

**MINUTES OF THE
REVENUE AND TAXATION INTERIM COMMITTEE**

Wednesday, September 24, 2008 – 8:00 a.m. – Room C445 State Capitol

Members Present:

Sen. Wayne L. Niederhauser, Senate Chair
Rep. John Dougall, House Chair
Sen. Curtis S. Bramble
Sen. Mike Dmitrich
Sen. Brent H. Goodfellow
Sen. Howard A. Stephenson
Pres. John L. Valentine
Rep. Douglas C. Aagard
Rep. Rebecca Chavez-Houck
Rep. Tim M. Cosgrove
Rep. Julie Fisher
Rep. Craig A. Frank
Rep. Gage Froerer
Rep. Wayne A. Harper

Rep. Fred R. Hunsaker
Rep. Rosalind J. McGee
Rep. Carol Spackman Moss
Rep. Merlynn T. Newbold
Rep. Paul Ray
Rep. Aaron Tilton

Staff Present:

Mr. Phillip V. Dean, Policy Analyst
Mr. Leif G. Elder, 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.

1. Committee Business

Chair Niederhauser called the meeting to order at 8:13 a.m.

2. 2008 Second Special Session Draft Legislation "Sales and Use Tax Exemption for Aircraft Parts and Equipment"

Rep. Brad Dee explained that during the 2008 General Session the Legislature enacted H.B. 165, which amended the sales tax exemption for aircraft parts and equipment. This legislation took effect on July 1, 2008. He said that H.B. 165 had an unintended negative impact on several local businesses and should be modified.

Ms. Rockwell distributed and discussed 2008 Second Special Session draft legislation, "Sales and Use Tax Exemption for Aircraft Parts and Equipment."

Ms. Andrea Wilko, Chief Economist, Office of the Legislative Fiscal Analyst, noted that the draft legislation would generate approximately \$12,000 for state government and \$5,700 for local governments.

MOTION: Rep. Dougall moved to adopt 2008 Second Special Session draft legislation, "Sales and Use Tax Exemption for Aircraft Parts and Equipment," as a committee bill. The motion passed unanimously with Sen. Bramble, Sen. Dmitrich, Sen. Stephenson, Pres. Valentine, Rep. Harper, and Rep. Tilton absent for the vote.

Chair Niederhauser turned the chair to Rep. Dougall.

3. Property Tax Study -- Assessing and Collecting Levy

Mr. Howe distributed and discussed "Overview of the Property Tax Valuation Agency Fund and Local Property Tax Levies for Property Tax Administration." He explained that there are four separate property tax levies authorized to fund the costs of property tax administration. He also distributed and discussed "2007 Tax Year Assessing and Collecting Tax Rates Imposed by Counties" and "FY 2006 Multi-County Assessing and Collecting Levy."

Mr. Larry Richardson, Salt Lake County Treasurer, clarified that the amount listed in "2007 Tax Year Assessing and Collecting Tax Rates Imposed by Counties" is the amount that Salt Lake County contributed to the Property Tax Valuation Agency Fund.

Mr. MacRay Curtis, Local Government Division, Office of the State Auditor, distributed and discussed "Assessing and Collecting." He reviewed a history of assessing and collecting levies, explained the purpose of the levies, and further explained the use of revenue from those levies.

Sen. Niederhauser expressed concern that some county assessor offices are not being funded at an appropriate level and stated that taxpayers want accountability for how tax dollars are spent. Mr. Curtis said that it is difficult to specifically track revenue from the assessing and collecting levies because not all counties provide for a separate accounting.

Mr. Lee Gardner, Salt Lake County Assessor, said the Legislature has mandated that county assessors determine current fair market value for all property in the county, but that it is difficult to meet this requirement because some of the revenue from the assessing and collecting levy is used for other property tax administration purposes.

Mr. Kris Poulsen, Utah County Assessor, noted that the money allocated from contributing counties to receiving counties is based on the multi-county rate rather than the county rate.

