

**MINUTES OF THE
UTAH TAX REVIEW COMMISSION**

Thursday, May 28, 2015 – 2:00 p.m. – Room 445 State Capitol

Members Present:

Mr. Curtis Trader, Chair
Sen. Deidre M. Henderson
Rep. Joel K. Briscoe
Rep. Daniel McCay
Mr. Kelly J. Applegate
Ms. Emily D. Bagley
Mr. Phil Dean
Ms. Kathleen Howell
Mr. K. Tim Larsen
Mr. Troy K. Lewis
Mr. Gregory G. Prawitt
Comm. John L. Valentine
Mr. Lawrence C. Walters

Members Absent:

Sen. Jim Dabakis
Sen. Lyle W. Hillyard
Rep. Steve Eliason

Staff Present:

Mr. Leif G. Elder, Policy Analyst
Mr. Bryant R. Howe, Deputy Director
Ms. Rebecca L. Rockwell, Associate General Counsel
Ms. Bree A. Frehner, 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. Commission Business

Chair Trader called the meeting to order at 2:05 p.m. Newly appointed commission members introduced themselves.

MOTION: Commissioner Valentine moved to approve the minutes of the April 30, 2015, meeting. The motion passed unanimously. Mr. Larsen was absent for the vote.

2. Earmarking of the State Sales and Use Tax

Mr. Howe reviewed the issues discussed at the April 30, 2015, meeting regarding the earmarking of the state sales and use tax. He distributed "Sales and Use Tax Revenue – Where Does the Money Go?" to show the current allocations of state sales and use tax earmarks. He introduced the witnesses who were invited to discuss their agency's use of revenue from earmarks. He asked the commission for further direction to guide future meetings.

Mr. Robert Hougaard, Director of the Plant Industry and Conservation Division, Utah Department of Agriculture and Food, presented "Agriculture Resource Development Loan Program," which gave an overview of how the Utah Department of Agriculture and Food spends revenue from current earmarks. He highlighted several projects funded by revenue from earmarks through the Agriculture Resource Development Loan Program (ARDL). He discussed expectations for upcoming years and informed the commission about cash reserves available in ARDL. He mentioned the importance of better practices and conservation for future sustainability.

Sen. Henderson asked how much revenue the ARDL fund has received from interest and how much it costs to administer ARDL. Mr. Hougaard said he would provide this information to commission staff.

Rep. Briscoe asked how the interest rate for ARDL loans is decided. Ms. Karen Rhynsburger, agriculture loan specialist, ARDL, answered that tiered interest rates are used so ARDL can remain competitive with commercial lenders.

Mr. Lewis asked how often loan interest rates are reevaluated and whether there is a demand from Utah farmers for ARDL loans that isn't satisfied. Mr. Hougaard responded that the interest rates are typically discussed quarterly at Utah Conservation Commission meetings. He remarked that ARDL does not give as many loans as they would like due to competition with the private sector when interest rates are low. Ms. Rhynsburger added that ARDL loans require a conservation plan.

Chair Trader asked about the advantages of ARDL loans compared to private sector loans, including whether the private sector lends to the same types of projects as ARDL. Ms. Rhynsburger responded that the private sector does not provide technical expertise when they lend while ARDL loans are paired with technical expertise to direct the project.

Mr. Walters asked how ARDL would be affected if the current earmark were eliminated. Mr. Hougaard responded that the program would not likely be harmed.

Commissioner Valentine asked why ARDL funds capital projects when conservation is the main goal of the program. Mr. Hougaard explained that certain requests are granted to help farmers stay in business. Commissioner Valentine expressed concern about this practice.

Mr. Larsen asked how ARDL loans are secured and whether there have been any defaults. Ms. Roberta Valdez, agriculture loan specialist, ARDL, answered that loans are primarily secured with real estate and water stock. She said the foreclosure rate is very low.

Mr. Dean asked whether replacing the sales and use tax earmark with an ongoing General Fund appropriation would affect the program. Ms. Valdez answered that there would be no impact.

Chair Trader thanked the presenters from Utah Department of Agriculture and Food.

Mr. Walter Baker, Director of the Division of Water Quality, Utah Department of Environmental Quality, and Mr. Ken Bousfield, Director of the Division of Drinking Water, Utah Department of Environmental Quality, presented "Drinking Water and Wastewater Loan Programs." They reviewed the history of the drinking water and wastewater loan programs as well as the purpose of the loan programs. Each discussed why the loan programs are important. Mr. Baker mentioned the importance of sustainability in meeting water and wastewater needs. He discussed growing needs and recommended the commission consider a funding reallocation of earmarks to protect unique water resources and further innovative water technology. Highlighting how essential funding is for the Division of Drinking Water, Mr. Bousfield discussed how investment in water and wastewater treatment is an investment in quality of life in Utah.

Mr. Dean asked for an elaboration of concerns about relying on appropriations from the General Fund. Mr. Baker and Mr. Bousfield discussed the importance of sustainability and problems that could arise if the water earmark were eliminated. Mr. Dean expressed concern about how earmarks eliminate legislative scrutiny of particular programs.

Chair Trader asked at what point drinking water and wastewater loan programs could be self-sustaining due to growth over time by loan repayments and annual earmark appropriations. Mr. Baker responded that because the programs do not currently meet the demand, they are assisted by other programs. He stated that self-sustainability is not feasible at this time.

