

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, 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.