

**MINUTES OF THE
REVENUE AND TAXATION INTERIM COMMITTEE**
Wednesday, October 17, 2012 – 9:00 a.m. – Room 445 State Capitol

Members Present:

Sen. Curtis S. Bramble, Senate Chair
Rep. Patrick Painter, House Chair
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. Wayne A. Harper
Rep. Eric K. Hutchings
Rep. Michael T. Morley
Rep. Merlynn T. Newbold
Rep. Jim Nielson
Rep. Larry B. Wiley

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 9:14 a.m.

MOTION: Rep. Painter moved to approve the minutes of the September 19, 2012, meeting. The motion passed unanimously. Sen. Adams, Sen. McAdams, Sen. Niederhauser, Sen. Stephenson, Rep. Duckworth, Rep. Froerer, Rep. Gibson, Rep. Hutchings, and Rep. Morley were absent for the vote.

Mr. Dean provided a description of three reports the State Tax Commission is statutorily required to provide to the committee: “Report to the Legislature: Required by 59-2-1308.5,” “Report to the Revenue and Taxation Interim Committee: County Assessor’s Database,” and “Federal Tax Changes Impacting the State of Utah Tax System.” Mr. Dean also indicated that the Governor’s Office of Economic Development published “2012 Annual Report and Business Resource Guide,” and copies are available to members of the committee upon request.

2. Property Tax

Rep. Painter explained that draft legislation “Property Taxation of Business Personal Property” (2013FL-0250/002) was adopted as a committee bill during the September 19, 2012, interim meeting, but it is being discussed at the request of the sponsor.

MOTION: Sen. Valentine moved to reconsider committee bill “Property Taxation of Business Personal Property” for the purpose of considering an amendment to the bill. The motion passed unanimously. Sen. Adams, Sen. McAdams, Sen. Niederhauser, Sen. Stephenson, Rep. Cosgrove, Rep. Duckworth, Rep. Gibson, Rep. Hutchings, and Rep. Morley were absent for the vote.

MOTION: Sen. Valentine moved to adopt the amendment to draft legislation “Property Taxation of Business Personal Property.” The motion passed unanimously. Sen. Adams, Sen. McAdams, Sen. Niederhauser, Sen. Stephenson, Rep. Butterfield, Rep. Duckworth, Rep. Gibson, Rep. Hutchings, and Rep. Morley were absent for the vote.

Sen. Valentine explained that the proposed amendment would limit the contents of a signed statement an individual may be required to file with a county assessor if the individual owns business personal property that is exempt from taxation. He noted that by limiting the contents of the signed statement, the county assessors will be able to obtain needed information while relieving the burden to file on individuals’ own exempt property.

MOTION: Sen. Valentine moved to adopt draft legislation “Property Taxation of Business Personal Property,” as amended, as a committee bill. The motion passed unanimously. Sen. Adams, Sen. McAdams, Sen. Niederhauser, Sen. Stephenson, Rep. Butterfield, Rep. Duckworth, Rep. Gibson, Rep. Hutchings, and Rep. Morley were absent for the vote.

3. Income Tax Credits

A. Earned Income Tax Credit

Ms. Tracy Gruber, Policy Analyst, Voices for Utah Children, and Ms. Allison Rowland, Director of Research and Budget, Voices for Utah Children, distributed to the committee “Invest in Working Utahns: Support a State EITC.” Ms. Gruber spoke in favor of a state earned income tax credit (EITC), modeled after the federal EITC. Ms. Gruber explained that the federal EITC is good policy with proven results and has received bipartisan support since its inception. She explained that a state EITC would supplement the federal EITC received by low-income workers and would also help strengthen local economies. She explained that administrative costs to provide a state EITC would be minimal because only those who qualify for the federal EITC would qualify for a state EITC.

Rep. Eliason inquired about the fiscal note to implement a state EITC and expressed concern that funding would be pulled directly from the education fund, which would have a direct impact on Utah’s children. He also inquired as to whether a state EITC would allow low-income families to get more money back than what they paid in taxes.

Ms. Rowland explained that a state EITC would have a cost but encouraged review of the benefits of the tax credit, because it does what it is supposed to do: incentivize work, strengthen the economy, and help low-income families. She responded that a state EITC would help compensate for the regressive impact of certain state taxes.

