

**MINUTES OF THE
UTAH TAX REVIEW COMMISSION**

Friday, October 20, 2006 – 1:00 p.m. – Room 125 House Building

Members Present:

Mr. David Crapo, Vice Chair
Sen. Brent Goodfellow
Sen. Lyle W. Hillyard
Rep. Wayne Harper
Rep. Rosalind J. McGee
Mr. Larry Barusch
Mr. Mark K. Buchi
Dr. Gary Cornia
Ms. Janis A. Dubno
Ms. Kathleen Howell
Mr. Dixie Leavitt

Members Absent:

Mr. M. Keith Prescott, Chair
Comm. Bruce Johnson
Mr. Bruce Jones

Staff Present:

Mr. Phillip V. Dean, Policy Analyst
Mr. Leif G. Elder, Research Analyst
Mr. Bryant R. Howe, Assistant Director
Ms. Angela D. Oakes, Associate General Counsel
Ms. Rebecca L. Rockwell, Associate General Counsel
Mr. Mitch Park, Law Clerk
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.

1. TRC Business

Vice Chair Crapo called the meeting to order at 1:03 p.m. He excused Chair Keith Prescott and Mr. Bruce Jones and welcomed Comm. D'Arcy Dixon Pignanelli, who was attending for Comm. Bruce Johnson

MOTION: Rep. McGee moved to approve the minutes of the September 22, 2006 meeting. The motion passed unanimously with Rep. Harper and Dr. Cornia absent for the vote.

The TRC recognized Dr. Cornia for receiving the Steven D. Gold award from the National Tax Association which will be presented later this year.

Mr. Howe distributed and discussed a letter from the TRC to Sen. Stephenson containing the TRC's report regarding the feasibility and desirability of imposing a land value tax to pay for improvements to highways and roads. He said that two sentences had been added to the letter previously mailed to the TRC to clarify that the TRC does not endorse the imposition of a land value tax. This clarification was added at the request of Mr. Leavitt. Given no objection, Vice Chair Crapo said that the letter would be signed by the chairs, conveyed to Sen. Stephenson, and that a summary of the TRC findings will be presented to the Revenue and Taxation Interim Committee.

2. Sales and Use Tax Exemptions

Ms. Rockwell distributed and discussed "Summary of Sales and Use Tax Exemptions Reviewed in 2006 Interim" and "Treatment of Sales To or Sales By a Utah Independent Entity." She explained that there is considerable uncertainty in the tax treatment of independent state agencies.

Mr. Craig Lacey, Executive Director, Heber Valley Railroad Authority, explained that his organization must charge the maximum amount for tickets that the market can bear in order to generate sufficient revenue. He said a requirement to collect a sales and use tax on admissions would reduce the number of ticket sales. He also said that the locomotives and rolling stock owned by the authority are old and require extensive maintenance and repair.

MOTION: Rep. McGee moved to retain the current exemption for the Heber Valley Railroad Authority and to postpone any other action regarding the sales and use tax treatment of quasi-governmental entities and independent state agencies until the next calendar year. The motion passed unanimously.

Ms. Rockwell distributed and discussed "Utah Sales and Use Tax Exemptions Relating to Interstate Commerce." She also discussed 2007 General Session draft legislation, "Sales and Use Tax Exemptions for Vehicles, Boats, Boat Trailers, or Outboard Motors Not Registered in the State," which was distributed prior to the meeting.

Ms. Lynn Solarczyk, Tax Commission (Utah State Tax Commission), explained the current 14 day exemption for tangible personal property that is brought into the state for use. She said the language in the draft bill codifies current Tax Commission practice.

MOTION: Sen. Hillyard moved to favorably recommend 2007 General Session draft legislation, "Sales and Use Tax Exemptions for Vehicles, Boats, Boat Trailers, or Outboard Motors Not Registered in the State." The motion passed unanimously.

Ms. Rockwell discussed 2007 General Session draft legislation, "Sales and Use Tax Exemptions for Certain Property Brought into the State," which was distributed prior to the meeting.

MOTION: Dr. Cornia moved to favorably recommend 2007 General Session draft legislation, "Sales and Use Tax Exemptions for Certain Property Brought into the State." The motion passed with Vice Chair Crapo, Mr. Barusch, and Sen. Hillyard voting in opposition.

MOTION: Ms. Howell moved to retain the exemption for boats not registered or used in Utah, § 59-12-104(30). The motion passed unanimously with Rep. Harper and Rep. McGee absent for the vote.

MOTION: Mr. Buchi moved to retain the exemption for sales or leases of vehicles to or use of vehicles by an authorized carrier, §59-12-104(33). The motion passed unanimously with Rep. Harper and Rep. McGee absent for the vote.

Mr. Howe discussed an email from Tom Hudachko, Utah Sports Commission, expressing support for retaining the sales and use tax exemption for the lease or use of a vehicle issued a temporary sports event registration certificate. He said that the Utah Automobile Dealers Association had been contacted regarding this exemption and has not provided a response. He said that the Tax Commission has issued 34 temporary sports event registration certificates in the last 12 months. These certificates were all issued to one automobile dealer in connection with one sports event.

MOTION: Sen. Hillyard moved to repeal the exemption for the lease or use of a vehicle issued a temporary sports event registration certificate, §59-12-104(48). The motion passed unanimously with Rep. Harper and Rep. McGee absent for the vote.

