

**MINUTES OF THE
REVENUE AND TAXATION INTERIM COMMITTEE**
Wednesday, September 19, 2012 – 9:00 a.m. – Room 445 State Capitol

Members Present:

Senate Chair Curtis S. Bramble
House Chair Patrick Painter
Sen. J. Stuart Adams
Sen. Benjamin M. McAdams
Sen. Wayne L. Niederhauser
Sen. Howard A. Stephenson
Sen. John L. Valentine
Rep. David G. Butterfield
Rep. Tim M. Cosgrove
Rep. John Dougall
Rep. Susan Duckworth
Rep. Steve Eliason
Rep. Gage Froerer
Rep. Francis D. Gibson
Rep. Eric K. Hutchings

Rep. Merlynn T. Newbold
Rep. Jim Nielson
Rep. Larry B. Wiley

Members Absent:

Rep. Wayne A. Harper
Rep. Michael T. Morley

Staff Present:

Mr. Bryant R. Howe, Assistant Director
Mr. Phillip V. Dean, Policy Analyst
Ms. Rebecca L. Rockwell, Associate General Counsel
Ms. Samantha Coombs, 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 Bramble called the meeting to order at 9:13 a.m. Rep. Morley was excused from the meeting.

MOTION: Sen. Valentine moved to approve the minutes of the August 15, 2012, meeting. The motion passed unanimously. Sen. McAdams, Sen. Stephenson, Rep. Cosgrove, Rep. Gibson, Rep. Hutchings, and Rep. Painter were absent for the vote.

2. Property Tax

Ms. Rockwell explained property tax issues related to the taxation of nonprofit entities and business personal property.

MOTION: Sen. Niederhauser moved to direct staff to draft a committee bill to address the property tax issues presented to the committee. The motion passed unanimously. Sen. Stephenson, Rep. Gibson, Rep. Hutchings, and Rep. Painter were absent for the vote.

Mr. Dean briefly explained draft legislation “Property Taxation of Business Personal Property” (2013FL-0250/002), which would increase the existing business personal property tax exemption to \$10,000.

Rep. Painter presented draft legislation “Property Taxation of Business Personal Property” (2013FL-0250/002). He explained that a similar bill was presented during the 2012 General Session, but it failed to pass the senate. He indicated the bill would provide more relief to small businesses in relation to personal property taxes.

The committee discussed the cost and burden the business personal property tax places on small businesses, the reason for \$10,000 as the threshold, and the tax shift the bill would create.

Mr. Lee Gardner, Assessor, Salt Lake County, spoke in opposition to the bill. He stated that the bill does not eliminate the work the taxpayers must undergo to determine if they need to file, and that the bill creates a tax shift.

Sen. Valentine suggested that filing a business personal property tax return is similar to filing for federal and state income tax, and that the main issue is to determine the appropriate threshold.

Sen. Adams inquired if it was an acquisition cost, appreciated value, or scheduled value that the business owner would need to report on, and the level of burden on the owner to research the schedules to determine the property value that would need to be reported.

Rep. Nielson explained that the bill does not reduce an assessor's ability to audit, but reduces the burden on small businesses to keep extensive records and file if the cost of the business personal property is below the designated threshold.

Chair Bramble clarified that the bill would help relieve the audit burden on businesses in cases where it is easy to quickly determine that there was not \$10,000 worth of business personal property. He emphasized that the burden was the cost of trying to be in compliance.

Mr. Arie Van De Graaff, Utah Association of Counties, spoke in opposition to the bill, because it creates a tax shift and does not address the time that it takes the taxpayer to prepare and file the tax. He stated the purpose of the presented bill was addressed in 2012 General Session H.B. 387, "Property Tax Modifications" which simplified the filing process.

Ms. Kathleen Howell, President, Utah Association of Assessors, Cache County Assessor, argued the bill merely creates a tax exemption but does not waive the filing requirement. She suggested that if the purpose of the bill was to address the filing issue that the language be clarified.