The committee discussed the benefits to school children when parents receive an EITC. Committee members discussed funding for tax credits, mitigation for regressivity of certain taxes, the costs and benefits of reinstating the sales and use tax on food at the full general state rate, and bringing back a sales tax on food as a means to pay for a state EITC.

MOTION: Rep. Butterfield moved to direct staff to draft a committee bill that would create a state EITC that is a percentage of the federal EITC. The motion passed. Rep. Dougall and Rep. Nielson voted in opposition. Sen. Stephenson, Sen. Valentine, Rep. Eliason, and Rep. Hutchings were absent for the vote.

4. Time Period for Paying a Tax, Interest, or Penalties After a Judicial Decision

Ms. Rockwell explained draft legislation “Time Period for Paying a Tax, Interest, or Penalties After a Judicial Decision” (2013FL-0252/003), which harmonizes statutory provisions in the tax code for paying a tax, interest, or penalty after a judicial decision.

MOTION: Rep. Harper moved to adopt draft legislation “Time Period for Paying a Tax, Interest, or Penalties After a Judicial Decision” as a committee bill. The motion passed unanimously. Sen. Adams, Sen. Stephenson, Rep. Cosgrove, Rep. Eliason, and Rep. Hutchings were absent for the vote.

MOTION: Rep. Harper moved to request that draft legislation “Time Period for Paying a Tax, Interest, or Penalties After a Judicial Decision” be placed on the appropriate reading calendar for immediate consideration. The motion passed unanimously. Sen. Adams, Rep. Cosgrove, Rep. Eliason, and Rep. Hutchings were absent for the vote.

5. Timing of Bond Elections

Ms. Emily Brown, Associate General Counsel, Office of Legislative Research and General Counsel, explained that draft legislation “Special Election Date for Ballot Propositions” (2013FL-0196/003) generally limits a special election to be held on a general election date for a ballot proposition related to a bond, debt, leeway, levy, or tax. She provided an explanation of current statute for context.

Rep. Dougall stated that if the bill is about voter turnout, the committee could consider allowing a bond election to be held any time during the year as long as a majority of registered voters in the jurisdiction grant approval.

Mr. Kory Holdaway, Director of Government Relations & Political Action, Utah Education Association, explained that the Utah Education Association is in favor of increased voter participation but cautioned that there may be certain cases where a school district or political subdivision would have to wait to put a pressing issue on the ballot until the next general election.

Mr. Roger Tew, Utah League of Cities and Towns, expressed concern that the natural disaster provision in current law could be construed as no longer applying to bond elections. He suggested that the language in the bill be clarified so that a bond election may be held on a date other than a general election date in the case of a natural disaster.

Mr. Peter Cannon, citizen, Davis County, suggested that, in an effort to encourage voter participation during a bond election, a provision be added to the bill requiring a voter threshold.

Chair Bramble encouraged members of the committee and public to work with staff to compile amendments to the bill to be considered at the November interim meeting.

6. Income Tax Credits

B. Adoption Tax Credits

Rep. Harper explained draft legislation “Special Needs Adoption Tax Credit” (2013FL-0117/003), which expands the existing special needs adoption tax credit to include an adoption granted by a foreign country.

Chair Bramble proposed including language in the bill to provide that a resident of Utah who adopts a special needs child, regardless of where the child comes from, is eligible for the special needs adoption tax credit.

Commissioner Marc Johnson, State Tax Commission, explained that the bill addresses the issues related to foreign adoptions and simplifies the tax code.

The committee discussed whether it is good policy to provide a refundable tax credit to resident families who choose to adopt children out of state, and whether any preference should be given to those who choose to adopt children from within the state.

Commissioner D’Arcy Dixon Pignanelli, State Tax Commission, commented on the commission’s interpretation of current law.

Rep. Harper agreed to work with staff to prepare an amended version of the bill for the November interim meeting.

