

**MINUTES OF THE
BUSINESS, LABOR, AND ECONOMIC DEVELOPMENT INTERIM COMMITTEE**
August 18, 1999 - 9:00 a.m. - Room 403 State Capitol

Members Present:

Sen. Parley Hellewell, Chair
Rep. John William "Bill" Hickman, Chair
Sen. Eddie "Ed" P. Mayne
Sen. Robert M. Muhlestein
Rep. Gerry A. Adair
Rep. Patrice M. Arent
Rep. Afton B. Bradshaw
Rep. Katherine M. Bryson
Rep. Don E. Bush
Sen. Gene Davis
Rep. Carl W. Duckworth
Rep. Ben C. Ferry
Rep. Wayne A. Harper
Rep. Brad King
Rep. Lowell A. Nelson
Rep. David L. Zolman

Members Absent:

Sen. John L. Valentine

Staff Present:

Ms. Mary Catherine Perry,
Research Analyst
Ms. Patricia Owen,
Associate General Counsel
Ms. Beverlee LeCheminant,
Committee Secretary

Note: Names of others present and copies of information distributed at the meeting are on file in the Office of Legislative Research and General Counsel.

1. Call to Order - Chair Hickman called the meeting to order at 9:10 a.m.

2. Committee Business -

No action was taken on the minutes of the July 21, 1999 meeting.

3. Regulation of Mortgage Lenders - Ms. Patricia Owen, Associate General Counsel, provided an overview of the regulation of residential mortgages. She distributed printed copies of her overview to committee members.

Mr. Tee Tyler, President, Utah Mortgage Lenders Association ("Association"), said that the Association's position regarding legislative change in the regulation of mortgage lenders includes five elements: 1) licensing, not just registration, of mortgage lenders; 2) testing for minimum levels of competency prior to entry into the industry; 3) regulating, supervising, and auditing on an ongoing basis in a format parallel to that of real estate agents and brokers who are now regulated by the Division of Real Estate within the Department of Commerce; 4) regulating companion industries through the same department of state government; and 5) regulating mortgage lenders to address explosive growth of the industry during the 90's. Mr. Tyler stated that the Association has prepared draft legislation that it feels would be a road map for appropriate legislative changes.

Mr. Rich Bailey, Chair, Legislative Committee and Past President of the Association, said the Association's draft legislation would: help each mortgage company practice its business on an even playing field; encourage both small and large lenders; protect companies that are currently in business; and provide

a mechanism to put mortgage companies that are involved in loan fraud out of business or on probation.

Mr. Kay Ashton, President-Elect of the Association, said that the evolution of the industry has created a need for licensing as there are gaps in current regulation of the mortgage industry. He stated that the Association is supportive of licensing legislation that will protect the public and raise the standard of professionalism and ethics in the industry.

Mr. Ted Boyer, Director, Division of Real Estate, Department of Commerce ("Division"), said there is an alarming increase in occurrences of loan fraud and foreclosures, but the Division believes that regulation of an industry should be considered a measure of last resort. Mr. Boyer stated that the Division encourages the committee to look at alternative mechanisms of regulation. He added that if the Legislature agrees to regulate mortgage brokers, that the Department of Financial Institutions might be the appropriate department to regulate mortgage lenders because of its expertise in the financial services industry.

Mr. Ed Leary, Commissioner, Department of Financial Institutions ("Department"), distributed and summarized "Review of Mortgage Lending Laws as of August 11, 1999." Mr. Leary discussed the current law regulating mortgage lenders and indicated that the Department looks forward to working with the Legislature to resolve issues raised in the regulation of the mortgage industry. Mr. Leary stated that the Department's concerns include whether federal laws preempt certain legislative actions and whether passage of a more aggressive law may create an imbalance within the industry.

Mr. Robert Farnsworth, Real Estate Broker and Chair of the Salt Lake Board of Realtors Government Affairs Committee ("Committee"), said that the Committee supports the efforts the Association has made and believes it is time for this regulation to move forward.

Mr. Chris Kyler, Utah Association of Realtors ("Realtors' Association"), indicated that the Realtors' Association is in support of the legislation.

Mr. Randy Sorensen, Manager, Republic Mortgage, stated that it is necessary to have legislation regulating conduct of mortgage lenders because mortgage companies are concerned about: 1) competing against unscrupulous people; 2) limiting commerce; and 3) leveling the playing field.

Ms. Deanna Sabey, General Counsel, Mountain States Mortgage, said education and a higher standard of licensing is necessary in the mortgage industry. She stated that there needs to be a balance between what may be viewed as over-regulation for all mortgage lenders and the proper regulation addressing fraudulent activities.

Mr. Larry Miller, Owner, Legacy Mortgage, spoke in support of the legislation and said that it will give the people of Utah an opportunity to have recourse against mortgage lenders who are taking advantage of borrowers.

