

**MINUTES OF THE  
REVENUE AND TAXATION INTERIM COMMITTEE**  
Wednesday, May 23, 2001 – 2:00 p.m. – Room 129 State Capitol

**Members Present:**

Sen. Curtis S. Bramble, Senate Chair  
Sen. Ron Allen  
Sen. Lyle W. Hillyard  
Sen. Howard A. Stephenson  
Rep. Ralph Becker  
Rep. Afton Bradshaw  
Rep. Judy Ann Buffmire  
Rep. David Clark  
Rep. Bryan D. Holladay  
Rep. Carol Spackman Moss  
Rep. LaWanna Shurtliff  
Rep. Gordon E. Snow

**Members Excused:**

Rep. Wayne A. Harper, House Chair  
Rep. Kevin S. Garn  
Rep. John E. Swallow

**Staff Present:**

Mr. Bryant R. Howe,  
Research Analyst  
Ms. Rebecca L. Rockwell,  
Associate General Counsel  
Ms. Sandra Wissa,  
Legislative Secretary

Note: A list of others present and a copy of materials distributed in the meeting are on file in the Office of Legislative Research and General Counsel.

**1. Committee Business**

Chair Bramble called the meeting to order at 2:50 p.m.

**MOTION:** Sen. Allen moved that the minutes of the April 18, 2001 meeting be approved with a correction noted by Sen. Hillyard. The motion passed unanimously.

**2. Revenue Update**

Mr. Doug Macdonald, Chief Economist, Utah State Tax Commission (Tax Commission), distributed a handout "TC-23 Monthly Revenue Summary—First 10 Months, FY2000-2001" which is a report on revenue collections for major state taxes. He noted that total General Fund and Uniform School Fund collections are almost \$60 million below legislative projections for the fiscal year ending on June 30, 2001. Sales and use taxes are \$5.99 million below projections, individual income tax collections are \$42.53 million below projections, and corporate franchise and income tax collections are \$17.14 million below projections. Oil and gas severance tax collections are \$10.74 million above projections. Mr. Macdonald noted that the lower than expected individual income tax collections are due to reduced capital gains income and fewer taxpayers making final payments.

Chair Bramble noted that in his private business he has seen more clients filing extensions to file income tax returns. He asked if the Tax Commission was experiencing an increase in the number of taxpayers seeking extensions. Mr. Macdonald replied that he was not sure, and that taxpayers filing extension requests are still required to pay their estimated tax liability.

### **3. Funding of Property Tax Relief Programs**

Ms. Rebecca L. Rockwell distributed the handout "Property Tax Relief" and reviewed state and local funding responsibilities for property tax relief programs. She noted that the homeowner's credit and renter's credit (part of the "circuit breaker" property tax relief program) are funded from the state General Fund. Funding for other types of property tax relief is derived from taxing entities' tax bases. Ms. Rockwell also distributed the handout "Circuit Breaker Property Tax Relief" showing that the percentage of circuit breaker property tax relief funded by the General Fund has increased between 1999 and 2000.

### **4. Issues Surrounding the Implementation of the Farmland Assessment Act (FAA)**

Chair Bramble introduced this topic to the committee by noting that he recently met with a group of county assessors and Tax Commission officials to discuss certain issues related to the FAA. All of the parties at this meeting noted that there are several issues regarding how the act is administered by county assessors. Chair Bramble explained that the purpose of this agenda item is to acquaint the committee with the FAA and to briefly review some of the administrative issues.

Mr. Bryant R. Howe distributed the handout "Farmland Assessment Act." He noted that the Utah Constitution generally requires all property to be valued according to its value in money. One exception to this general rule is that land used for agricultural purposes may be assessed according to its value for agricultural use without regard to the value it may have for other purposes. Mr. Howe commented that land must meet certain criteria before it is assessed under the FAA. In addition, land valued under the FAA is subject to a rollback tax if the land is put to a use other than agricultural use or is otherwise withdrawn from the provisions of the FAA. He explained that the rollback tax is the increased tax that would have otherwise been paid for the last five years if the land had been assessed at fair market value.

