of the industry. Ms. Dodson discussed the various film credits and incentives, as well as recent productions filmed in

New Mexico, and provided details on New Mexico residents employed by the industry. She also discussed recent upgrades to some incentives enacted into law by the legislature during the 2023 legislative session, which were designed to bring even more film production to the state. The presentation can be found here:

<https://www.nmlegis.gov/handouts/RSTP%20091823%20Item%206%20NM%20Film%20Presentation.pdf>.

Creative Campus: A Collaboration Between Dona Ana Community College (DACC), NMSU and the Film Industry (10:43 a.m.)

Monica Torres, chancellor, NMSU System of Community Colleges; Matt Byrnes, department chair, Creative Media Technology Program, DACC; Amy Lanasa, department head, Creative Media Institute, and associate professor and interim department head, Department of Journalism and Media Studies, NMSU; Wayne Savage, executive director, Arrowhead Park, Arrowhead Center, NMSU; and Andrew Jara, associate film liaison, Film Las Cruces, discussed the creative campus for film in the Las Cruces area.

Ms. Torres discussed the origins and idea behind the creation of the Creative Campus, which will bring together multiple organizations in one location to further digital media training, beginning in 2024. Mr. Byrnes discussed the academic programs provided by DACC, including digital film, digital graphics and game development. Ms. Lanasa discussed the Creative Media Institute at NMSU and how it prepares students for careers in journalism, digital filmmaking, animation and creative writing. The institute needs more space as it expands, and the Creative Campus will provide that space, as well as provide collaboration with the other partners in the campus. Mr. Savage discussed the role that the Arrowhead Center will play in the Creative Campus, which will be housed at Arrowhead Park next to the main campus of NMSU. Mr. Jara discussed the role that Film Las Cruces, an independent economic development organization devoted to the film and entertainment arts industries, will play at the campus. The presentation can be found here:

<https://www.nmlegis.gov/handouts/RSTP%20091823%20Item%207%20Creative%20Campus%20Presentation.pdf>.

A Movie Studio's Perspective on Filming in Las Cruces (11:42 a.m.)

Jonathan Sepp, film liaison, 828 Productions, and Robert Dean, vice president, Physical Production, 828 Productions, discussed the history of the company and its relocation to Las Cruces in 2022. 828 Productions is the third New Mexico film partner under the state's film incentives program, which will allow the company to recoup a bigger proportion of production expenditures from the state in exchange for significant film production activity, focusing on the Las Cruces area. The presentation can be found here:

<https://www.nmlegis.gov/handouts/RSTP%20091823%20Item%208%20828%20Productions.pdf>.

Adjournment

There being no further business before the committee, the meeting adjourned at 12:00 noon.