



MULTISTATE TAX COMMISSION

**Minutes of the Executive Committee Meeting
of the Multistate Tax Commission**

Thursday, May 2, 2024, 9:00 a.m. Central Time
401 Ward Parkway, Kansas City, Missouri

I. Call to Order and Attendance

Vice Chair Brendan Reese (Colorado) called the meeting to order at 9:02 a.m. Central Time. Scott Pattison, Deputy Executive Director of the MTC, announced that a quorum was present. The following people were in attendance (*virtual or telephone):

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| Christina Hall, Derrick Coleman, Vicki Gardino, Timothy Sanders, Matt Tidwell | Alabama | Bridgette Thomas* | Mississippi |
| Michael Bologna | Bloomberg Tax | Sal Tomaselli, Donald Lazo, Lori Miller | Missouri |
| Laurie McElhatton | California | David Merrien | Montana |
| Kathy Mui*, Sarah Roberts*, Brendon Reese | Colorado | William Barber, Holly Coon, Richard Cram, Lila Disque, Bruce Fort, Brian Hamer, Helen Hecht, Scott Pattison, Nancy Prosser, Jennifer Stosberg, Jonathan White | Multistate Tax Commission |
| Will Rice | Fast Enterprises | Dawn Hornung* | New Jersey |
| Brian Oliner | Federation of Tax Administrators | Donnita Wald, Peter Breen*, Sherre Franklin*, Cordelia Friedman*, David Mitle*, Stephanie Schardin Clarke*, Timothy Williams* | New Mexico |
| Katie Frank* | Franchise Tax Board | Matthew Peyerl | North Dakota |
| Elisa Magnuson* | Idaho | Elizabeth Field, Marie Schuble | Oklahoma |

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| Amy Stohlmeyer*, Elsen Hoxhalli, Michelle Morgan, Tiana Slaney, Zach Waldmeier | Iowa | Kathy Smith* | South Dakota |
| Angelique Boyd, Krystal Bolton* | Louisiana | Ray Langenberg | Texas |
| Daniel D'Alessandro* | Maine | John Valentine | Utah |
| Cassandra Diemert*, Kristen Shogren*, Cynthia LaBarge, John Weiser | Minnesota | | |

II. Initial Public Comment Period

There was no public comment.

III. Approval of Minutes of the Executive Committee Meeting Held on November 16, 2023

Phillip Ashley (Texas) moved for approval of the minutes as written. The motion passed by unanimous voice vote.

IV. Report of the Chair

Chair Stephanie Schardin Clarke (New Mexico) appeared remotely to thank those in attendance for their efforts.

A. Resolutions Committee Chair & Nominating Committee Opportunities

Mr. Matson provided a brief explanation of the Resolutions Committee and what the Resolutions Committee chair does, then asked for volunteers from the Executive Committee to be chair this year. Mr. Reese volunteered. He will work with the legal staff to prepare resolutions to be considered by the Commission at its annual meeting this summer.

The chair will work with Mr. Matson to develop a slate of nominees for election at the annual meeting this summer.

B. Proposed Revision of Public Participation Policy

This is a project recommended by the staff and taken up by the Strategic Planning Committee last summer. The committee completed its work earlier this year and a public hearing was held last month. Nancy Prosser, general counsel, served as the hearing officer

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and presented her [report](#), which encompasses updates to the policy and conforming technical corrections to the MTC bylaws. The Policy, as revised, clarifies definitions and groups together related provisions. Ms. Prosser emphasized that the spirit of the original Policy remains, along with the substance of the provisions that ensure the public's right to know about the Commission's work and provide input.

