

**MINUTES OF THE  
REVENUE AND TAXATION INTERIM COMMITTEE**  
Wednesday, May 17, 2006 – 9:00 a.m. – Room W135 House Building

**Members Present:**

Sen. Curtis S. Bramble, Senate Chair  
Rep. Wayne A. Harper, House Chair  
Sen. Mike Dmitrich  
Sen. Brent H. Goodfellow  
Sen. Lyle W. Hillyard  
Sen. Howard A. Stephenson  
Pres. John L. Valentine  
Rep. Sheryl L. Allen  
Rep. Tim M. Cosgrove  
Rep. Glenn A. Donnelson  
Rep. Craig A. Frank  
Rep. Gregory H. Hughes  
Rep. Fred R. Hunsaker  
Rep. Bradley G. Last  
Rep. Rebecca Lockhart

Rep. Rosalind J. McGee  
Rep. Carol Spackman Moss  
Rep. Merlynn T. Newbold  
Rep. Patrick L. Painter  
Rep. Gordon E. Snow

**Members Absent:**

Rep. Ralph Becker

**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, a 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. Committee Business**

Chair Bramble called the meeting to order at 9:11 a.m.

**MOTION:** Rep. Snow moved to approve the minutes of the April 19, 2006 meeting. The motion passed unanimously with Sen. Dmitrich, Sen. Goodfellow, Sen. Stephenson, Pres. Valentine, Rep. Allen, Rep. Frank, Rep. Hughes, Rep. Moss, Rep. Newbold, and Rep. Painter absent for the vote.

**2. Uniform Fees on Property Required to be Registered with the State**

Ms. Oakes distributed and discussed a chart on boat classification. She also distributed and discussed 2006 Third Special Session draft legislation "Uniform Fees on Property Amendments." Ms. Oakes responded to questions relating to the bill.

Commissioner Pam Hendrickson, Chair, Tax Commission (Utah State Tax Commission), explained that the Tax Commission has met with county officials regarding the new classifications and uniform fees for certain classes of boats and vessels. She explained that a county could abate a portion of the fee if the county legislative body finds that the best human interests and the interests of the state and the county are served. She explained that the power to make such an abatement is vested in the county legislative body, so the Tax Commission cannot order a county to make the abatement.

Sen. Stephenson asked if there would be a lack of uniformity between counties in issuing abatements. Comm. Hendrickson replied that some counties may make abatements more readily than others and that it is at the discretion of the county legislative body.

Mr. Lee Gardner, Salt Lake County Assessor, spoke in favor of creating the new classes of boats and vessels with accompanying uniform fee structures and to making these changes retrospective to January 1, 2006.

Ms. Kathleen Howell, Cache County Assessor, agreed with Mr. Gardner's comments. She said that taxpayers in her county do not need to appear before a county legislative body to obtain an abatement and that she can issue an abatement from her office. Ms. Howell said that she has received few complaints and to date issued only one abatement.

Rep. Snow asked if sailboats and inflatable boats have a similar value given that they are in the same fee category. Mr. Gardner explained that sailboats and inflatable boats are substantially similar in value and should be included in the same category.

Mr. Dave Shearer, sailboat dealer and owner, explained that on average uniform fees on his sailboats increased by 107 percent over last year. He said that the sailing market is just recovering from bad economic conditions and drought and that higher uniform fees discourage taxpayers from registering their boats.

Rep. Snow asked about the difference in value between sailboats and inflatable boats. Mr. Shearer replied that in general most sailboats in Utah are worth an average of \$7,000 and inflatable boats are worth an average of \$1,000.

Mr. Wayne Jones, Executive Director, Utah Marine Association, said that combining sailboats and inflatable boats in the same category is consistent with combining tent trailers and truck campers in the RV categories. He said that they are valued similarly and this makes administration easier. He spoke in favor of proposal A listed on the handout.

Mr. Lawrence Kelley, sailboat owner, distributed and discussed "Sailboat - County Assessed Tax/Fee Comparison." He spoke in favor of lowering uniform fees for sailboats.

