

**MINUTES OF THE
TAX REFORM TASK FORCE**

Wednesday, October 12, 2005 – 8:00 a.m. – Room W135 House Building

Members Present:

Sen. Curtis S. Bramble, Senate Chair
Rep. Wayne A. Harper, House Chair
Sen. Mike Dmitrich
Sen. Howard A. Stephenson
Pres. John L. Valentine
Rep. Ralph Becker
Rep. John Dougall
Rep. Gregory H. Hughes
Rep. Todd E. Kiser
Rep. Rosalind J. McGee
Rep. Merlynn T. Newbold

Rep. Gordon E. Snow
Rep. Stephen H. Urquhart
Mr. Neil H. Ashdown
Comm. Pam R. Hendrickson

Staff Present:

Mr. Phillip V. Dean, Policy Analyst
Mr. Bryant R. Howe, Assistant Director
Ms. Angela D. Oakes, Associate General Counsel
Ms. Rebecca L. Rockwell, Associate General Counsel
Ms. Phalin L. Flowers, 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.

1. Task Force Business

Chair Harper called the meeting to order at 8:12 a.m.

MOTION: Sen. Dmitrich moved to approve the minutes of the September 7, September 15, and October 5, 2005 meetings. The motion passed unanimously with Pres. Valentine, Rep. Hughes, and Mr. Ashdown absent for the vote.

2. Amendments to the State Individual Income Tax

Rep. Dougall distributed "State of Utah - Income Tax Return." He proposed a flat income tax of four percent with a sales and use tax refund.

Ms. Sarah Wilhelm, Utah Issues, spoke in favor of Sen. Bell's individual income tax proposal. She also spoke in favor of certain aspects of Rep. Dougall's individual income tax proposal and Governor Huntsman's individual income tax proposal.

Sen. Stephenson said that Sen. Bell's individual income tax proposal does not address the economic development disincentives of the current state individual income tax system. He said that the Task Force should be on record supporting low marginal rates.

Sen. Bramble expressed several concerns with Governor Huntsman's flat income tax proposal and proposed a limited mortgage interest credit.

Rep. Urquhart agreed with Sen. Bramble's concerns regarding Governor Huntsman's individual income tax proposal.

MOTION: Sen. Bramble moved to recommend Governor Huntsman's flat individual income tax proposal with two modifications: a) include a limited mortgage interest credit and b) no limit on the number of personal exemptions. This recommendation is submitted to the Revenue and Taxation Interim Committee and to the public hearings.

Rep. Newbold said that she was concerned that there may not be sufficient time for staff to prepare background material for the public hearings.

SUBSTITUTE MOTION: Sen. Stephenson moved to recommend the following individual income tax proposals: a) the original proposal submitted by Governor Huntsman; b) the original proposal submitted by Governor Huntsman, as modified in the motion by Sen. Bramble; c) the proposal submitted by Rep. Dougall; and d) retain the current state individual income tax system but reduce the tax rate for the highest income bracket. These recommendations are submitted to the Revenue and Taxation Interim Committee and to the public hearings.

Sen. Stephenson said that the Task Force should signal its intention to significantly lower the individual income tax rate.

Rep. Becker spoke in favor of the substitute motion. He said that it is difficult to decide among the four proposals without additional information on how each proposal is different from the current individual income tax system.

Mr. Keith Prescott, CPA, explained that adding a mortgage interest deduction shifts the tax burden to lower and middle income citizens. He said that the tax burden shifts in the wrong direction if there is not a cap on the mortgage interest.

Rep. Snow commented that the modified Governor's plan is nearly identical to the current state individual income tax.

The substitute motion passed unanimously with Pres. Valentine and Rep. Hughes absent for the vote.

Mr. Dean distributed and discussed "Estimates for Tax Year 2007," "Individual Income Tax Documents," and "Governor Huntsman's Income Tax Proposal."

3. Property Tax Issues

Ms. Oakes distributed and discussed 2006 General Session draft legislation "Voted Leeway Amendments."

