

**MINUTES OF THE
UTAH TAX REVIEW COMMISSION**

Friday, April 27, 2007 – 1:00 p.m. – Room 125 House Building

Members Present:

Mr. M. Keith Prescott, Chair
Mr. David Crapo, Vice Chair
Mr. Larry Barusch
Mr. Mark K. Buchi
Dr. Gary Cornia
Rep. Wayne Harper
Sen. Lyle W. Hillyard
Ms. Kathleen Howell
Comm. Bruce Johnson
Mr. Bruce Jones
Mr. Dixie Leavitt

Members Absent:

Ms. Janis A. Dubno
Sen. Brent Goodfellow
Rep. Rosalind J. McGee

Staff Present:

Mr. Phillip V. Dean, Policy Analyst
Mr. Leif G. Elder, Research Analyst
Mr. Bryant R. Howe, Assistant Director
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.

1. TRC Business

Chair Prescott called the meeting to order at 1:05 p.m. He thanked TRC members for their willingness to meet during the 2007 General Session. He suggested providing information to the Legislature on what constitutes good tax policy principles for reference when discussing tax legislation. He also suggested holding a seminar on what constitutes good tax policy for members of the Legislature.

Mr. Crapo and Sen. Wayne Niederhauser spoke in support of a seminar. Comm. Johnson also supported the idea and suggested that principles of good tax policy be discussed in the abstract and not linked to a particular policy proposal. He said that it is important that the TRC not be viewed as opposing a specific bill. The TRC agreed to sponsor a short briefing on principles of good tax policy for members of the Legislature later this year.

Mr. Howe distributed and discussed 2007 General Session S.J.R. 2 "Resolution Regarding Permanent State Trust Fund" and 2007 General Session S.B. 18. "Creation of Severance Tax and Infrastructure and Economic Diversification Accounts." He explained that both bills were favorably recommended by the TRC and that both passed during the 2007 General Session. Mr. Howe also distributed a document listing TRC membership terms and the year each term expires. He noted that 2007 General Session S.B. 223 "Tax Amendments," which was mailed prior to the meeting, adds the House and Senate chairs of the Revenue and Taxation Interim Committee as ex-officio members of the TRC.

MOTION: Mr. Crapo moved to approve the minutes of the October 20, 2006, January 24, 2007, February 9, 2007, and February 23, 2007 meetings. The motion passed unanimously with Mr. Buchi, Sen. Hillyard, and Mr. Jones absent for the vote.

2. State Individual Income Tax Revenue Volatility and State Rainy Day Funds

Mr. Dean distributed and discussed "Rainy Day Funds" and discussed the trends of Utah's two budget reserve accounts: the General Fund Budget Reserve Account and the Education Budget Reserve Account. He said that these two accounts are sometimes referred to as "rainy day funds." He reviewed the state law

governing how money is deposited into and taken out of each account and showed national comparisons of other states' rainy day funds. He also spoke about previous, current, and future balances of the funds.

Chair Prescott suggested that the study of Utah's rainy day funds be added to the TRC's agenda for the 2007 interim.

Mr. Dean said Utah's rainy day funds are important fiscal management tools and suggested that a member of the Office of the Legislative Fiscal Analyst give a presentation to the TRC concerning the importance of these reserve accounts.

Dr. Cornia asked if Mr. Howe would speak to the TRC again about S.J.R. 2 and S.B. 18, for members of the TRC that came to the meeting late.

Mr. Howe reviewed S.J.R. 2 and S.B. 18, which address a trust fund for oil and gas severance tax revenues.

Sen. Hillyard said he will likely draft the "pro" argument in the Voter Information Pamphlet to encourage voters to adopt S.J.R. 2 authorizing the Legislature to create an oil and gas severance tax trust fund. He invited members of the TRC to assist him in this effort.

Mr. Buchi said he is concerned about the constitutional amendment for an oil and gas severance tax trust fund passing because there are no natural constituents to lobby in favor. He wondered if a campaign to help it pass would be necessary. He hoped a mechanism would be put in place so that the TRC wouldn't have to lobby each year to have money put into the trust fund.

Mr. Dean distributed and discussed "Revenue Volatility." He explained the volatility of the major revenue sources in Utah including the severance tax, corporate franchise and income taxes and gross receipts taxes, fuel taxes, property taxes, individual income tax, and sales and use tax. He also discussed several charts that show the changes in the tax base over the past few years. He said that volatility may be influenced by changes in underlying economic activity and changes to tax rates and tax bases.

Sen. Hillyard asked if there is information on the impact of removing the sales and use tax on food for the first quarter of 2007. Mr. Dean replied that that information is not yet available.

Mr. Barusch said it is important to remember that the objectives of the oil and gas severance tax trust fund are to preserve capital and to lower the volatility of the severance tax. He suggested having a formula that would dampen the volatility once the trust fund has been in place for a few years, instead of having a set amount to go into the fund every year.

Dr. Cornia, Sen. Hillyard, and Rep. Harper spoke on the revenue forecasting process, noting that the TRC should learn more about this process.

