

**MINUTES OF THE
REVENUE AND TAXATION INTERIM COMMITTEE**
Wednesday, November 14, 2012 – 9:00 a.m. – Room 445 State Capitol

Members Present:

Rep. Patrick Painter, House Chair
Sen. J. Stuart Adams
Sen. Benjamin M. McAdams
Sen. Howard A. Stephenson
Sen. John L. Valentine
Rep. Tim M. Cosgrove
Rep. Susan Duckworth
Rep. Gage Froerer
Rep. Francis D. Gibson
Rep. Wayne A. Harper
Rep. Eric K. Hutchings
Rep. Merlynn T. Newbold
Rep. Jim Nielson
Rep. Larry B. Wiley

Members Absent:

Sen. Curtis S. Bramble, Senate Chair
Sen. Wayne L. Niederhauser
Rep. David G. Butterfield
Rep. John Dougall
Rep. Steve Eliason
Rep. Michael T. Morley

Staff Present:

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 Painter called the meeting to order at 9:06 a.m. Sen. Bramble and Rep. Dougall were excused from the meeting.

Mr. Phillip V. Dean, Office of Legislative Research and General Counsel, explained that a technical correction needed to be made to the October 17, 2012, minutes regarding a citation of a bill number. He also explained that reports required to be presented to the committee by the Utah State Tax Commission (Tax Commission) were included in November's supplemental mailing packet.

MOTION: Sen. Adams moved to approve the minutes of the October 17, 2012, meeting with the correct bill number citation addressed by Mr. Dean. The motion passed unanimously. Sen. McAdams, Sen. Valentine, Rep. Gibson, and Rep. Hutchings were absent for the vote.

2. Committee studies required by statute

Mr. Dean briefed the committee on reports regarding tax credits for solar projects, renewable energy systems, and a rate reduction for certain variable premium life insurance policies. Mr. Dean explained that the committee is statutorily required to review the reports and make a recommendation to the Legislative Management Committee as to whether to allow these tax credits and rate reduction to continue.

MOTION: Sen. Adams moved to recommend the continuation of the solar projects, renewable energy systems, and variable premium life insurance rate reduction. The motion passed unanimously. Sen. McAdams, Sen. Valentine, Rep. Gibson, and Rep. Hutchings were absent for the vote.

3. Property Tax

Rep. Froerer explained draft legislation “Property Tax and Appraiser Amendments” (2013FL-0154/027), which establishes requirements related to county property tax appeal hearing officers, addresses evidence in a property tax appeal, and allows a person to present evidence or assist a person in a property tax appeal.

Sen. Stephenson acknowledged the concern that appointed hearing officers do not have to be certified appraisers and asked what could be done to ensure that the hearing officers are qualified to make determinations of property values. He also inquired as to whether rural counties could share hearing officers to provide more expertise.

Mr. Jared Preisler, Vice President, Utah Association of Appraisers, explained that the Utah Association of Appraisers would recommend that a licensed appraiser be considered as the first option to be a hearing officer before considering a non-licensed appraiser as a hearing officer. He explained that it was the intent of the Utah Association of Appraisers that the legislation provide that all hearing officers be required to take the course approved and administered by the Tax Commission, even if an individual is already a licensed appraiser. Mr. Preisler emphasized that what needs to be addressed is not the data that is being presented at the hearing, but ensuring that the individual analyzing the data has the qualifications and expertise to fairly and accurately provide an assessment based on the data presented.

Mr. Dean clarified that “Property Tax and Appraiser Amendments” would require all hearing officers to take the course developed by the Tax Commission.

MOTION: Rep. Froerer moved to adopt draft legislation “Property Tax and Appraiser Amendments” as a committee bill. The motion passed unanimously. Rep. Gibson and Rep. Hutchings were absent for the vote.

Ms. Rockwell explained that draft legislation addressing certain property tax issues is currently being worked on but is not ready to be presented to the committee. She noted that staff would continue to work with interested parties to finalize the legislation prior to the 2013 General Session.

4. Sales and Use Tax

Sen. Stephenson presented draft legislation “Sales and Use Tax Revisions” (2013FL-0153/004) and explained that this bill does away with the economic inequity of double taxation in regards to certain related party leases or resale of machinery or equipment.