Sen. Stephenson asked staff to draft legislation providing that a voted leeway be resubmitted to the voters for continued approval at regular intervals.

Mr. Larry Newton, State Office of Education, proposed resubmitting a voted leeway property tax levy for voter approval every 12 years. He said that this is typically the amount of time that a parent has an interest in a school district. He also discussed the effect of state aid on the voted leeway property tax levy.

Mr. Vik Arnold, Director of Political Action and Government Relations, and Ms. Susan Kuziak, Executive Director, Utah Education Association, spoke in favor of the original proposal regarding the voted leeway amendments.

MOTION: Sen. Stephenson moved to: a) recommend 2006 General Session draft legislation "Voted Leeway Amendments" and b) to draft legislation providing that a voted leeway's property tax levy must have a sunset date for that levy to be exempt from the newspaper advertisement requirements of truth in taxation. This recommendation is submitted to the Revenue and Taxation Interim Committee and to the public hearings. The motion passed unanimously with Pres. Valentine, Rep. Hughes, and Mr. Ashdown absent for the vote.

Rep. Becker distributed and discussed "Current and Proposed Income Guidelines and Credit Amounts - Utah Circuit Breaker Program."

Ms. Carmen Sanone, Salt Lake County Aging Services, spoke in support of Rep. Becker's proposal. She explained that as citizens age they rely on a fixed income and that targeted tax relief helps them remain in their own home. She said that efforts should be made to maintain the elderly in their own homes and neighborhoods so that they can continue to receive home, neighbor, and community support.

Ms. Sarah Wilhelm, Utah Issues, spoke in support of Rep. Becker's proposal.

MOTION: Rep. Dougall moved to recommend page #1 of "Current and Proposed Income Guidelines and Credit Amounts - Utah Circuit Breaker Program" with retro credits and to link eligibility for the Circuit Breaker program to the same age as eligibility for full Social Security benefits. This recommendation is submitted to the Revenue and Taxation Interim Committee and to the public hearings.

SUBSTITUTE MOTION: Rep. Newbold moved to recommend page #2 of "Current and Proposed Income Guidelines and Credit Amounts - Utah Circuit Breaker Program" with Rep. Dougall's proposed modifications. This recommendation is submitted to the Revenue and Taxation Interim Committee and to the public hearings.

Rep. McGee and Rep. Becker spoke in favor of the substitute motion.

The substitute motion passed unanimously with Sen. Bramble, Pres. Valentine, Rep. Urquhart, and Mr. Ashdown absent for the vote.

Ms. Oakes distributed and discussed enrolled 1997 General Session H.B. 129 "Centrally Assessed Taxpayers Amendments."

Ms. Rockwell explained that this bill was repealed in a special session of the Legislature a few months after it was enacted. She explained that one reason that H.B. 129 was repealed was that the Legislature was concerned about the potential for taxing entities to impose property tax increases as a result of the escrowing requirements. Another reason was that the bill exempted certain property tax levies from the requirements of truth in taxation. Finally, according to the legislative floor debates, concern was expressed that while taxing entities are required to escrow the full amount of property taxes in dispute, subject to certain limitations, the actual percentage of appeals awarded was unclear.

Mr. Lee Gardner, Utah Association of Counties, explained that county governments depend heavily on the property tax as a source of revenue. He said that school districts and cities may rely on other sources of revenue. He said that the property tax appeals process often requires many years to resolve disputes. He said that it is difficult for taxing entities to raise the funds required by property tax refunds, especially when these refunds are quite large. Mr. Gardner spoke in favor of reinstating H.B. 129 and explained that to the best of his knowledge there is no opposition to the proposal.

Sen. Bramble said that he has conferred with several centrally assessed taxpayers and that these taxpayers support this proposal.

Sen. Stephenson said that if the Task Force considers recommending reinstating this legislation that serious consideration of the reasons the legislation was repealed need to be studied.

MOTION: Comm. Hendrickson moved to recommend this proposal to the public hearings for public comment.