MOTION: Sen. Stephenson moved to adopt draft legislation "Property Taxation of Business Personal Property" (2013FL-0250/002) as a committee bill. The motion passed unanimously. Rep. Dougall and Rep. Eliason were absent for the vote.

Speaking to the motion, Sen. Stephenson argued that the issue is not about filing, but that the business personal property tax, in general, is a bad tax. He argued that businesses should not be punished for investing capital in Utah.

Speaking to the motion, Sen. Valentine asked if the State Tax Commission had adopted an administrative rule to exempt taxpayers from the requirement to file if they are below the threshold amount.

Commissioner Bruce Johnson, State Tax Commission, responded that the Tax Commission would verify the rules currently in place, and stated to the extent allowed by statute, if appropriate rules were not in place, the commission could undertake a rulemaking procedure.

The committee agreed to postpone discussion on property tax and appraiser amendments to the next meeting. Sen. Stephenson and Rep. Froerer explained they were working with stakeholders to address the issue.

3. Water Pricing and Funding

Rep. Painter presented draft legislation “Sales and Use Tax Allocations for Water Resources Funding” (2013FL-0249/005), which would allocate 15% of sales and use tax revenue growth to water development projects. He explained that the bill was discussed the previous day in the Water Development Commission meeting, and provided a history to the committee on water development projects in Utah.

The committee requested that additional information on financial rates and financing options be compiled and presented for discussion at a future meeting.

4. Audit of the Utah Telecommunications Open Infrastructure Agency (UTOPIA)

Mr. James Behunin, Audit Supervisor, Office of the Legislative Auditor General, presented the office’s audit of UTOPIA, which, among other things, addressed UTOPIA’s financial conditions and how a \$185 million bond issued by UTOPIA was spent. The presentation included a synopsis of the failure of UTOPIA to meet its goals, insufficient revenue to cover expenses, and the genesis of UTOPIA’s financial problems, and also listed recommendations proposed to address the challenges.

Rep. Nielson argued that the audit understated the direness of UTOPIA’s financial challenges.

Mr. Alex Jensen, Layton City Manager, Utah Infrastructure Agency, responded to the audit. He acknowledged that UTOPIA has financial challenges and has made numerous mistakes in the past, but that the cities are committed to completing the project. He clarified that UTOPIA is not a separate entity from the participating cities, but rather the cities comprise and own UTOPIA. He assured the committee that the participating cities view the project as an essential public utility, and are able to meet their financial obligations.

The committee discussed concerns regarding UTOPIA’s inability to cover operation costs and low subscription rates, and inquired about the projected additional investment necessary to finish building out the network.

Rep. Butterfield inquired regarding what cost the cities were willing to go to to complete the project and suggested that the recommendations presented in the audit would not fully address UTOPIA’s challenges.

Mayor Ronald G. Russell, Centerville City, stated that the cities were in the process of implementing a five-year development plan that would increase and retain subscriber rates.

Mr. Jensen clarified that UTOPIA has used debt to pay for capitalized interest, not for payment on the debt service. He also explained that not all subscribers are the same and that the ratio between residential to commercial subscribers has changed, and as a result, revenues have met projections.

Sen. Valentine notified the committee and public that a bill file was being opened that would limit local public entities from using capitalized interest for longer than three years on a project, as well as prohibit the use of bond monies or other debt service, after 90 days, to fund operations.

Rep. Wiley expressed concern that UTOPIA considers the project a public utility when there may be constituents who are not interested in the service. He wondered if participating constituencies really understand the cost that is being incurred to continue the project.

Sen. Adams recommended that an informal committee be put together to accept UTOPIA's invitation to review its five-year development plan.

5. Other Items / Adjourn

Chair Bramble explained there was not enough time to discuss the last three items on the agenda, but stated they would be discussed at a future meeting. He indicated that draft language provided by the Attorney General's Office regarding roll your own cigarettes is available for review and will be discussed at a future meeting.

MOTION: Rep. Nielson moved to adjourn the meeting. The motion passed unanimously. Sen. Niederhauser, Rep. Dougall, and Rep. Gibson were absent for the vote.

Chair Bramble adjourned the meeting at 12:14 p.m.