Mr. Brent Gardner, Executive Director, Utah Association of Counties, said that the cost of a program should be borne by that program; otherwise, there will not be a clear idea of the actual cost of that program. He said that counties previously charged other taxing entities for the cost of administering the property tax system. The assessing and collecting levy was enacted to stop this practice and provide a designated source of revenue for property tax administration.

Rep. Newbold asked for additional information on the role and duties of the State Auditor with regards to the assessing and collecting levy. Mr. Curtis replied that the reason the Office of the State Auditor was charged with oversight of the assessing and collecting levy was that the Office previously reviewed the budgets until that process was changed in 1993. He said that the information his office uses to oversee administration of the levy comes from the Utah State Tax Commission (Tax Commission).

Ms. Pam Hendrickson, Chair, Tax Commission, said that the Tax Commission can assume the role of administering the Property Tax Valuation Agency Fund if necessary.

Sen. Stephenson noted that for many years Salt Lake County has used an antiquated property tax management information system and is pleased that it is being updated. He said that accurate property values are critical to the integrity of the minimum school program.

Sen. Niederhauser asked the Tax Commission and State Auditor's Office to report at a future meeting whether it would save money and would be appropriate to give oversight of the Property Tax Valuation Agency Fund to the Tax Commission rather than the State Auditor's Office.

Mr. Roger Tew, Utah League of Cities and Towns, said the original reason the state auditor was charged with overseeing the assessing and collecting levy was that the Office was a neutral party that ensured the revenues were being spent correctly.

Rep. Aagard requested that the Committee ask members of various county councils and county commissions to report their view of the issue at a future meeting.

4. Property Tax Study -- Community Development and Renewal Agencies

Mr. Howe distributed and discussed "Total Tax Increment Funds Taken by Redevelopment Agencies."

Mr. Robert Rees, Associate General Counsel, Office of Legislative Research and General Counsel, distributed and discussed "CDRAs 101." He gave an overview of the fundamental aspects of community development and renewal agencies (CDRA). He discussed how CDRAs are created, what their purpose is, how CDRAs are governed, the types of projects they undertake, and other statutory provisions. He said that a CDRA can engage in urban renewal projects, economic development projects, and community development projects.

Mr. Royce Van Tassell, Utah Taxpayers Association, said that CDRAs subsidize development that would have eventually occurred anyway and that CDRAs give an unfair advantage to certain developers. He encouraged the Legislature to end this subsidy. He said that the amendments to CDRAs in 2005 have not worked as intended.

Rep. Froerer asked if CDRAs could be used to remove urban blight and provide important incentives for community improvements. Mr. Van Tassell said that the use of tax increment financing might be appropriate in limited instances, such as rehabilitating land with a negative value or providing an incentive for an out of state firm to invest locally. He emphasized that most CDRAs are used for retail development that will occur with or without a tax subsidy.

Mr. Lincoln Shurtz, Utah League of Cities and Towns, said that every CDRA has to be taken into consideration separately as each serves a very different purpose. He noted that CDRAs do not actually subsidize developments, but rather the money from CDRAs provide utilities and services to development sites. He said that most developments are done at the expense of the actual developer.

Rep. Moss said that tax increment financing is a critical component of the redevelopment of the old Cottonwood Mall in Holladay. She said that significant infrastructure improvements are part of that development.

Mr. Larry Newton, State Office of Education, said most cities, towns, and counties will have 5 percent of the total cost that is included in the CDRA budget as administrative costs, but that in later years as more projects are assigned to the CDRA that cost can be reduced to 2.5 percent.

Sen. Bramble noted that all interested parties agreed to the CDRA modifications adopted in 2005.

Mr. Vik Arnold, Utah Education Association (Association), said that the Association worked very hard on redevelopment agency reform several years ago and that school districts now have the opportunity to opt in or out of certain redevelopment projects. He noted it is not wise to compare all redevelopment agency projects as the same.

Sen. Stephenson said that the opt in provision for school districts to participate in tax increment financing is being abused. He noted the large loss of funding to school districts caused by this program.

The Committee returned to agenda item #2.

