

**MINUTES OF THE
UTAH TAX REVIEW COMMISSION**

Friday, May 9, 2008 – 1:00 p.m. – Room C445 State Capitol

Members Present:

Mr. M. Keith Prescott, Chair
Mr. Larry Barusch
Mr. Mark K. Buchi
Rep. John Dougall
Ms. Janis A. Dubno
Sen. Brent Goodfellow
Rep. Wayne Harper
Sen. Lyle W. Hillyard
Ms. Kathleen Howell
Mr. Bruce Jones
Mr. Dixie Leavitt
Rep. Rosalind J. McGee
Sen. Wayne L. Niederhauser

Members Absent:

Mr. David Crapo, Vice Chair
Dr. Gary Cornia
Comm. Bruce Johnson

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 1:04 p.m.

MOTION: Sen. Hillyard moved to approve the minutes of the February 1, 2008 meeting. The motion passed unanimously with Mr. Buchi, Rep. Dougall, Ms. Dubno, Mr. Jones, and Mr. Leavitt absent for the vote.

MOTION: Sen. Niederhauser moved to hold TRC meetings on the second Thursday of each month. The motion passed with Rep. Harper, Mr. Jones, and Rep. McGee voting in opposition and Rep. Dougall, Ms. Dubno, and Mr. Leavitt absent for the vote.

Mr. Howe discussed Constitutional Amendment B: Resolution Amending Permanent State Trust Fund. He explained that this constitutional amendment was approved by the TRC in 2006 and adopted by the Legislature during its 2007 General Session. The amendment will be on the ballot for the November 4, 2008 General Election for consideration by the electorate. Sen. Hillyard said that the Voter Information Pamphlet will have an impartial analysis of the constitutional amendment as well as arguments in favor of and opposed to each constitutional amendment on the ballot.

Chair Prescott, Sen. Hillyard, Sen. Niederhauser, Mr. Buchi and Ms. Dubno said that they would be willing to speak to various civic and other organizations as part of a public education effort to secure the approval of Constitutional Amendment B.

2. Review of Tax Related Legislation Enacted During the 2008 General Session

Mr. Howe distributed and discussed "Tax Bills Passed During the 2008 General Session." He highlighted several bills, including legislation supported by the TRC. He also noted that the Revenue and Taxation Interim Committee was approved by the Legislative Management Committee to meet five additional times during the 2008 interim to study Utah's property tax system.

Rep. McGee asked if county assessors have found any unexpected consequences in the implementation of 2008 General Session H.B. 54, "Property tax Assessment Revisions." Rep. Harper stated that the Utah Association of Counties is confident that county assessors can comply with the various requirements in H.B. 54.

Sen. Hillyard asked that the document "Tax Bills Passed During the 2008 General Session" be modified to state where access to the full legislation can be found on the legislative website.

3. TRC Studies for 2008

Chair Prescott introduced this item and said that several working groups would be formed to study key TRC studies.

Mr. Howe said Sen. Niederhauser requested through the Master Study Resolution that the TRC study Tax Commission (Utah State Tax Commission) collection practices and penalties and interest on taxes, fees, or charges administered by the Tax Commission.

Ms. Rockwell suggested that in forming working groups the TRC study the taxation of pass-through entities first, because that issue may take some time to address.

Mr. Buchi suggested asking Mr. Max Miller or Mr. Gray Thorup to give input on the issue of collection practices.

Rep. McGee asked for background on why the TRC plans to study these topics.

Sen. Niederhauser explained that the Tax Commission found inconsistencies with the way penalties and fees were being implemented. He said that some penalties imposed by the Tax Commission may be higher than those imposed by the IRS and that he believes Utah's penalties should not exceed that threshold.

Mr. Leavitt asked for clarification on what constitutes a pass-through entity. Chair Prescott explained that pass-through entities include limited liability corporations, partnerships, and "S" corporations.

Mr. Howe discussed other issues that the TRC could study during the 2008 interim. He distributed and discussed "59-12-104.5 (Effective 01/01/09). Utah Tax Review Commission review of sales and use tax system." He explained that in the past the TRC has spent considerable time studying sales and use tax exemptions, and that the TRC wanted to conduct a more comprehensive review of Utah's sales and use tax system. Mr. Howe explained that this new code section allows the TRC to study the overall sales and use tax system beginning in the 2009 interim, and that the TRC is no longer required to individually review each sales and use tax exemption.

Ms. Rockwell distributed and discussed sections of 2008 General Session H.B. 359, "Tax Changes," and 2008 General Session S.B. 185, "Economic Incentive Revisions," which outline studies required by the TRC in 2012 and 2013.

Sen. Hillyard asked whether the TRC will study the implementation of the single rate individual income tax. He said there has been a lot of misinformation and that many taxpayers believed that the single rate individual income tax was mandatory during the 2007 filing season. He stated that he is interested in seeing the effects of full implementation of the single rate individual income tax.

Mr. Buchi spoke in support of the Revenue and Taxation Interim Committee's study of Utah's property tax system and stated that the TRC should stay informed on the study's progress.

Mr. Jones said the study of transportation taxes may be of interest to the TRC.

Mr. Buchi stated that the Sales and Use Tax Working Group made a lot of progress last year and plans to continue their discussion with approval from the TRC.

Chair Prescott said that the TRC chairs would organize the working groups during the next few weeks.

Mr. Barusch suggested that the tax treatment of nonresidents should be consistent between various types of business entities.

4. Oil and Gas Severance Taxes

Mr. Howe distributed and discussed "59-5-102," which is the section of the Utah Code that outlines the TRC's study requirements. He also distributed and discussed "Summary of Review of Oil and Gas Severance Tax."

Mr. Buchi suggested receiving testimony from the oil and natural gas industry on recent changes in the industry.

Mr. Lee Peacock, Utah Petroleum Association, explained that the current high price of crude oil and natural gas is driving significant new exploration and production in Utah and in other western states. He stated that the industry is trying to produce as much oil and gas as possible in many areas of the state.

Ms. Dubno asked what impact the price of oil and the increase of production is having on depletion rates. Mr. Peacock explained that current prices allow the industry to drill in places that have been abandoned in the past for being too expensive. He also said that Utah is in the process of transitioning from an oil state to a natural gas state. He stated that Utah is long past the days of its peak production of crude oil and that 90 to 95 percent of new wells drilled today are searching for natural gas.

Mr. Buchi said that the TRC should receive testimony from the Utah Geological Survey and the Division of Oil, Gas, and Mining on the current state of the industry, known reserves, and depletion rates. Rep. Dougall said that he would like to know more about the tax base in oil and gas producing counties.

Chair Prescott said the TRC would continue to address this issue at its June meeting.

5. Other Items / Adjourn

Chair Prescott adjourned the meeting at 2:26 p.m.