Ms. Melissa Merseth, boat owner, spoke in favor of lowering uniform fees on boats. She voiced concern that it is the taxpayer's responsibility to apply for an abatement.

**MOTION:** Sen. Stephenson moved that the Committee request that the Tax Commission send a letter to each county legislative body reminding them of their statutory authority under Utah Code Ann. § 59-2-1347 to make abatements and that the letter reference the Revenue and Taxation Interim Committee's request and concurrence regarding this issue. The motion passed unanimously with Sen. Goodfellow, Sen. Hillyard, Pres. Valentine, Rep. Allen, Rep. Lockhart, and Rep. McGee absent for the vote.

### **3. Implementation of 2006 General Session Legislation H.B. 109 Sales and Use Tax - Food and Food Ingredients**

Rep. Ben Ferry distributed and discussed 2006 Third Special Session draft legislation "Sales and Use Tax Relating to Food" and "This document provides excerpts from draft legislation 2006S3-0003, 'Sales and Use Tax Relating to Food,' highlighting amendments made by the draft legislation."

Ms. Rockwell distributed and discussed "Definition of 'Bundled Transaction' Under State Law and the Streamlined Sales and Use Tax Agreement," "Selected Examples of States' Taxation of 'Food' and 'Prepared Food,'" "2006S3-0003, 'Sales and Use Tax Relating to Food' Taxation of 'Food' and 'Prepared Food,'" and "Bundled Transactions -- Summary of SST (Streamlined Sales and Use Tax) Agreement Requirements."

Rep. Ferry distributed and discussed amendments to 2006 Third Special Session draft legislation "Sales and Use Tax Relating to Food."

**MOTION:** Rep. Donnelson moved the following amendment:

1. Page 1, Line 13: After Line 13 insert:
  - "► addresses the state sales and use tax rate applicable to amounts paid or charged for food and food ingredients if a seller that does not have sufficient contacts with the state to be required to collect and remit sales and use taxes voluntarily collects and remits sales and use taxes on amounts paid or charged for food and food ingredients;"
2. Page 38, Line 1172: After "(ii)" insert "(A)"
3. Page 38, Line 1175: Bracket "(A)" and insert "(I)"
4. Page 38, Line 1176: Bracket "(I)" and insert "(Aa)" and bracket "or"
5. Page 38, Line 1177: Bracket "(II)" and insert "(Bb)" and bracket "and" and insert "or" and after Line 1177 insert:

"(Cc) except as provided in Subsection (2)(b)(ii)(B), beginning on January 1, 2007, 2.75% on the amounts paid or charged for food and food ingredients; and"
6. Page 38, Line 1178: Bracket "(B)" and insert "(II)"
7. Page 39, Line 1183: Bracket the period and insert "; and" and after Line 1183 insert:

"(B) notwithstanding Subsection (2)(b)(ii)(A)(I)(Cc), for a seller that collects a tax in accordance with Subsection 59-12-107(1)(b) on a bundled transaction, if the price of the bundled transaction is attributable to food and food ingredients and tangible personal property other than food and food ingredients, a state tax and a local tax is imposed on the bundled transaction equal to the sum of:

  - (I) a state tax imposed on the bundled transaction at the tax rate described in Subsection (2)(b)(ii)(A)(I)(Aa); and
  - (II) a local tax imposed on the bundled transaction as provided in Subsection (2)(b)(ii)(A)(II)."

The motion passed unanimously with Sen. Dmitrich, Pres. Valentine, Rep. Allen, and Rep. McGee absent for the vote.

Mr. Jim Olsen, President, Utah Food Industry Association, spoke in favor of the draft legislation as amended. He explained that the draft legislation is sound policy even though some provisions will increase the compliance burden for some members of his organization.

