

**MINUTES OF THE  
REVENUE AND TAXATION INTERIM COMMITTEE**  
Wednesday, November 20, 2013 – 2:00 p.m. – Room 445 State Capitol

**Members Present:**

Sen. Deidre M. Henderson, Senate Chair  
Rep. Ryan D. Wilcox, House Chair  
Sen. Howard A. Stephenson  
Sen. John L. Valentine  
Rep. Stewart Barlow  
Rep. Joel K. Briscoe  
Rep. Rebecca Chavez-Houck  
Rep. Tim M. Cosgrove  
Rep. Steve Eliason  
Rep. Francis D. Gibson  
Rep. Eric K. Hutchings  
Rep. Michael S. Kennedy  
Rep. Jim Nielson  
Rep. Val L. Peterson

Rep. Dixon M. Pitcher  
Rep. Jon E. Stanard  
Rep. Earl D. Tanner  
Rep. John Westwood

**Members Absent:**

Sen. Curtis S. Bramble  
Sen. Gene Davis  
Rep. James A. Dunnigan

**Staff Present:**

Mr. Leif G. Elder, Policy Analyst  
Mr. Bryant R. Howe, Assistant Director  
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 Wilcox called the meeting to order at 2:24 p.m.

**MOTION:** Rep. Westwood moved to approve the minutes of the October 16, 2013, meeting. The motion passed unanimously. Rep. Cosgrove, Rep. Gibson, Rep. Nielsen, Rep. Peterson, and Rep. Pitcher were absent for the vote.

**2. Municipal Energy Sales and Use Tax**

Ms. Kelly Francone, Executive Director, Utah Association of Energy Users, presented "UAE's Proposal for Equitable Municipal Energy Taxes." Ms. Francone provided background information on the association, noting that its members spend more than \$350 million annually on energy. She explained how municipal energy sales and use tax is calculated. She proposed that this tax be calculated based on the amount of energy used, rather than the fluctuating price of energy. She stated that this proposal would make the municipal energy sales and use tax more predictable and stable. She responded to questions from the committee.

Mr. Roger Tew, Utah League of Cities and Towns, urged the committee to exercise caution when making adjustments to this tax, noting that it is the third largest revenue source for most municipalities.

**3. Tax Commissioner Qualifications**

Sen. Stephenson distributed draft legislation "Appointment and Qualification of Members of the State Tax Commission" (2014FL-0207/008). He explained that the goal of this draft legislation is to ensure that tax commissioners are qualified to sit in judgment of tax issues. He noted that all current members of the State Tax Commission would qualify for reappointment under the requirements set out in the draft

legislation, due to the education and experience demonstrated by their service on the commission. He responded to questions from the committee.

Ms. Rockwell highlighted the differences between the distributed version of the draft legislation and the version that the committee discussed at its previous meeting.

The committee discussed the removal of language requiring that no more than two members of the commission may belong to the same political party.

**MOTION:** Sen. Stephenson moved to adopt draft legislation "Appointment and Qualification of Members of the State Tax Commission" as a committee bill. The motion passed with Rep. Briscoe voting in opposition. Sen. Valentine, Rep. Nielsen, Rep. Peterson, and Rep. Pitcher were absent for the vote.

#### **4. Pollution Control Amendments**

Mr. Mark Buchi, attorney, Holland & Hart, discussed draft legislation "Pollution Control Amendments" (2014FL-0506/012), which staff distributed at the meeting. He explained that the draft legislation addresses a sales and use tax exemption related to pollution control and inconsistencies in the tax code. He responded to questions from the committee.

**MOTION:** Sen. Stephenson moved to adopt draft legislation "Pollution Control Amendments" as a committee bill. The motion passed unanimously. Sen. Valentine, Rep. Eliason, Rep. Nielsen, Rep. Peterson, and Rep. Pitcher were absent for the vote.

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

Sen. Jim Dabakis distributed draft legislation "Motor Fuel Tax Revisions" (2014FL-0224/007). He explained that the draft legislation requires motor fuel distributors to pay one-half of the 2% motor fuel tax deduction taken for evaporation, loss in handling, and expenses of collection to retail dealers of motor fuel.