Rep. Adair told the committee that his intent is to have legislation drafted that will: 1) do no harm; 2) protect the public; 3) protect the financial community, both small and large institutions; and 4) protect the state's economy. If the legislation is not drafted in a way that will work for everyone involved, it could cause an imbalance in the economy, but if mortgage lenders are not regulated, the economy will tip itself

downward and there will be less business and more foreclosures.

4. Motor Fuel Marketing Act ("Act") - Rep. Zolman told the committee that reasons for repealing the Motor Fuel Marketing Act include: eliminating the notion of legislative price-fixing of motor fuel; removing the presumption of appropriate business costs; and shrinking state government by at least one full-time employee. He indicated further that the Act is now obsolete because gas stations have shifted away from only selling gas to becoming multi-service businesses.

Rep. Bryson reminded the committee that the difficulties in enforcing the Act from its inception in 1981 raise the question as to whether it should be repealed.

Mr. Dough Hyer, President, Jardine Petroleum Company, said his company supports free competition as it is today. He believes the Act provides protection against predatory pricing.

Mr. John P. Hill, Utah Petroleum Marketers & Retailers Association, said that his association supports the Act.

Mr. Paul Ashton, Executive Director, Petroleum Retailer's Association, indicated that there may be some things in the law that need to be changed, but he believes it can work. If he is being held hostage to predatory pricing or companies who are big enough to shift their profits somewhere else and sell gasoline below cost, then he thinks there is something wrong and believes the Act should remain in place to protect against this type of action.

Mr. Brad Call, Maverick Company Stores ("Maverick"), said it is Maverick's opinion that no law is better than the Act that is currently on the books. He indicated that there are a number of problems with the Act and it seems any time someone tries to fix it, more problems are created.

Ms. Francine Giani, Consumer Protection Division ("Division"), said that the Division is neutral on the issue of repeal, but would request that if the Legislature decides to keep the Act, modifications be made to it.

Mr. Ron Ockey, Attorney General's Office, said the Attorney General's Office is neutral on the issue of repeal, but if the Act is to remain on the books, there are things that can be done to make it easier to enforce. He indicated that the Attorney General's Office would be glad to work with the Legislature if the Legislature considers amendments to the Act.

MOTION: Rep. Adair moved that the committee approve draft legislation "Repeal of Motor Fuel Marketing Act" with the understanding that if there are any modifications to be made, the sponsors and staff would meet with the Attorney General's Office and the Division to work out those issues.

SUBSTITUTE MOTION: Rep. Ferry moved that the committee wait until November to consider repealing the Motor Fuel Marketing Act when there is alternative draft legislation before the committee to consider as well. The Substitute Motion passed with Reps. Bryson and Zolman voting in the negative.

5. Sunset Review: Recycling Market Development Zone Act ("Act") - Ms. Mary Catherine Perry, Research Analyst, provided an overview of the Legislative Oversight and Sunset Act. She provided committee members with printed copies of her overview.

Mr. Les Prall, Division of Business and Economic Development, Department of Community and Economic Development ("Division"), said the Act offers businesses tax credits for using recycled materials. Mr. Prall then explained that the Division's program goals with the Act are: 1) to minimize the regulations; 2) to entice and help the free market; and 3) to encourage economic development and job creation through helping the recycling industry.

Mr. Curtis Broadbent, Nucor Steel, gave an overview of Nucor Steel and explained the importance of the Recycling Zones to Nucor Steel. He provided committee members with printed copies of his presentation.

Mr. Larry Bunkall, Utah Manufacturers Association, discussed the quality of the jobs created by companies, such as Nucor, who are recipients of tax credits under the Act. He pointed out that if the state develops markets that can recycle products in the manufacturing process, it will be accomplishing two things: 1) economic development; and 2) environment-friendly policy.

Mr. Bruce Johnson, Tax Commission ("Commission"), stated that the Commission would like the committee, in reviewing the Act, to consider the complexity to the tax laws and the perception of fairness that tax credits may or may not create for taxpayers. The Commission feels strongly about simplification and that it should be weighed in the balance when the Legislature considers whether to extend any tax credits.

MOTION: Rep. Harper moved that the committee recommend repealing the Recycling Market Development Zone Act.

SUBSTITUTE MOTION: Sen. Davis moved to reauthorize the Recycling Market Development Zone Act for four years, at which time the Legislature can re-evaluate the Act. The motion passed with Reps. Hickman, Harper, and Muhlestein voting in the negative, and Sen. Mayne and Reps. Nelson and Zolman absent for the vote.

6. Adjourn

MOTION: Rep. Adair moved to adjourn. The motion passed unanimously with Sen. Mayne and Reps. Nelson and Zolman absent for the vote.

Chair Hickman adjourned the meeting at 12:12 p.m.