Mr. Walters asked clarifying questions about the loan programs, loan term and size, and number of loans. He asked how many loans would be impossible if the earmark were eliminated. Mr. Baker responded that

eliminating the earmark would eliminate 15-20 percent of projects annually. He added that it is fair to assume these projects would be funded the following year.

In response to a question from Sen. Henderson, Mr. Bousfield referenced "Utah Department of Environmental Quality Earmarks Response" to show how Drinking Water Loan Program loan recipients would be unable to get funding from the private market. Mr. Baker added that some Wastewater Loan Program projects would be impossible if there were no loan program and others would be less affordable.

Chair Trader thanked the presenters from the Utah Department of Environmental Quality.

Mr. Mike Styler, Director, Utah Department of Natural Resources (UDNR); Mr. Eric Millis, Director of the Division of Water Resources, UDNR; and Mr. Henry Maddux, Director of the Sensitive Species Protection Program, UDNR, distributed "Utah Department of Natural Resources Earmarks Response." Mr. Styler discussed the history of earmarks for water, referencing "Sales Tax Earmarks Flowchart," which he distributed. He remarked on each UDNR program funded by the earmark and discussed future needs. He highlighted watershed restoration work done and distributed "Utah Watershed Restoration Initiative Completed Projects." Mr. Maddux and Mr. Millis also participated in the presentation.

Sen. Henderson asked about any oversight of funds spent for sensitive species protection and remarked that funds could be appropriated through the regular process. Mr. Maddux responded that an annual report is given to the Legislature and explained the process used when choosing projects to fund in order to determine the economic impact on Utah if a project were not funded. Mr. Styler added that the majority of the money for sensitive species protection is contracted for ongoing projects.

Responding to a question from Mr. Walters, Mr. Styler commented on the inconsistency of appropriations to UDNR from the General Fund.

Mr. Dean asked about prioritization within the earmarks.

Chair Trader thanked the presenters from UDNR.

Ms. Linda Toy Hull, Director of Policy and Legislative Services, Utah Department of Transportation (UDOT), and Ms. Becky Bradshaw, Comptroller, UDOT, presented "Transportation Funding and Earmarks," and also referenced "Utah Department of Transportation Earmarks Response," which was distributed prior to the meeting. Ms. Hull began by defining state highways and showing statewide growth trends. She discussed two funding sources for UDOT, the Transportation Fund and the Transportation Investment Fund (TIF), explaining the sources and uses of funds for each. Concerning the Transportation Fund, Ms. Hull highlighted that too little funding has been available for pavement preservation. She recommended that the current sales and use tax earmark to the Transportation Fund be retained. Concerning the TIF, she distributed "Transportation Investment Fund Current Projects Through 2018" and "Transportation Investment Fund – Capacity Program Recommendation." She discussed how the Legislature could systematically adjust the earmark dedicated to the TIF so the amount would eventually represent the 17% of sales and use tax generated by the sale of vehicles and vehicle-related products.

Rep. Briscoe asked for clarification on what the net reduction would be 10 years from now if the Legislature adopted UDOT's recommendations.

Chair Trader asked whether UDOT has considered alternate funding sources such as user fees or toll lanes. Ms. Hull responded that fuel taxes are a type of user fee. She remarked that there may be promise in a mileage tax but mentioned concerns with privacy, fairness, and multistate issues.

Mr. Walters asked what percentage of funding goes to capacity expansion. He questioned whether funding transportation through earmarks limits evaluation of alternate transportation modes and limits the Legislature's ability to address transportation needs. Ms. Hull explained that all projects funded through the TIF are statutorily required to be capacity related. She spoke about how UDOT coordinates with the transit system to ensure that public transportation, an alternate mode of transportation, works seamlessly with the state road system.

Chair Trader asked about mitigating impacts of congestion by implementing user fees at peak hours. Ms. Hull responded that UDOT uses market forces to manage congestion in HOV lanes but not to raise revenue. She mentioned that UDOT has toll authority but that the public does not support implementing tolling.

Chair Trader thanked the presenters from UDOT.

3. Earmarking Study Request

Sen. Howard A. Stephenson provided his perspective on the sales and use tax earmark study. He asked that the commission consider the optimal recommendations for what the Legislature should do regarding the current expansion of earmarking. He advised the commission to evaluate whether earmarking is the best way to fund certain services. He elaborated on some alternatives to earmarking, such as various ways to price water and highway use, that the commission may wish to consider in their evaluation.

4. Envision Utah "Your Utah/Your Future" Project

Mr. Robert Grow, President and CEO, Envision Utah, presented "Your Utah. Your Future," which addressed the project Envision Utah is currently involved in to evaluate long-term priorities for Utah as the state population is projected to nearly double in size by 2050. He outlined the survey Envision Utah is using to evaluate these priorities. He showed the commission where the survey can be found and encouraged members to participate.

5. Other Items/Adjourn

Chair Trader asked staff to gather follow-up questions from commission members.

MOTION: Mr. Walters moved to adjourn the meeting at 5:01 p.m. The motion passed unanimously. Sen. Henderson, Rep. McCay, and Commissioner Valentine were absent for the vote.