Mr. John Hill, State Executive, Utah Petroleum Marketers & Retailers Association, reasoned that the 2% deduction should be viewed as a collection allowance for distributors, who act as tax collectors. He distributed and reviewed "Typical Retail Dealer of Motor Fuel."

Mr. Craig Kellerstrass, President, Kellerstrass Oil Company, spoke in opposition to the draft legislation. He provided background information on the collection of motor fuel taxes and asserted that the current law is sufficient in this area. He responded to questions from the committee.

Mr. David Bell, owner, Bell Brothers Oil Company, spoke in opposition to the draft legislation. He expressed concerns over a one-size-fits-all approach, noting that different businesses have different needs. He responded to questions from the committee.

Mr. Bruce Johnson, Utah State Tax Commission, explained that retail dealers of gasoline receive one-half of the 2% deduction depending on whether they buy their gasoline from refineries or from distributors. He noted that the State Tax Commission has no position on the draft legislation. He responded to questions from the committee regarding the definition of gasoline distributor.

Mr. Lee Patten, retail dealer of gasoline, acknowledged the costs associated with distributing gasoline and pointed out that independent retail dealers like himself incur similar costs. He responded to questions from the committee.

**MOTION:** Sen. Stephenson moved that the committee move to the next item on the agenda. The motion passed with Rep. Chavez-Houck voting in opposition. Rep. Barlow, Rep. Eliason, Rep. Nielsen, and Rep. Pitcher were absent for the vote.

## **6. Certified Tax Rate Calculation Amendments**

Sen. Stephenson distributed draft legislation "Certified Tax Rate Calculation Amendments" (2014FL-0505/008). Staff distributed "Number of Tax Entities that Would Have Been Affected by Draft Legislation 'Certified Tax Rate Amendments' (Tax Years 2010-2013)." Sen. Stephenson reviewed the highlighted provisions of the draft legislation, noting that the taxing entities that would be most affected would be counties and school districts.

Ms. Rockwell noted that in addition to modifying the calculation of new growth, the draft legislation harmonizes statute with practice.

Mr. Brent Gardner, Utah Association of Counties, informed the committee that the association is still in the process of reviewing the language of the draft legislation and determining its potential impact.

## **7. Transportation Funding**

Mr. Elder provided background information on a proposal from representatives of city and county governments on how to fund road improvements. He referred to "Local-Option Transportation Funding Presentation," which was distributed prior to the meeting. He explained that the proposal includes a 3% local option fuel user fee, which would generate an estimated \$3 billion over the next 27 years.

Mr. Todd Bingham, President, Utah Manufacturers Association, distributed "Business Trade Association Transportation Funding Policy." He acknowledged the need for a well-funded, efficient, and effective transportation system. He articulated the position of various business trade associations that a cents-per-gallon approach to motor fuel taxation should remain the state's primary mechanism for transportation funding. He responded to questions from the committee.

Ms. Kate Bradshaw, Vice President, Utah Food Industry Association and Utah Retail Merchants Association, outlined the concerns of various business trade associations with the 3% local option fuel user fee proposal. She echoed Mr. Bingham's endorsement of a cents-per-gallon approach to motor fuel taxation, describing the benefits of such an approach. She responded to questions from the committee.

**MOTION:** Sen. Henderson moved that the committee move to the next item on the agenda. The motion passed unanimously. Sen. Stephenson, Rep. Hutchings, and Rep. Pitcher were absent for the vote.

## **8. Distribution of Local Option Sales and Use Tax**

Rep. Nielsen distributed "Sales Tax Distribution Amendments." He explained a proposal to distribute a portion of the 1% sales and use tax under Utah Code Title 59, Chapter 12, Part 2, Local Sales and Use Tax Act, collected from remote sellers based on property values, point of sale, and population.

Chair Wilcox relinquished the chair to Sen. Henderson.

**9. Other Items / Adjourn**

**MOTION:** Sen. Valentine moved to adjourn the meeting. The motion passed unanimously. Sen. Stephenson, Rep. Briscoe, Rep. Gibson, Rep. Pitcher, and Rep. Wilcox were absent for the vote.

Chair Henderson adjourned the meeting at 5:22 p.m.