**MOTION:** Rep Newbold moved to adopt 2006 Third Special Session draft legislation "Sales and Use Tax Relating to Food," as amended, as a committee bill and that the bill be considered at the next Special Session of the Legislature. The motion passed unanimously with Sen. Dmitrich, Sen. Hillyard, Pres. Valentine, and Rep. Hughes absent for the vote.

#### **4. Streamlined Sales and Use Tax Agreement - Possible Congressional Mandate**

Chair Bramble turned the chair to Rep. Harper.

Sen. Bramble introduced this agenda item. He explained that some aspects of the SST (Streamlined Sales and Use Tax Agreement) infringe on state sovereignty to conduct tax policy and that many legislators do not clearly understand this. He said that it is important that the Committee discuss and better understand this important issue. He said that the American Legislative Exchange Council supports a voluntary system for states and businesses but that the National Conference of State Legislatures supports a system that would require all businesses, regardless of location, to collect the sales and use tax on remote sales within a state that is a member of the SST agreement.

Mr. Scott Peterson, Executive Director, Streamlined Sales and Use Tax Governing Board, explained that the Governing Board has never taken a position on federal legislation that promotes the Streamlined Sales and Use Tax Agreement. His organization works to harmonize and simplify the administration of the sales and use tax within its member states.

Mr. Steve Kranz, Council on State Taxation, explained 109th Congress 1st Session S.2152 "To promote simplification and fairness in the administration and collection of sales and use taxes," sponsored by Sen. Michael Enzi, and 109th Congress 1st Session S.2153 "To promote simplification and fairness in the administration and collection of sales and use taxes," sponsored by Sen. Byron Dorgan. He said that the SST seeks to reduce the compliance burden on businesses that collect sales and use taxes. He said that the federal legislation is not a mandate on the states.

Sen. Bramble commented that while the federal legislation is not a mandate on the states, it is a mandate on businesses and citizens.

Sen. Stephenson said that federal legislation is needed to address the *Quill* decision that prevents a state from requiring businesses to collect sales and use taxes on all sales within its borders. Sen. Hillyard said that he is involved with this issue to protect local businesses.

Mr. Steve DelBianco, Executive Director, NetChoice, spoke in support of tax simplification but said that Congress should not pass a federal mandate unless compliance is simplified, retailers are fairly compensated for the cost of collection, and very small sellers are protected. He said that states and businesses should not be required to be parties to the SST.

Sen. Bramble said that he opposes mandates on businesses that operate in other states and supports voluntary participation. He said that more action would be taken on this issue at a future Committee meeting.

**5. Access to Utah State Tax Commission Information by the Office of the Legislative Fiscal Analyst, the Office of Legislative Research and General Counsel, and the Governor's Office of Planning and Budget**

Chair Harper turned the chair to Sen. Bramble.

Chair Bramble introduced the discussion of draft legislation concerning access to information gained by the Utah State Tax Commission.

Ms. Rockwell distributed and discussed 2006 Third Special Session draft legislation "Access to Information Gained by the State Tax Commission from a Return."

Comm. Hendrickson, Chair, Tax Commission, spoke in favor of the draft legislation.

**MOTION:** Rep. McGee moved to recommend 2006 Third Special Session draft legislation "Access to Information Gained by the State Tax Commission From a Return" as a committee bill and recommend that the bill be considered at the next Special Session of the Legislature. The motion passed unanimously with Sen. Dmitrich, Sen. Hillyard, Pres. Valentine, and Rep. Allen absent for the vote.

**6. Dual Individual Income Tax System**

This item was not discussed.

**7. Other Items / Adjourn**

Comm. Hendrickson, Chair, Tax Commission, distributed a memo concerning an error made by the Tax Commission when calculating the revenue effects of 2006 General Session S.B. 242, "Tax Revisions."

**MOTION:** Rep. Cosgrove moved to adjourn the meeting. The motion passed unanimously with Sen. Dmitrich, Sen. Hillyard, Pres. Valentine, and Rep. Allen absent for the vote.

Chair Bramble adjourned the meeting at 11:59 a.m.