7. Water Funding

Rep. Painter distributed two handouts providing background information, “Bonneville Unit Area Map” and “Issues Regarding Sales and Use Tax Allocations for Water Resources Funding.” Rep. Painter explained that he invited experts from the bonding and water communities to answer questions the committee may have regarding draft legislation “Sales and Use Tax Allocations for Water Resources Funding” (2013FL-0249/005), which would set aside certain state sales and use tax revenue growth for water development projects.

Sen. Stephenson inquired about the long-term funding options available for water development projects. He inquired about models used by other states that do not use property or sales and use taxes to subsidize water development projects.

Mr. Scott Robertson, Lewis Young Robertson & Burningham, Inc., explained a preliminary analysis conducted by the firm that concluded that local water districts do not have the capability to take on the role of the state government to fund and oversee the development of large water projects (e.g. Lake Powell and Bear Rive pipeline projects), because a substantial amount of construction would need to be completed before revenue on water sales could be collected to finance the projects. He explained that states vary in how they choose to fund water development projects, from collecting property taxes to user fees.

Rep. Dougall asked whether general obligation bonds could be used to acquire the initial loan, then user fees collected to service 100% of the debt, including operating costs and the debt service.

Mr. John Crandall, Executive Vice President/Manager, George K. Baum & Company, distributed the handout "Revenue and Taxation Interim Committee: Typical Utility Financing." Mr. Crandall explained, in response to Rep. Dougall's question, that the issue is the revenue requirement, not the type of bonds issued to fund the project. The state could decide to use a general obligation bond or a revenue bond, but the issue comes down to where sufficient revenues will be generated to pay for the debt service, whether that be from property taxes, user fees, or a combination of sources.

The committee discussed the pros and cons of slanting up the debt service and increasing the price of water fees to remove the subsidy on water.

Rep. Painter expressed a desire for further discussion on water project funding. He emphasized that the bill does not authorize an entity to move forward with a water development project, but it calls for the setting aside of 15% of the growth in the amount of revenues collected from sales and use taxes to be put into the water loan fund that can be used to help fund future water projects.

Mr. Zachary Frankel, Executive Director, Utah Rivers Council, distributed a letter written by economists that addresses the issue of using user fees to pay for water.

Ms. Christi Wedig, Citizens for Dixie's Future, commented that the bill came about as a result of a lack of funding to secure a bond to fund the Lake Powell pipeline project.

Mr. Richard Bay, General Manager, Jordan Valley Water Conservancy District, explained that using sales and use tax revenues, which are appropriated by the Legislature and sent to revolving loans, to fund a portion of water development projects is a continuation of a model that the state has used in the past.

Ms. Claire Geddes distributed "Don't pipe water to waste on lawns." She recommended that water be priced higher and that no more earmarks be made to fund water development projects.

Mr. Steve Erickson, Crossroads Urban Center, expressed concern about how impact fees to fund the Lake Powell pipeline project would affect the affordable housing market in Washington County.

Rep. Painter agreed to discuss this issue at a future meeting.

7. Potential Agenda Items for November Interim Meeting

Chair Bramble provided a brief summary of potential agenda items that could be discussed at a future meeting: confidentiality of medical records, cigarette and tobacco taxes, an American Bar Association model transaction tax overpayment act, and a sales and use tax exemption for related party leases.

Ms. Rockwell provided background on the issues surrounding cigarette and tobacco taxes and the transaction tax overpayment act.

Mr. Mike Katsanevas, Crown Burgers, spoke to the issue of related party leases. He explained that his family company buys equipment through one entity of the company, then leases that equipment back to a separate entity of the company. This, he said, results in the company having to pay sales and use taxes twice: first, when the property is purchased, and second, when the property is leased back to the company.

MOTION: Sen. Stephenson moved to have staff draft a committee bill for the November meeting that provides a sales and use exemption for related party leases.

AMENDED MOTION: Rep. Newbold amended the motion to include directing staff to draft committee bills regarding the following: 1) confidentiality of medical records, 2) cigarette and tobacco taxes, and 3) a transaction tax overpayment act, in addition to drafting a bill providing a sales and use exemption for related party leases. The motion passed unanimously. Sen. McAdams and Sen. Niederhauser were absent for the vote.

8. Other Items / Adjourn

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

Chair Bramble adjourned the meeting at 11:52 a.m.