

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

Wednesday, October 16, 2013 – 10:30 a.m. – Room 445 State Capitol

**Members Present:**

Sen. Deidre M. Henderson, Senate Chair

Rep. Ryan D. Wilcox, House Chair

Sen. Curtis S. Bramble

Sen. Gene Davis

Sen. Howard A. Stephenson

Sen. John L. Valentine

Rep. Stewart Barlow

Rep. Rebecca Chavez-Houck

Rep. Tim M. Cosgrove

Rep. James A. Dunnigan

Rep. Steve Eliason

Rep. Francis D. Gibson

Rep. Michael S. Kennedy

Rep. Jim Nielson

Rep. Val L. Peterson

Rep. Jon E. Stanard

Rep. Earl D. Tanner

Rep. John Westwood

**Members Absent:**

Rep. Joel K. Briscoe

Rep. Eric K. Hutchings

Rep. Dixon M. Pitcher

**Staff Present:**

Mr. Leif G. Elder, Policy Analyst

Ms. Rebecca L. Rockwell, Associate General Counsel

Ms. Sara J. Thomas, 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](http://www.le.utah.gov).

**1. Committee Business**

Chair Henderson called the meeting to order at 10:40 a.m. Rep. Hutchings was excused from the meeting.

**MOTION:** Sen. Valentine moved to approve the minutes of the July 17, 2013, and September 18, 2013, meetings. The motion passed unanimously. Sen. Davis was absent for the vote.

## **2. August "Truth in Taxation" Public Hearing for Calendar Year Taxing Entities**

Chair Henderson relinquished the chair to Rep. Wilcox.

Sen. Henderson provided background information concerning calendar year taxing entities that hold hearings for a proposed budget increase in December as part of their normal budget process, but do not hold a truth in taxation hearing for an increase to the property tax until the following August. She explained a possible solution discussed at a recent stakeholder meeting that would provide better notice for a December budget hearing.

Mr. Brent Gardner, Utah Association of Counties, informed the committee of some concerns that members of county governing bodies have with the proposed solution. He invited committee members to attend a meeting of the county commissions and councils next month to discuss the issue. He responded to questions from the committee.

Mr. Carlton Bowen, member of the public, expressed concerns about the August truth in taxation hearing and emphasized the importance of providing the public with adequate notice prior to a tax increase.

Sen. Henderson acknowledged Mr. Bowen's concerns and conveyed the intentions of the committee to create a solution that provides the public with adequate notice.

## **3. Utah Legal Tender Act**

Chair Wilcox relinquished the chair to Sen. Henderson.

Rep. Kennedy introduced Mr. Lawrence D. Hilton, Esq., Utah Precious Metals Association.

Mr. Hilton summarized proposed changes related to specie legal tender. He distributed "Specie Legal Tender Amendments," noting that it represents his best efforts to address the issues discussed. He responded to questions from the committee.

Sen. Valentine emphasized the significance of the proposed changes and the importance of working with staff to ensure legislation is drafted correctly.

**MOTION:** Sen. Valentine moved to prioritize the drafting of an existing bill file that modifies the Specie Legal Tender Act. The motion failed with Chair Henderson, Sen. Stephenson, Sen. Valentine, Rep. Dunnigan, Rep. Gibson, Rep. Kennedy, and Rep. Peterson, and Rep. Wilcox voting in favor. Sen. Bramble and Sen. Davis were absent for the vote.

Mr. Peter Cannon, Davis County, expressed concern over the devaluation of currency and urged the Legislature to make it easier to use gold and silver coin as legal tender.

Ms. Emily Van Bloem stated her support for the use of gold and silver as legal tender.

Mr. Bowen urged the Legislature to put an infrastructure in place that better enables transactions in gold and silver coin.

#### **4. Tax Commissioner Qualifications**

Sen. Stephenson distributed draft legislation "Appointment and Qualification of Members of the State Tax Commission" (2014FL-0207/005). He reviewed provisions of the draft legislation. He explained that the proposal removes the partisan requirement for the appointment of tax commissioners from statute, but noted that the change would only go into effect if the Utah Constitution is likewise amended. He responded to questions from the committee.