3. Oil and Gas Severance Tax Trust Fund

Sen. Hillyard introduced this issue. He discussed 2007 General Session draft legislation, "Resolution Regarding Permanent State Trust Fund" and 2007 General Session draft legislation, "Use of Oil and Gas Revenues," which were distributed prior to the meeting.

MOTION: Mr. Buchi moved to: (a) recommend 2007 General Session draft legislation, "Resolution Regarding Permanent State Trust Fund"; (b) recommend 2007 General Session draft legislation, "Use of Oil and Gas Revenues," with the understanding that the TRC chairs have discretion to adjust the amount of revenue to be deposited into the trust fund; and (c) that all TRC members should endeavor to ensure passage of this legislation during the next General Session. The motion passed unanimously with Rep. Harper and Dr. Cornia absent for the vote.

Mr. Howe distributed and discussed "Severance Tax Revenues 1995 - 2006."

Mr. Buchi distributed and discussed a letter to Governor Huntsman commenting on the final report of the Natural Resources Extraction Impact Working Group. The letter also expressed support for the establishment of an oil and gas severance tax trust fund, as provided in 2006 General Session S.J.R. 2, "Resolution Enlarging Revenues and Assets in State Trust Fund." He explained that members of the TRC are invited to attend a meeting with the governor on October 25, 2006 to present this letter.

Mr. Morris Jackson, Questar Corporation, distributed and discussed "Impact on State of Utah Revenues Base on Commodity Price Change of \$1." He spoke in support of the trust fund. He said that natural gas prices have declined dramatically from record highs earlier this year. He also said that new terminals on the west coast will allow the importation of liquified natural gas and that natural gas extracted in rocky mountain states will now compete in a world natural gas market, potentially reducing natural gas prices. He also said that new pipeline capacity to eastern markets will also affect prices.

Mr. Barusch distributed and discussed "Light Crude Oil (CL, NYMEX)." He said that there is a difference between a contract price for a commodity and a spot price for a commodity. He said that futures contracts can be bought out before the commodity delivery date. Given the difference between spot and contract prices, he questioned the extent to which producers have been paying severance taxes on the full value of the commodity. He said that the ability of the taxpayer to pay the tax is understated in the information presented by Mr. Jackson.

Rep. McGee asked Mr. Jackson if his comments and observations are the position of his employer, Questar Corporation. Mr. Jackson replied that he was speaking for himself but that it is important that state tax policy not place Utah oil and gas producers at a competitive disadvantage.

4. Reporting of Real Property Sales Prices

Ms. Oakes distributed and discussed "Real Estate Transfer Taxes," "States With Mandatory Sales Price Disclosure Laws," and "States With Sales Price Disclosure Laws and Real Estate Transfer Taxes." She said that 35 states require some type of disclosure of the sales price of real property. She also reviewed information on real estate transaction taxes in other states and Internal Revenue Code requirements on reporting of capital gains associated with the sale of real estate.

Mr. Roger Tew, Utah League of Cities and Towns, said that whether Utah should adopt a real estate sales price disclosure law has been debated by the Legislature for many years. He said that while county assessors are generally able to accurately determine the fair market value of most types of property, some improvements are needed. He said that in the past there was some political reluctance to accurately appraise all property but that reluctance is now gone. The major remaining constraint for county assessors is the lack of complete and accurate sales price information. He said that it is self-evident that an appraisal system with more information will result in more accurate appraisals.

Mr. Mac Brubaker, Utah Association of Realtors, said that his organization opposes the mandatory disclosure of real estate sales prices. He said that such laws cause a decline in the availability of affordable housing when they are accompanied by real estate transfer taxes. He said that disclosure requirements also place an undue reporting and financial burden on the private sector for which there is no compensation.

Mr. Brubaker said that all citizens are concerned about the disclosure of personal information. He said that it makes little sense to require that even more private information be disclosed. He said that a reporting requirement would impair the velocity and transparency of the current well-functioning real estate market. He also said that county assessors can access the sales price information reported on the multiple listing service and therefore no additional laws are necessary. He said that his industry is very confident in the ability of county assessors to accurately appraise all types and values of property.

Ms. Howell said that having access to sales price information contained in the multiple listing service improves the accuracy of appraisals by county assessors. She said that some sales are not recorded in this service and that sales price information is needed to ensure the accurate appraisal of vacant land and commercial property.

Mr. Rick Lifferth, Vice President, Utah Appraiser's Association said that public real estate records in Utah are accurate and easily accessible. From this public information, a person may obtain the name of the buyer, the name of the seller, the date of the transaction, and a legal description of the property. However, sales price is not disclosed. He said that accurate appraisal is a function of data and information. If sufficient information is not available it is very difficult to accurately and fairly appraise the fair market value of real property. He said that information regarding the terms of the sale is also important.

Sen. Hillyard said that there is no support in the Legislature for a real estate transfer tax. He said that the integrity of the minimum school program and the state-wide minimum basic property tax rate depend on timely and accurate property appraisals between school districts.

MOTION: Ms. Howell moved to continue the study of real estate disclosure laws and whether to improve the privacy of public real estate records in the next calendar year. She said that the purpose of the study is to not recommend the imposition of a real estate transfer tax. The motion passed unanimously with Rep. Harper, Dr. Cornia, and Mr. Leavitt absent for the vote.

5. Other Business / Adjourn

Vice Chair Crapo announced that the previously scheduled meeting of November 8, 2006 will not be held.

MOTION: Sen. Goodfellow moved to adjourn the meeting. The motion passed unanimously with Rep. Harper and Dr. Cornia absent for the vote.

Vice Chair Crapo adjourned the meeting at 4:30 p.m.