SUBSTITUTE MOTION: Rep. Dougall moved to proceed to the next item on the agenda. The motion passed with Rep. McGee and Comm. Hendrickson voting in opposition and Sen. Dmitrich, Pres. Valentine, Rep. Urquhart, and Mr. Ashdown absent for the vote.

4. Sales and Use Tax Issues

Ms. Rockwell distributed and discussed 2006 General Session draft legislation "Sales and Use Tax Exemption - Telecommunications."

Mr. Jerry Fenn, President, Qwest, introduced Mr. Doug Hearst, Qwest.

Mr. Hearst spoke in favor of the draft legislation. He distributed and discussed "Qwest Testimony - Tax Reform Task Force - October 12, 2005." He recommended enacting a sales and use tax exemption for the purchase or lease of telecommunications equipment that is directly used in the provision of telecommunications services. He explained that this proposal creates sound tax policy and benefits the citizens of Utah by creating more jobs and a better infrastructure that attracts more businesses to the state.

Mr. John Cmelak, Director, Tax Policy, Verizon Wireless, spoke in favor of the draft legislation.

Mr. Mike Jerman, Utah Taxpayers Association, spoke in favor of the draft legislation.

Mr. Steve Mecham, Utah Rural Telecom Association, spoke in favor of the draft legislation.

Mr. Don Perkins, small business owner, spoke to the Task Force.

Mr. John McNamera, Regional Director for External Tax Policy, AT&T, spoke in favor of the draft legislation.

MOTION: Rep. Dougall moved to recommend 2006 General Session draft legislation "Sales and Use Tax Exemption - Telecommunication." This recommendation is submitted to the Revenue and Taxation Interim Committee and to the public hearings.

Rep. Kiser expressed concern that the draft legislation only includes selected purchases by the telecommunications industry. He said that the Sales and Use Tax Working Group reviewed exempting from the sales and use tax the purchases of a broad range of industries.

Rep. Dougall withdrew the motion.

Sen. Stephenson distributed and discussed "Sales and Use Tax - Exempting Business Inputs in Various Sectors."

Mr. Dean distributed and discussed "Sales Tax Exemption Amounts" and "Exemptions to the Sales and Use Tax: Summary of Reviews Conducted by the TRC from 1993 through 2004, Legislative Action, and Revenue Effects."

Mr. Don Perkins, small business owner, distributed and discussed "Questions, questions... about our Tax Structure and the current Thrusts and Parries" and "Tax Base Considerations in Utah." He spoke in favor of eliminating the sales and use tax on food purchases. He said that he did not agree with the flat tax proposals being considered by the Task Force.

Ms. Sarah Wilhelm, Utah Issues, spoke in opposition of exempting business inputs from the sales and use tax. She said Utah businesses now enjoy a low tax burden and that this proposal by itself will not promote investment and spending decisions by businesses.

Mr. Mike Jerman, Utah Taxpayers Association, said that Utah's tax burden on businesses is about average when compared to other western states. He argued that lower taxes on businesses promote economic growth.

MOTION: Rep. Rep. Dougall moved to: a) recommend 2006 General Session draft legislation "Sales and Use Tax Exemption - Telecommunication," and b) consider exempting from the sales and use tax purchases made by firms described in the document distributed by Sen. Stephenson. This recommendation is submitted to the Revenue and Taxation Interim Committee and to the public hearings.

Rep. McGee spoke in opposition to the motion. She said that nearly all of the recommendations from the Task Force result in a reduction to state tax revenue. She said that the Task Force is submitting to the public an unbalanced set of recommendations.

The amended motion passed with Rep. Becker and Rep. McGee voting in opposition and Mr. Ashdown absent for the vote.

MOTION: Comm. Hendrickson moved that the Task Force support the recommendation of Sen. Bell with regards to gradually eliminating the “hold harmless” provision in the current formula used to distribute the one percent local option sales and use tax. This recommendation is submitted to the Revenue and Taxation Interim Committee and to the public hearings.