Ms. Kim Wilson, Rich County Assessor, told the committee that the county assessors have undertaken a comprehensive review of the FAA. She noted that a recent review by the Tax Commission found that county assessors are administering the FAA in different ways. Certain parts of the statute are not clear and are subject to different interpretations.

Ms. Wilson noted the following areas of concern: (1) confusion over how rollback taxes are to be administered; (2) imposition of penalties on failure to pay rollback taxes; and (3) notification when land is removed from agricultural use. The county assessors will be meeting next month to begin a review of these problems and propose solutions. If changes to state law are necessary, she requested that the committee review these changes later in the year.

Sen. Hillyard stated that significant improvements and changes were made to the FAA in 1988 and 1989. He noted that one issue is that property owners do not often pay close attention

to the "fair market value" figure that is listed on valuation notices along with the value of the property under the FAA. Taxpayers only pay attention to the taxes that are owed. However, when the land is withdrawn from agricultural use, rollback taxes are assessed on the basis of the fair market value determined by the county assessor for the last five years, but the taxpayer may no longer appeal the fair market value of the property for the prior years. Sen. Hillyard suggested modifying the FAA to allow a taxpayer to appeal the market value after a property is withdrawn from agricultural use for up to five previous years.

Chair Bramble said this problem has also been brought to his attention. A taxpayer in Salt Lake County told Chair Bramble that when the taxpayer sold his agricultural land the market value was too high. Consequently, the taxpayer felt that he was required to pay excessive rollback taxes. Chair Bramble noted that because rollback taxes are not included in a taxing entity's projected property tax revenue, a change to the law that allows a five year look back at a property's fair market value might be feasible.

Rep. Snow asked what would happen if a parcel of land was removed from the provisions of the FAA but still kept in agricultural use. Mr. Howe replied that the FAA would require the land to be subject to the rollback tax.

Rep. Shurtliff asked if documentation is available to substantiate an assessor's determination of fair market value. Ms. Wilson replied that while county assessors do keep some records, it might be difficult to reassess a property's fair market value that was established five years ago.

Mr. David Bird, Attorney, Parsons, Behle, and Latimer, told the committee that his clients who own agricultural land carefully monitor the market value that is included on the valuation notice each year, and that sometimes these market values are appealed. He questioned the fairness of allowing owners of property valued under the FAA to appeal past year valuations when other property owners are not allowed to go back five years and appeal a market value. In addition, Mr. Bird commented that when land is sold it is often the developer that pays the rollback taxes because the cost of paying the rollback taxes is frequently included in the overall cost of the development project.

Mr. Roger Tew, Utah League of Cities and Towns, told the committee that the FAA bestows a benefit on owners of agricultural land. With this benefit comes a duty on the part of the property owner to closely monitor the property's fair market value. He suggested that perhaps property owners need to be educated to closely monitor their assessment notices. Mr. Tew agreed with Mr. Bird that most owners of FAA land closely monitor the fair market values of their properties and the market values contained on the valuation notice.

Sen. Hillyard said that he is aware of one instance of a parcel of land being sold for less than the market value listed on the valuation notice, and the property owner was obligated to pay a large rollback tax on the basis of a value that was higher than fair market value.

**MOTION:** Sen. Hillyard moved that the committee ask the county assessors to review issues regarding the administration of the FAA and return to the committee with recommendations. The motion passed unanimously.

#### **5. Minimum Judgment Amounts for Which Judgment Levies May Be Imposed by Taxing Entities**

Sen. Stephenson introduced this issue to the committee by stating that a taxing entity is authorized to impose a special property tax levy to satisfy a judgment against the taxing entity as a result of a successful property tax appeal. A few years ago, the legislature exempted property tax increases as a result of judgment levies from the truth in taxation process. He noted that this led to a large increase in the number of taxing entities imposing judgment levies. Also, some taxing entities were imposing a judgment levy for relatively small judgment amounts that perhaps could have been paid from other revenue sources.

