

**MINUTES OF THE
UTAH TAX REVIEW COMMISSION**

Friday, September 28, 2007 – 1:00 p.m. – Room 125 House Building

Members Present:

Mr. M. Keith Prescott, Chair
Mr. David Crapo, Vice Chair
Mr. Mark K. Buchi
Dr. Gary Cornia
Rep. John Dougall
Sen. Brent Goodfellow
Rep. Wayne Harper
Sen. Lyle W. Hillyard
Ms. Kathleen Howell
Mr. Dixie Leavitt
Rep. Rosalind J. McGee
Sen. Wayne L. Niederhauser

Members Absent:

Mr. Larry Barusch
Ms. Janis A. Dubno
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. Levi Pace, Research Assistant
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 1:01 p.m.

MOTION: Sen. Hillyard moved to approve the minutes of the July 13, 2007 meeting. The motion passed unanimously with Rep. Harper, Rep. McGee, and Mr. Leavitt absent for the vote.

2. Report of the Trust and Estates Working Group

Mr. Crapo introduced this item and reviewed the membership of the Trust and Estates Working Group.

Ms. Rebecca Rockwell distributed and discussed "Trust and Estate Working Group 2007 Membership," "Individual Income Taxes and Income Tax on Estates/Trusts Comparison," "U.S. Income Tax Return for Estates and Trusts," working draft "Tax Amendments," and 2008 General Session draft legislation, "Income Tax Amendments." She explained that the working draft "Tax Amendments" reflects the work of the Trust and Estate Working Group, and that this working draft, which addresses the income taxation of trusts and estates, has been incorporated into the 2008 General Session draft legislation, "Income Tax Amendments." Ms. Rockwell noted that "Income Tax Amendments" repeals the individual income tax imposed on the bases of multiple rates and brackets and replaces that income tax with a single rate individual income tax. In addition, she commented that the language prepared by the Trusts and Estates Working Group addressing the income taxation of trusts and estates harmonizes with the single rate individual income tax.

Mr. Crapo emphasized that the draft legislation regarding trusts and estates is conceptually sound and consistent with the single rate individual income tax system.

Dr. Boyd Randall, Ernst & Young Professor of Accounting, Brigham Young University, said that although the Trusts and Estates Working Group did not consider the revenue impact of the draft legislation, he believes it is nearly revenue neutral. He explained that the Trusts and Estates Working

Group tried to keep the trusts and estates language as parallel as possible to the single rate individual income tax.

MOTION: Sen. Hillyard moved that the TRC thank the Trusts and Estates Working Group for their work on this issue, ask staff to finalize draft legislation as soon as possible, and to mail copies of the draft legislation to TRC members prior to the next meeting. The motion passed unanimously.

3. Report of the State Tax Revenue Volatility and State Rainy Day Funds Working Group

Rep. Harper introduced this issue. He explained that the Working Group (State Tax Revenue Volatility and State Rainy Day Funds Working Group) met several times to review both the technical issues associated with the current statute and several broader policy questions such as the appropriate size of the state's budget reserve accounts.

Mr. Dean distributed and discussed "Rainy Day Fund Proposal." He discussed issues that the Working Group found with Utah's current budget reserve accounts and explained the recommendations from the Working Group for each of those issues. He also distributed and discussed 2008 General Session draft legislation, "Budget Reserve Account and Disaster Recovery Account Amendments."

Mr. Dean distributed and discussed "Financial Highlights" and reviewed the current balances of the General Fund Budget Reserve Account, the Education Budget Reserve Account, and the Disaster Recovery Restricted Account.

Mr. Jonathan Ball, Legislative Fiscal Analyst, Office of the Legislative Fiscal Analyst, explained that if the General Fund Budget Reserve Account and Education Budget Reserve Account are at their statutory maximum levels, no automatic end-of-fiscal-year transfers may occur. However, this does not preclude the Legislature from making an appropriation to either or both accounts.