Ms. Rockwell explained that draft legislation “Sales and Use Tax Revisions” would enact sales and use tax exemptions for certain related party leases or sales and the purchase of certain machinery or equipment if a certain percentage of the purchaser’s sales revenues comes from admissions or user fees subject to sales and use taxes.

The committee discussed the percentage of sales revenues threshold that would be used to determine whether a purchaser would qualify for the exemption, as well as scenarios where ownership of a business by the seller and purchaser would not be identical but substantially similar.

Mr. Gary Nielson, owner, Gold's Gym, spoke in favor of the bill and provided examples of double taxation affecting his business as a result of the current statute.

5. Income Tax

Rep. Harper presented draft legislation "Special Needs Adoption Tax Credit" (2013FL-0117/006), which provides a tax credit for adoption of a child within this state, another state, or a foreign country, if that child has a special need.

Ms. Rockwell clarified that for adoptions made in this state or in another state, the credit would be claimed for the taxable year in which the adoption became final, whereas the credit for a foreign adoption would be claimed for the taxable year in which the adoption order issued by the foreign country is registered in this state.

Mr. David Hardy, attorney, Utah Adoption Council, explained that the council overwhelmingly endorses the bill.

Mr. Royce Van Tassell, Vice President, Utah Taxpayers Association, recommended that a better method of addressing this issue would be through the appropriations process rather than by expanding a tax credit, which consequently would narrow the tax base.

6. Election Date for Ballot Propositions

Ms. Emily Brown, Associate General Counsel, Office of Legislative Research and General Counsel, explained draft legislation "Special Election Date for Ballot Propositions" (2013FL-0196/004), which requires an election for a bond, debt, leeway, levy, or tax to take place at a November general election. She explained a change to the bill to provide an exception to allow an election for a bond, debt, leeway, levy, or tax to take place on a date other than a November general election date in the case of a natural disaster.

7. Cigarette and Tobacco Taxes and Licensing

Ms. Kathy Kinsman, Assistant Attorney General, Utah Office of the Attorney General, explained draft legislation "Cigarette and Tobacco Tax and Licensing Amendments" (2013FL-0454/005), which addresses the taxation and regulation of cigarettes and tobacco products, including "roll-your-own" cigarettes. Ms. Kinsman addressed three elements of the bill that are important to the Office of the Attorney General: (1) tax equalization between "roll-your-own" cigarettes and mass-produced cigarettes; (2) a requirement that products used in the "roll-your-own" machines must be approved and certified by the Tax Commission; and (3) a requirement that the products produced by the "roll-your-own" machines must be fire safe.

Rep. Gibson asked how the bill would potentially affect the master settlement agreement and if the bill would affect those who make cigarettes for personal use at home.

Ms. Kinsman responded that the bill provides consistency with federal law and ensures that Utah is in compliance with the master settlement agreement. She also explained that the bill exempts those who make their own cigarettes at home for personal use.

MOTION: Sen. Adams moved to adopt draft legislation “Cigarette and Tobacco Tax and Licensing Amendments” as a committee bill. The motion passed unanimously. Sen. McAdams, Sen. Valentine, Rep. Hutchings, and Rep. Nielson were absent for the vote.

MOTION: Rep. Froerer moved to adopt draft legislation “Special Election Date for Ballot Propositions” as a committee bill. The motion passed unanimously. Sen. McAdams, Sen. Valentine, Rep. Hutchings, and Rep. Nielson were absent for the vote.

MOTION: Rep. Harper moved to adopt “Special Needs Adoption Tax Credit” as a committee bill. The motion passed unanimously. Sen. McAdams, Sen. Valentine, Rep. Hutchings, and Rep. Nielson were absent for the vote.

MOTION: Sen. Stephenson moved to adopt “Sales and Use Tax Revisions” as a committee bill. The motion passed unanimously. Sen. McAdams, Sen. Valentine, Rep. Hutchings, and Rep. Nielson were absent for the vote.

8. Water Pricing and Funding

Chair Painter turned the chair over to Sen. Adams.

Rep. Painter presented draft legislation “Sales and Use Tax Allocations for Water Resources Funding” (2013FL-0249/007), which would set aside certain state sales and use tax revenue growth for water development projects. Chair Painter referred to the Office of Legislative Research and General Counsel briefing paper “How Utah Water Works: An Overview of Sources, Uses, Funding, and Pricing” and distributed a graph illustrating how the cap on an existing transportation earmark would work with the proposed earmark for water development projects.