Sen. Stephenson explained that in response to these actions, the legislature made several changes to the law. One of these changes provides that a taxing entity may only impose a judgment levy if the amount of a judgment is greater than or equal to the lesser of: (a) \$1,000; or (b) 1% of ad valorem property taxes collected by the taxing entity during the previous fiscal year. Sen. Stephenson stated that the issue before the committee today is whether the minimum judgment amount is appropriate or whether it should be raised.

Mr. Howe distributed the handout "Judgment Levies" and reviewed recent changes to state laws governing judgment levies.

Mr. John Hansen, Millard County Auditor, told the committee that the minimum judgment amounts now in statute are at an appropriate level. The current process has addressed any past problems that may have arisen with the use of judgment levies, and there is no need for change.

Mr. Burke Jolley, Jordan School District, told the committee that the current system is working well, and that some smaller taxing entities may have a difficult time if the minimum judgment amount is increased. He said the legislature should not make it more difficult for taxing entities to impose judgment levies.

Mr. Jan Furner, Utah Association of Special Districts, stated that no changes are needed to the current law regarding judgment levies.

Sen. Stephenson suggested that the committee defer any further action on this issue until Rep. Harper presents his ideas and suggestions for changes to the minimum threshold amount for judgment levies.

Sen. Hillyard asked whether taxing entities have incentives to either impose a judgment levy or to pay a judgment from other revenue sources. Mr. Larry Johnson, Salt Lake County Treasurer, replied that a taxing entity may only impose a judgment levy if the taxing entity is required to refund property taxes that have already been paid. Refunds may be for property taxes that were paid several years ago. Sen. Hillyard asked for additional information regarding whether a taxing entity may impose a judgment levy even if the taxing entity has funds in a reserve account that could be used to pay that judgment.

#### **6. Imposition of Penalties and Interest on Property Taxes Due When Taxable Value is Under Appeal**

Chair Bramble explained that current statute requires a penalty to be imposed on delinquent property taxes even if the value of the property is under appeal. He related the situation that gave rise to his sponsoring S.B. 76, "Property Tax Appeal Amendments," during the last legislative session. In this situation, a taxpayer did not receive his property tax valuation notice in July. When the taxpayer received the November tax notice, he found that the market value of his property had increased substantially. However, because the deadline for filing an appeal had passed, he was not able to appeal the valuation amount. The property owner subsequently had to sell the property to pay the property taxes that were owed. Chair Bramble noted that the county assessor later admitted that the valuation was wrong. Chair Bramble explained that the issue before the committee is whether a taxpayer should be assessed a penalty for nonpayment of taxes if the county assessor cannot tell the taxpayer the correct amount of taxes owed. He asserted that if an appeal is eventually denied, clearly a penalty is appropriate, but if the taxpayer ultimately prevails in an appeal, it is not appropriate for a penalty to be imposed.

Sen. Allen asked whether Chair Bramble thinks it is appropriate to impose a penalty in the case of an unsuccessful appeal. Chair Bramble said that in those instances, imposition of a penalty is appropriate. Chair Bramble commented that the principle for the committee to consider is whether a taxpayer should be subject to a penalty on a tax that the taxing jurisdiction cannot properly ascertain or whether a penalty should be imposed only after the correct amount has been determined and the taxpayer has been given a reasonable time to pay.

Chair Bramble said that perhaps this issue could be considered at a future committee meeting.

Rep. Clark said that some consideration should be given to a taxpayer who pays at least some amount of property tax even though the value of the property is under appeal.

**7. Other Business**

**MOTION:** Sen. Allen moved to adjourn the meeting at 4:40 p.m. The motion passed unanimously.