The committee discussed amendments to the draft legislation.

#### **5. Property Tax – Calculation of the Certified Tax Rate**

Sen. Stephenson explained how a drop in the value of centrally assessed property could offset gains in an area experiencing new growth and result in an increase of the certified tax rate. He cited Jordan School District as an example.

**MOTION:** Sen. Stephenson moved that the committee open a bill file that would mitigate the impacts that a large reduction in the taxable value of centrally assessed property might have on the calculation of the certified tax rate. The motion passed unanimously. Sen. Bramble, Sen. Davis, Rep. Dunnigan, Rep. Nielsen, and Rep. Wilcox were absent for the vote.

## **6. Sunset Review – Multistate Tax Compact**

This agenda item was not heard.

## **7. Pollution Control Sales Tax Exemption Amendments**

Mr. Mark Buchi, attorney, Holland & Hart, described the sales and use tax exemption for investment in pollution control facilities. He explained that jurisdiction over the administration of this exemption sits with both the Department of Environmental Quality and the Utah State Tax Commission, resulting in some uncertainty. He proposed measures to address ambiguities in the code relating to what transactions are exempt from sales and use taxes, noting that the measures are the result of discussions between all the stakeholders. He responded to questions from the committee.

Mr. Bruce Johnson, Utah State Tax Commission, stated that the Tax Commission is happy to receive guidance from the Legislature in order to clear up any confusion in this matter and further noted that the Tax Commission is comfortable with the measures Mr. Buchi proposed.

**MOTION:** Rep. Wilcox moved that the committee open a bill file to amend the sales and use tax exemption related to pollution control facilities. The motion passed unanimously. Sen. Davis, Rep. Dunnigan, and Rep. Nielsen were absent for the vote.

## **8. Deduction to Taxable Motor Fuel due to Shrinkage**

Sen. Jim Dabakis distributed Utah Code Section 59-13-207. He reviewed the 2% deduction to the gross amount of taxable motor fuel to allow for evaporation, loss in handling, and expenses of collection. He further explained that current law requires all distributors to pay one half of that deduction to registered retailers on quantities sold to them. He advocated that the Legislature look at ways to ensure that independent retailers receive an equitable share of the deduction. He responded to questions from the committee.

Mr. Lee Patten, retail dealer of gasoline, Utah County, demonstrated how a gas delivery system operates, illustrating where and when shrinkage occurs. He expressed concern that an unfair advantage exists for distributors who are also retailers.

Mr. Anthony Martineau, attorney, explained how distributors who are also retailers are able to charge a lower price to consumers for gasoline by keeping the full 2% deduction.

The committee discussed how the tax on motor fuel is collected.

Mr. Robert Barton, retail dealer of gasoline, Salt Lake County, informed the committee that he currently does not receive a share of the 2% deduction from his distributor and he would like to see that corrected.

Mr. John Hill, Director, Utah Petroleum Marketers and Retailers Association, expressed the association's neutral position on this issue due to a pending lawsuit. He urged the committee to wait for the district court's decision before taking any action.

Mr. Craig Kellerstrass, gasoline distributor, illustrated the complexity of the issues involved and advised the committee to gather more information before making changes.

**MOTION:** Sen. Davis moved that Sen. Dabakis work with committee members to draft legislation that would clarify who receives the benefit of the 2% deduction. The motion passed unanimously. Sen. Bramble, Sen. Stephenson, Rep. Barlow, Rep. Dunnigan, Rep. Nielsen, and Rep. Wilcox were absent for the vote.

#### **9. Committee Study – Standards for Determining Acceptable Assessment Levels and Valuation Deviations for Taxable Real Property within Counties**

This agenda item was not heard.

#### **10. Other Items/Adjourn**

**MOTION:** Sen. Davis moved to adjourn the meeting. The motion passed unanimously. Sen. Bramble, Sen. Stephenson, Rep. Barlow, Rep. Dunnigan, Rep. Nielsen, and Rep. Wilcox were absent for the vote.

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Chair Henderson adjourned the meeting at 12:46 p.m.