Dr. Cornia suggested that the TRC consider the appropriate size of the two state budget reserve accounts. The size of these accounts should be measured in relation to the state's General Fund and Education Fund. He said it would be an important contribution to the state if the TRC could address this issue.

Mr. Buchi suggested studying ways to lower the volatility of some taxes, starting with the income tax and the sales and use tax. He suggested some volatility cannot be changed and that budget stabilization mechanisms are important.

Sen. Niederhauser said a single individual income tax rate appears to decrease the volatility of the individual income tax. He said the effects of changes in capital gains income and their relation to individual income tax volatility could be studied in more depth.

Dr. Cornia said the TRC should also review the mechanism by which the Legislature can appropriate funds from the two state budget reserve accounts.

Mr. Leavitt noted that because the severance tax is a volatile source of revenue it should not be relied on to fund ongoing programs.

Chair Prescott said all of the suggestions could be added to the study of the state's budget reserve accounts.

3. Sales and Use Tax Exemptions to Review in 2007

Ms. Rockwell distributed and discussed "Proposed Sales and Use Tax Exemptions for Review -- 2007 Interim" and "Summary of Sales and Use Tax Exemptions Reviewed in 2006 Interim."

MOTION: Mr. Leavitt moved that the TRC take no further action regarding the sales and use tax exemption for the Heber Valley Historic Railroad Authority and the sales and use tax exemption for sales or leases of a motor vehicle issued a temporary sports event registration certificate. The motion passed unanimously with Mr. Crapo absent for the vote.

Ms. Rockwell distributed and discussed "Treatment of Sales To or Sales By a Utah Independent Entity," "Exemption for Sales of Aircraft Manufactured in Utah if Sold for Use Outside Utah Where a Sales Tax Is Not Imposed," and "New Sales and Use Tax Exemptions Enacted During the 2007 General Session."

Mr. Barusch suggested grouping all similar sales and use tax exemptions and voting on the policy of those exemptions, rather than each individual sales and use tax exemption.

MOTION: Mr. Barusch moved to group all similar sales and use tax exemptions and vote on the policy of those exemptions, rather than each individual sales and use tax exemption. The motion passed unanimously with Mr. Crapo and Rep. Harper absent for the vote.

4. Other Possible Study Topics

Ms. Rockwell distributed and discussed "Implementation of S.B. 223, 'Tax Amendments' Draft Schedule for 2007 Interim Study," "Selected Highlights of 2007 General Session S.B. 223, 'Tax Amendments,'" and "Trust and Estate Working Group 2005 Membership." She explained that the Revenue and Taxation Interim Committee is charged with studying the implementation of S.B. 223 with the help of the TRC and that it may be necessary to reconvene the Trust and Estate Working Group to assist with drafting the implementation legislation.

The TRC decided to ask the Trust and Estate Working Group to reconvene.

Comm. Johnson suggested including limited liability companies in the study of implementing S.B. 223. It was also suggested to ask the Utah Association of Certified Public Accountants, the Tax Section of the Utah State Bar, and various colleges and professors to study S.B. 223 to find other areas of the tax code that should be addressed in the implementation of the legislation.

Sen. Stephenson discussed 2007 General Session S.B. 74 "Penalties Related to Taxes, Fees, or Charges," which was mailed to TRC members prior to the meeting. He said certain state penalty provisions will be imposed on a tiered basis in a manner similar to certain penalty provisions imposed by the Internal Revenue Service. He asked that the TRC review penalty provisions administered by the Tax Commission (Utah State Tax Commission) and decide whether those provisions should be modified.

Mr. Buchi said tax penalties usually increase for a reason. However, he noted that it is good policy to allow a grace period for the filing of sales and use tax returns and payments because no one is harmed. He said it costs money and time to hold a waiver hearing for a three day late penalty.

Sen. Stephenson asked if the grace period should be extended beyond five days or allow for early payment incentives, or whether it should remain similar to federal penalties.

Mr. Buchi said the state should be more lenient than the federal government.

Comm. Johnson said the Tax Commission doesn't want to penalize unnecessarily and doesn't view penalties as a revenue source, but the Tax Commission does want to reward taxpayers who file returns and remit payments on time.

Mr. Barusch said that basing a penalty on the cost of collection will cause many small businesses to incur large penalties.

MOTION: Mr. Leavitt moved to hold TRC meetings on the second Friday of each month, except for June, which will be held on the third Friday. The motion passed unanimously with Mr. Crapo and Rep. Harper absent for the vote.

Mr. Howe asked the TRC whether it would be useful for staff to undertake a study on state and local tax burden.

Mr. Dean said that because of new access to tax information, it may be helpful to do an updated study on tax burden.

5. Other Items / Adjourn

MOTION: Mr. Leavitt moved to adjourn the meeting. The motion passed unanimously with Mr. Crapo and Rep. Harper absent for the vote.

Chair Prescott adjourned the meeting at 3:56 p.m.