Ms. Rockwell distributed and discussed an updated version of 2008 Second Special Session draft legislation, "Sales and Use Tax Exemption for Aircraft Parts and Equipment." She noted that an important technical change had been excluded from the previous draft legislation.

MOTION: Rep. Dougall moved to adopt the newest version of 2008 Second Special Session draft legislation, "Sales and Use Tax Exemption for Aircraft Parts and Equipment," as a committee bill. The motion passed unanimously with Sen. Bramble, Sen. Dmitrich, Pres. Valentine, and Rep. Chavez-Houck absent for the vote.

5. The Utah Coalition for Property Tax Fairness

Mr. Jim Bray, Utah Coalition for Property Tax Fairness, distributed and discussed "Property Tax 'Change,'" "Supreme Court of the United States Syllabus," and "Fair Property - Tax Committee Questions and Answers." He said property owners want property taxes to be predictable and transparent. He said that an acquisition value-based property tax system should be adopted in Utah, as long as it is designed to meet Utah's unique needs. He recommended: (1) using acquisition value, rather than market value as the basis of imposing the property tax; (2) increasing the base amount each year by a certain percentage, called a stabilization index; (3) allowing the transfer of a homeowner's tax base; (4) allowing a tax base transfer between parents, children, and grandchildren; (5) limiting the homeowner exemption to a maximum cap of \$450,000, rather than 45 percent of fair market value; and (6) shifting half of the revenue from school property taxes to sales and use taxes. He said that the current fair market value system inherently shifts the tax burden from one taxpayer to another.

Rep. Chavez-Houck expressed concern that a local government might not be able to quickly raise revenue in the event of an emergency if its tax base is limited.

Rep. Froerer said that he supports the concepts outline by Mr. Bray. He said that these changes would require a change to the state constitution. He said that the establishment of a base year is an important design choice.

Ms. Allison Rowland, Voices for Utah Children, said an acquisition value-based property tax system would most likely burden young families, who are typically the ones who move into new households. She suggested improving the circuit breaker program to increase the amount of the circuit breaker credit and to allow individuals below the age of 65 to apply for the program. Ms. Rowland also suggested offering an earned income tax credit.

Mr. Bert Hulet, Citizens for Tax Fairness, spoke in favor of implementing an acquisition value-based property tax system.

Mr. Thomas Rogers, private citizen, said that he believes property assessors operate on speculation.

6. Proposal for a Property Tax Deferral Program

Mr. Art Partridge, Washington County Assessor, distributed and discussed "Assessment Cap/Deferral Program." He proposed changing existing property tax law to limit significant annual increases in assessed property values. He said that he supports placing a dollar limit on the residential exemption. He said that large increases in a property's fair market value can be attributable to market forces or a previous under-assessment.

Rep. Cosgrove asked about progress to improve the mass appraisal models used by counties.

Mr. Partridge replied that Washington County already uses a mass appraisal model. He said that some counties are cooperating with the Utah Association of Counties in jointly acquiring an appropriate mass appraisal system.

Mr. Brey responded to Mr. Partridge's comments. He said he believes that a constitutional amendment would not be necessary to change Utah's property tax system from a fair market value system to an acquisition value-based system.

Ms. Rowland noted that another solution to capping the homeowner's exemption would be to make the exemption a fixed amount rather than a percentage.

7. Property Tax Study -- Committee Discussion and Direction for Future Action

Rep. Dougall distributed and discussed "Improving Tax Certainty for Property Taxpayers." He said the proposal was a draft from the chairs and that the document lists what key problems need to be addressed in regards to property tax reform, as well as a list of questions the Committee will have to answer. He encouraged the Committee to bring back ideas and proposals to the next meeting.

8. Other Items / Adjourn

MOTION: Rep. Chavez-Houck moved to adjourn the meeting. The motion passed unanimously with Sen. Bramble, Sen. Dmitrich, Sen. Goodfellow, Pres. Valentine, Rep. Fisher, Rep. Hunsaker, Rep. McGee, Rep. Ray, and Rep. Tilton absent for the vote.

Chair Dougall adjourned the meeting at 12:23 p.m.