Sen. Greg Bell spoke to the Task Force. He said the Utah League of Cities and Towns supports phasing out the hold harmless provision only if it is coupled with an amendment to truth in taxation laws to allow taxing entities to realize inflationary growth in property tax revenue.

The motion passed unanimously with Sen. Bramble, Sen. Dmitrich, Pres. Valentine, and Mr. Ashdown absent for the vote.

Rep. Harper distributed and discussed "Sales and Use Tax - Confusing and Inconsistent Issues."

Ms. Lynn Solarczyk, Utah State Tax Commission, clarified what constitutes a “coin-operated” car wash.

Mr. Jim Olsen, Utah Food Industry Association and Utah Retail Merchants Association, said that the members of his organization would like a clear definition to determine when they should and should not collect the sales and use tax on coin-operated car washes, laundry facilities, and amusement devices.

Mr. Morris Jackson, small business owner, explained that it is difficult for him to know when to collect sales tax on car washes offered from his business.

MOTION: Sen. Stephenson moved to draft legislation to implement the recommendation found in paragraph (8)(b) of the document titled “Sales and Use Tax - Confusing and Inconsistent Issues.” This recommendation is submitted to the Revenue and Taxation Interim Committee and to the public hearings.

Rep. Newbold spoke against imposing the sales and use tax based on the type of payment. She said that similar transactions should be treated equally.

Rep. Becker spoke in opposition to the motion.

The motion passed with Rep. Becker, Rep. Dougall, and Rep. Newbold voting in opposition and Sen. Bramble, Sen. Dmitrich, Pres. Valentine, Rep. Urquhart, and Mr. Ashdown absent for the vote.

Rep. Snow spoke in favor of retaining the sales and use tax exemption for sales of newspapers.

MOTION: Rep. Snow moved to proceed to the next agenda item.

SUBSTITUTE MOTION: Sen. Stephenson moved to submit to public hearing the issue of whether or not sales of newspapers should be subject to the sales and use tax. The motion passed with Rep. Snow voting in opposition and Sen. Bramble, Sen. Dmitrich, Pres. Valentine, Rep. Urquhart, and Mr. Ashdown absent for the vote.

Mr. Doug Hurst, Qwest, spoke to the Task Force concerning which taxes and fees are imposed on telecommunications providers and which taxes or fees are imposed on the consumer.

MOTION: Comm. Hendrickson moved that the issue of taxation of telecommunications be addressed through rule-making by the Utah State Tax Commission. The motion passed unanimously with Sen. Bramble, Sen. Dmitrich, Pres. Valentine, Rep. Urquhart, and Mr. Ashdown absent for the vote.

Mr. Gary Thorup distributed and discussed a letter from the Utah State Bar to the chairs of the Sales and Use Tax Working Group.

MOTION: Rep. Newbold moved to direct staff and the Utah State Tax Commission to review the recommendations contained in the letter from the Utah State Bar. The motion passed unanimously with Sen. Bramble, Sen. Dmitrich, Pres. Valentine, Rep. Urquhart, and Mr. Ashdown absent for the vote.

Mr. Jerry Oldroyd, Ballard Spahr Andrews & Ingersoll, representing Comcast Cable, said that the state imposes an excise tax of 6.25% on amounts paid or charged for multi-channel video or audio service provided by a multi-channel video or audio service provider. These providers include cable operators and direct broadcast service (satellite) operators.

Mr. Oldroyd said that owners and operators of cable television systems face an inequity in Utah's state and local tax system. In addition to the 6.25% excise tax mentioned above, cable operators also pay a franchise fee to municipal governments for the privilege of using municipal rights of way. He explained that this additional local fee gives satellite operators an unfair price advantage.

MOTION: Rep. Hughes moved to allow a multi-channel video or audio service provider to claim amounts paid to a municipality for franchise fees as a credit against the state excise tax on multi-channel video or audio service provider charges.

Rep. Hughes said that this will equalize the tax treatment for all cable operators and direct broadcast service (satellite) operators.