Rep. Nielson spoke in opposition to earmarks and encouraged the committee to explore other options to fund future water development projects.

Rep. Froerer spoke in favor of the bill and keeping the limit for transportation and water funding allocations within the 30% cap range. Rep. Froerer agreed that there needs to be further discussion regarding user fees and other revenue alternatives but indicated that this bill is a starting point.

Ms. Allison Rowland, Director of Research and Budget. Voices for Utah Children, spoke in opposition to the bill and expressed concern about earmarking funds from the General Fund to go to water development projects. She explained that earmarking funds reduces the flexibility of the Legislature during the appropriations process.

Mr. Richard Bay, General Manager, Jordan Valley Water Conservancy District, spoke in favor of the bill and indicated that it would be a continuation of the state’s supplemental role in financing water projects that would keep up with the population growth.

The committee discussed methods for obtaining capital to fund water projects. The committee also discussed water subsidies and water rates.

Mr. Dale Pierson, Executive Director, Rural Water Association of Utah, spoke in favor of the bill and argued that without lower water rates economic development in rural Utah counties would be negatively impacted. He asserted that support by the state and federal government is an important factor in keeping rates low for rural communities.

Sen. Valentine distributed to the committee a chapter from "Aquanomics" written by Dr. Delworth Gardner.

Dr. Gardner, Professor Emeritus of Economics, Brigham Young University, and Professor Emeritus of Agriculture, University of California - Davis, discussed the "Aquanomics" handout and the data he compiled. He spoke in opposition to water subsidies.

Mr. Kory Holdaway, Director, Government Relations & Political Action, Utah Education Association, explained that the legislation is problematic because of the earmarks. Mr. Holdaway acknowledged the need to plan for future water development projects and encouraged the committee to continue the discussion but not pass the bill in its current form.

Mr. Van Tassell spoke in opposition to the bill and water subsidies.

Dr. Gail Blattenberger, Professor, Department of Economics, University of Utah, distributed and explained "Analysis of Lake Powell Pipeline: Planned Financing and Expected Demand."

Mr. Ronald Thompson, Washington County Water Conservancy District, spoke in favor of the bill and explained that funding for certain Washington County water projects could not be secured without state financing assistance. He noted that this helps contribute to lower loan rates.

Acting Chair Adams turned the chair over to Rep. Harper.

Ms. Beth Blattenberger, economist, spoke in opposition to water subsidies and explained the cost of making things cheap.

Acting Chair Harper turned the chair over to Sen. Adams.

Ms. Cristi Wedig, Executive Director, Citizens for Dixie's Future, spoke in opposition to the bill and to water subsidies. Ms. Wedig explained that water should be treated like any other commodity and should be adequately priced.

Ms. Lisa Redford, Washington County resident, spoke in favor of increased water conservation and argued that there is a strong sentiment from Washington County that residents do not want the Lake Powell Pipeline Project.

Mr. Jon Stanard, Representative-Elect, Washington County, explained that the Lake Powell Pipeline Project is a divisive issue in Washington County. He explained that proper planning for the project is essential in order to meet the demands of future population growth in Washington County.

Rep. Froerer spoke in favor of the motion and explained that the bill gives the Legislature additional options to help communities fund water projects.

MOTION: Rep. Painter moved to adopt draft legislation “Sales and Use Tax Allocations for Water Resources Funding” as a committee bill. The motion failed with Acting Chair Adams, Rep. Froerer, Rep. Gibson, and Rep. Painter voting in favor of the motion.

9. Tax Credits, Exemptions, and Rate Reductions

Sen. Valentine presented draft legislation “Tax Revisions” (2013FL-0409/008). Sen. Valentine explained that the bill enacts a refundable state-earned income tax credit, enacts a refundable income-based tax credit, increases the state sales and use tax rate on food and food ingredients to the general state sales and use tax rate, adds food and food ingredients back into the sales and use tax base for certain local option sales and use taxes, and modifies certain state and local sales and use tax rates and revenue allocations. Sen. Valentine said that he intended only to present the bill to encourage further discussion by the committee and the public and recommended that the committee not take action on the bill.

10. Other Items / Adjourn

MOTION: Rep. Nielson moved to adjourn the meeting. The motion passed unanimously.

Acting Chair Adams adjourned the meeting at 12:01 p.m.