John Valentine (Utah) commented on language saying "what a meeting is not" under 8(a)(ii). He recommended inserting language to clarify that an audit should not be considered a meeting. Mr. Valentine proposed that the group consider it at a future meeting. Mr. Matson stated he believes it's covered because it references Bylaw 6(c), which concerns MTC committees and talks about the establishment of ad hoc groups having a terminable existence. Ms. Prosser agreed that the audit work of the Commission is covered by a different division of the Compact, so any kind of audit activity would not be implicated in the Public Participation Policy. Dee Wald, New Mexico, commented about the need to be careful with any bylaws incorporating confidentiality provisions, which would intersect with the public participation policy. Mr. Matson said the staff will review the language.

Regarding changes to the Bylaws, Ms. Prosser specified 3 recommended changes. The edits included two heading changes and some edits modernizing Section 7 to reflect how hearing notices are currently handled.

Aaron Yost (Idaho) moved for approval of the revised Public Participation Policy and the corresponding bylaw changes as recommended by the hearing officer. The motion passed by unanimous voice vote.

V. Report of the Treasurer

A. Approval of Audited Financial Statements as Reported by the Independent Auditor for Fiscal Year 2023

Philip Ashley (Texas) presented the FY2022 & FY2023 Financial Statements, Supplementary Information, and Independent Auditor's Report, and Mr. Matson discussed his memo clarifying that the "misstatements" in the governance letter are the difference in accounting methods between the MTC's books and the audited financial statements. For further details, he referred those in attendance to the written report. There were no questions. Michael Williams (Alaska) moved for approval of the Report of the Treasurer. The motion passed by unanimous voice vote.

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B. Fiscal Year 2024-2025 Budget

Mr. Ashley then asked Mr. Matson to present Recommended Bylaw Amendments Regarding Sovereignty Membership Assessments. He referred the committee to his memo. Because of the outsized effect of the general membership apportionment formula on California (the world's 5th largest economy) and, concomitantly, the MTC budget, amendments to Bylaws 13(b)(1) and 5(d), (f), (g), and (h) are being proposed. The amendment to 13(b)(1) puts a cap on the amount of fees that would be paid by any one sovereignty member state equal to 15% of the total membership assessment and fees. This would cap the sovereignty member general membership assessment to be more aligned with the largest compact member state (Texas). If implemented, then this amount would not correspond to the size of a state (measured by GDP or population). For that reason, the amendment to 5(d)(3) would change from a population majority requirement for voting with respect to financial matters to one based on the size of a voting state's share of the total membership assessments and fees for compact and sovereignty states.

Mr. Williams moved to approve the proposed bylaw changes. Mr. Ashley offered a further proposed amendment to Bylaw 13(b)(1). He moved that the last sentence in the recommended amendment to Bylaw 13(b)(1) be changed to read—

“Except no sovereignty member will pay more than the largest membership assessment of any compact member or 15 percent of the total of membership assessments and fees for compact and sovereignty members, whichever is greater.”

After discussion ensuring parliamentary procedure was appropriately followed, the motion passed by unanimous voice vote.

C. Action on Proposed Budget for Fiscal Year 2024-2025

Mr. Ashley then presented the proposed budget for FY2025, beginning with having Mr. Matson explain a one-time, substantially reduced, sovereignty membership payment from California given their budget crisis. Mr. Ashley then highlighted items in the budget summary memo, including auditor salary adjustments, but no other cost of living adjustments in this fiscal year. He noted that the MTC will not have to pay rent owing to a just renegotiated lease that lowered the rent and came with a 15-month rent abatement. And he noted with respect to the projected years (shown for informational purposes) that even with the proposed bylaw changes capping California's membership assessment (if approved), the membership fee of each state for FY2026 is less than the membership assessment for each of those states in FY2022 (FY2022 assessments were budgeted and approved prior to California joining the MTC as Sovereignty member effective October 1, 2021).

Angela Matelski (Michigan) moved to approve the proposed budget. The motion passed by unanimous voice vote.

D. Treasurer’s Financial Report for the Period July 1, 2023 – March 31, 2024

Mr. Ashley presented the financial report, noting specific favorable and unfavorable variances. Ms. Schardin Clarke moved to approve the financial report. The motion passed by unanimous voice vote.