Mr. Steve Propert, Comcast and Utah Cable Television Association, spoke in favor of a credit for cable television.

The motion passed unanimously with Sen. Bramble, Sen. Dmitrich, Pres. Valentine, Rep. Becker, Rep. Urquhart, and Mr. Ashdown absent for the vote.

Mr. Dean distributed and discussed "Sales Tax on Food," "Grocery Tax Credit," and "Grocery Tax Credit - Utah Issues."

Sen. Stephenson spoke in favor of a credit on the purchase of food.

Ms. Sarah Wilhelm, Utah Issues, explained that Utah Issues developed this proposal as a compromise. She said that Utah Issues supports the complete removal of the sales and use tax on all food purchases. She said that for this proposal to be effective, it must be available to all poor and near-poor individuals and families, be large enough to offset the sales tax on a family's grocery purchases, and include funding to provide outreach.

Mr. Jim Olsen, Utah Food Industry Association, spoke in favor of Utah Issues' grocery tax credit proposal.

Ms. Carmen Sanone, Salt Lake County Aging Services, spoke in favor of the grocery tax credit proposal.

MOTION: Pres. Valentine moved to direct staff to draft legislation to create a grocery tax credit and to submit this proposal to the public hearings. The motion passed unanimously with Sen. Dmitrich, Rep. Becker, Rep. Urquhart, and Mr. Ashdown absent for the vote.

Rep. Harper distributed and discussed "Improving Utah's State and Local Tax System: Aligning Revenue Sources With Services" and "Aligning Revenue Sources with Services." His proposal establishes the property tax as a primary source of revenue for municipalities, allocates some sales and use tax revenue to the Uniform School Fund, recognizes the unique role of counties in providing important public services that are usually over a wide geographical area, and recognizes the tax contribution of motor vehicles to the state sales tax and allocates a portion of state sales taxes to fund transit and transportation. His proposal would adopt a uniform statewide sales and use tax of 6.35 percent.

Mr. Lincoln Shurtz, Utah League of Cities and Towns, said that his organization has serious reservations about this proposal.

Mr. Jim Olsen, Utah Food Industry Association and Utah Retail Merchants Association, spoke in favor of the proposal.

Mr. Courtney White, Utah Education Association, spoke in opposition to the proposal. He explained the proposal would take the current tax system from a stable system to a more volatile system.

Mr. David Gessel, Utah Hospitals and Health Systems Association, said that rural hospitals should be able to obtain funding from the sales and use tax.

Mr. Mike Jerman, Utah Taxpayers Association, spoke to the Task Force.

Mr. Shurtz explained that the one percent local option sales and use tax is a statewide rate.

MOTION: Sen. Stephenson moved to submit this proposal to the Revenue and Taxation Interim Committee and to the public hearings. The motion passed with Rep. Kiser and Rep. Snow voting in opposition and Pres. Valentine, Rep. Becker, Rep. Urquhart, and Mr. Ashdown absent for the vote.

Mr. Dean distributed and discussed "Broaden the Sales and Use Tax Base" and "Sales Tax Proposals - Pam Hendrickson Motion #1."

Rep. McGee distributed and discussed "Broaden and Sales and Use Tax Base."

MOTION: Sen. Bramble moved to table discussion of including certain services in the sales and use tax base. The motion passed with Rep. McGee, Rep. Newbold, and Comm. Hendrickson voting in opposition and Pres. Valentine, Rep. Becker, Rep. Dougall, Rep. Urquhart, and Mr. Ashdown absent for the vote.

5. Redevelopment Agencies Issues

This agenda item was not discussed.

6. Other Tax Issues

This item was not discussed.

7. Other Items / Adjourn

MOTION: Rep. McGee moved to adjourn the meeting. The motion passed unanimously with Pres. Valentine, Rep. Becker, Rep. Dougall, Rep. Urquhart, and Mr. Ashdown absent for the vote.

Chair Harper adjourned the meeting at 2:40 p.m.