Mr. Prescott asked whether the maximum balances in the two budget reserve accounts should be higher. Rep. Harper said that the Working Group considered a range of options but believes that the current limit of six percent of the General Fund and Education Fund is appropriate.

MOTION: Dr. Cornia moved to adopt 2008 General Session draft legislation, "Budget Reserve Account and Disaster Recovery Account Amendments" as a TRC bill. The motion passed with Rep. Dougall voting in opposition and Sen. Niederhauser absent for the vote.

4. Report of the Sales and Use Tax Working Group

Dr. Ray Nelson, Brigham Young University, distributed and discussed "The Sales Tax Base." He explained that the sales tax rate and base can affect the growth and volatility of sales tax revenue. He also explained why household consumption expenditures may fade over time, including addressing declining real estate prices, increased savings, and increasing interest rates.

Sen. Hillyard noted that some households with adjustable rate mortgages are finding it difficult to meet all of their financial obligations and that many households also carry excessive revolving debt.

Mr. Prescott said that growth in sales and use tax revenues may decline if household consumption weakens. He said that it is important to ensure that the state has an adequate and stable sales and use tax base.

Mr. Buchi distributed and discussed "Preliminary Report of the Sales and Use Tax Working Group." He explained several of the Sales and Use Tax Working Group's goals including: (1) modernizing the sales and use tax code; (2) making the sales and use tax more transparent; (3) applying core principles to the sales and use tax; (4) examining ways to lower volatility; (5) creating a tax policy-oriented sales and use tax base; (6) exempting all business inputs; and (7) recommending the full taxation of all final consumption.

Mr. Prescott thanked the Sales and Use Tax Working Group for its findings and recommendations to help resolve this difficult problem.

Sen. Hillyard commented that when he recently visited Scotland he paid a value added tax on some purchases. He said that this tax ensures transparency. He also said that a producer could reduce the price of its products if no sales tax were imposed on its purchases. Sen. Hillyard noted that one concern with Governor Walker's proposal to exempt the purchase of business inputs and to broaden the base to include more services was that the sales and use tax base would be reduced but no alternative revenue source would be found.

Dr. Cornia said that sales and use taxes paid by producers are added to the cost of the products they sell. A sales and use tax is then imposed on the final sale of that product and this leads to tax pyramiding. The tax that is being paid should be transparent to the final consumer.

Mr. Leavitt said that many aspects of this proposal will be the subject of extensive debates.

Mr. Prescott said that regardless of the final recommendation of the TRC, he is sure that it will be intellectually honest and will constitute sound tax policy.

Rep. McGee said that it is important that the TRC make an extensive outreach effort to obtain adequate public comment on this proposal.

5. Implementation of 2007 General Session S.J.R. 2 "Resolution Regarding Permanent State Trust Fund"

Sen. Hillyard distributed and discussed "Utah Historical Oil and Gas Severance Tax Revenues (1964-2007)," 2007 General Session S.J.R. 2, "Resolution Regarding Permanent State Trust Fund," 2007 General Session S.B. 18, "Use of Oil and Gas Revenues" (introduced version), and 2008 General Session S.B. 18, "Creation of Severance Tax and Infrastructure and Economic Diversification Accounts" (enrolled version). He recommended that the TRC continue to remind the Legislature of the importance of creating trust funds for the benefit of future generations.

Mr. Leavitt said that it is important to recognize that local governments must often pay for the added costs of public services associated with natural resource production. Local governments need an adequate and reliable source of revenue to fund these services.

MOTION: Sen. Hillyard moved to place this item on the next TRC agenda and to invite the oil, gas, and mineral industry to comment on draft legislation. The motion passed unanimously with Mr. Crapo, Dr. Cornia, and Sen. Niederhauser absent for the vote.

6. Other Items / Adjourn

MOTION: Sen. Hillyard moved to adjourn the meeting. The motion passed unanimously with Mr. Crapo, Dr. Cornia, and Sen. Niederhauser absent for the vote.

Chair Prescott adjourned the meeting at 3:28 p.m.