E. Recommended Bylaw 8(a) Amendment

Mr. Ashley presented this recommended change to the “second-signature” requirement. In its current form, Bylaw 8(a) requires checks and similar paper instruments used for payments by the Commission that are not related to payroll and are in excess of \$10,000 to be countersigned by the chair or vice chair (the executive director or deputy executive director are primary signatories). Under the amendment, written approval can substitute for a countersignature. This allows for electronic payments and reduces the risk involved with paper checks.

Mr. Yost moved to adopt the recommended 8(a) amendment. The motion passed by unanimous voice vote.

VI. Committee Reports

A. Audit Committee

Mr. Williams presented on behalf of Mr. Hales. The audit committee has met twice during this fiscal year—on July 24, 2023, in Austin, Texas and November 15, 2023, in Montclair, New Jersey. During its summer meeting, the committee voted to add thirteen additional companies to the income tax audit inventory.

B. Litigation Committee

Committee Chair Ray Langenberg (Texas) presented. He noted Brian Hamer has done an excellent job bringing state and local tax professors to speak to the group. They have improved the roundtable and have allowed remote participants to join.

C. Nexus Committee

Bryan Kelly (Washington) discussed recent activities of the Nexus Committee and spoke in particular about the voluntary disclosure program, which has provided significant benefits to participating states.

D. Strategic Planning Committee

John Ficara (New Jersey) noted that his written report is online, which includes the anticipated events of the morning. He emphasized that the group met in November and has had virtual meetings in January and February to hear comments on the revised Public Participation Policy. He also spoke about the MTC adopting a new learning management system, which should provide considerable value to the states.

E. Uniformity Committee Project Reports

Ms. McElhatton said the uniformity committee has been very busy with two long-term projects. Since they're larger scope and long-term projects, the goal is to make sure the states are consistently getting the value they need and are still on board with the direction and process. The individual project chairs then gave a brief update on their activities

1. *State Taxation of Partnerships Project*: Laurie McElhatton (California), chair of the partnership work group, reported that since November, the work group has been focusing on sourcing partnership income more generally, and especially sourcing income earned in complex partnership structures, including multi-tiered structures. Recently the group has also looked at special allocations and the effect these allocations might have on state sourcing of partnership income.
2. *Sales Tax on Digital Products Project*: Tim Jennrich (Washington), chair of the digital products workgroup, emphasized that this has been a mammoth task Tim Jennrich noted that he wanted to review the work that has been done so far and Mia Strong would also be polling the committee members to see if there are other issues or questions they would like to see covered. The work group report started with a Report of the set of principles the work group has discussed in prior meetings. The report also covered changes to the MTC project webpage being used to capture this information.
3. *Model Receipts Sourcing Regulation Review Project*: Chair Katie Frank (California) reported. In recent meetings, the group has focused on special industry rules for transportation, including for trucking and airlines. To get additional information, the work group also formed a smaller, informal study group, including interested members of the public, which held a series of calls. The work group also approved a motion for staff to draft an alternative to the existing milage rule that is used in the MTC special industry rule for transportation companies and staff has been working on that draft which will be reviewed by the work group.

F. Other committee business (if any)

There was no other business.

VII. Report of the Executive Director

Mr. Matson recommended that the states take advantage of these meetings to interact with other practitioners. He then discussed the content of his report, which is posted online, emphasizing the MTC's updated (and secure) technology. He noted that he is active on many conferences' advisory boards and encouraged state folks who were interested in speaking on particular topics to let him know.

VIII. Uniformity

There were no Uniformity projects for action and no other Uniformity matters.

IX. Upcoming Meetings and Events

Mr. Matson stated that the 57th Annual Meeting and Seminar week will take place in Denver, Colorado, from July 29 to August 1, 2024.

IX. Adjournment

Upon motion of Mr. Yost, and with no objections being raised, the Executive Committee adjourned at 10:58 a.m. Central Time.