

**MINUTES OF THE  
UTAH CONSTITUTIONAL REVISION COMMISSION**  
Thursday, August 4, 2005 – 1:00 p.m. – Room W125 House Building

**Members Present:**

Mr. Kevin J. Worthen, Chair  
Judge Jon M. Memmott, Vice Chair  
Rep. Sheryl L. Allen  
Rep. LaVar Christensen  
Mr. Michael E. Christensen  
Mr. Morris D. Linton  
Mr. Michael Petersen

**Members Absent:**

Rep. Ralph Becker  
Sen. Mike Dmitrich  
Chief Justice Christine Durham  
Mr. Byron L. Harward  
Sen. Peter C. Knudson  
Ms. Kristine Strachan  
Mr. Robin Riggs  
President John L. Valentine

**Staff Present:**

Mr. Jerry D. Howe, Policy Analyst  
Ms. Cassandra N. Bauman, Legislative Secretary

**Note:** A list of others present, copy of related materials, and an audio recording of the meeting can be found at [www.le.utah.gov](http://www.le.utah.gov).

**1. Commission Business**

Chair Worthen called the meeting to order at 1:12 p.m. Rep. Becker, Sen. Dmitrich, Chief Justice Durham, and Ms. Strachan were excused from the meeting.

**2. Commission Vacancy**

Judge Memmott indicated that the working group that interviewed candidates for the vacancy recommended Mr. Roger Tew. He indicated that staff contacted members of the Commission to determine their support.

Chair Worthen welcomed Mr. Tew to the Commission.

**3. Earmarking of Income Tax**

Rep. Christensen stated that the Commission should review the history behind the earmarking. He explained that, in 1930, the earmark was created simultaneously with the creation of the income tax and indicated that the reason the constitutional amendment was approved was that the tax revenue from the income tax was dedicated to fund education.

Mr. Petersen declared a conflict of interest, indicating that he is employed by the Utah Education Network which receives revenue from the state.

Mr. Tew commented that the Constitutional Revision Commission had recommended on previous occasions that the constitutional earmarking of income tax be removed. He stated that these recommendations occurred prior to the 1996 amendments which allowed the earmarking to be used in higher education as well as public education.

Judge Memmott stated that the Commission should consider what the impact will be with this legislation by studying case law, bonding, and federal funding. He stated that changing the provision may give the Legislature more flexibility in the budget, but could cause unexpected problems elsewhere.

Mr. Linton questioned the transfer of income tax revenue to the General Fund rather than being used in public or higher education.

Mr. Tim Beagley, Finance Committee Chairman, Utah State Office of Education, and Mr. Patrick Ogden, Associate Superintendent of Finance in Public Education, distributed a letter from Mr. Kim R. Burningham, Board Chairman, Utah State Board of Education. They explained the funding for higher education, prior to the 1996 amendment, came from the General Fund and after the 1996 amendment, the majority of higher education funding is coming from the earmarked income tax revenue, giving the Legislature more flexibility with the General Fund monies. They responded to questions from the Commission.

Rep. Allen indicated that the Commission should consider whether the earmarking is important enough to keep, though the 1996 amendment made it so flexible, or if the flexibility has reduced the original purpose of the earmarking to an extent that it is no longer necessary. Mr. Petersen stated that flexible earmarking is better than no earmarking, indicating that education is better served with flexibility in the revenue than having no certainty of revenue.

Mr. John McCallister, Attorney General's Office, stated that Utah's Enabling Act requires Utah to "create, establish, and maintain a system of public schools" and Utah made a commitment to do that.

Mr. Gary Cameron, Utah School Boards Association and Utah School Superintendents Association, indicated that these organizations are also opposed to eliminating the earmarking of income tax for education.

Mr. Christensen explained that debate behind the 1996 amendment. He explained that the General Fund was being overstretched due to some necessary budgetary spending and that options were limited to increasing sales tax or using income tax, which is a growth tax, to include higher education, which freed up General Fund monies. He indicated that the amendment to provide flexibility allowed the Legislature to maintain the earmarking.

Chair Worthen requested that staff provide the Commission with (1) the history of the provision; (2) the prior Commission recommendations on eliminating the earmarking of income tax; (3) the impact the legislation will have taking into consideration case law, bonding, and federal funding; (4) income tax revenue as a percent of total revenue compared to education expenditures as a percent of total expenditures; (5) the 1996 Voter Information Pamphlet, to review the impartial analysis and intent of the amendment; and (6) a copy of the Enabling Act. He also requested that proponents of the amendment be invited to speak to the Commission at its next meeting.

#### **4. Property Tax on Personal Property**

Chair Worthen introduced the issue.

Mr. Tew explained that the Legislature has the authority to determine taxing rates on property tax, but not exemptions (lines 46-49). He stated that Rep. John Dougall's focus is on personal property and whether it should have more flexibility on how it is taxed. He stated that the state has always treated real property and tangible property the same and that, for this reason, the legislation could cause a potential problem.

Mr. Lee Gardner, Salt Lake County Assessor, indicated that treating real and personal property differently is a concern. He stated that, as personal property is exempt from property tax, revenue must be generated by shifting the tax burden to real property.

Mr. C. Allen Tippetts, Division Director for Personal Property, Salt Lake County, stated that simplification of personal property reporting procedures can be accomplished in the State Tax Commission rules rather than amending the Constitution. He indicated that statewide standardization of forms for filing personal property could assist in resolving issues as well as allowing a taxpayer to file an alternative minimum value declaration and supplying a fixed assets schedule instead of filing a detailed declaration. He responded to questions.

#### **5. Other Items / Adjourn**

Chair Worthen adjourned the meeting at 3:33 p.m.