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2008 LEGISLATIVE INTERIM REPORT

A report to the 58th Legislature on recommended
legislation and studies from the 2008 Legislative
Interim Committees

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Utah State Legislature

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INTRODUCTION AND ACKNOWLEDGMENTS

INTRODUCTION

The *Legislative Interim Report* is prepared each year by the Office of Legislative Research and General Counsel. The yellow pages contain summaries of legislation recommended by legislative committees for the upcoming legislative session. The Report also contains a summary of pertinent interim committee, commission, and task force studies. More information on these studies may be obtained from the Office of Legislative Research and General Counsel. Minutes and histories of meetings are available on the Utah State Legislature's website – <http://www.le.utah.gov>.

ACKNOWLEDGMENTS

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Each study item selected by an interim committee is approved for study by the Legislative Management Committee. Many of the items studied by interim committees are selected from the "Master Study Resolution" passed during the previous legislative session.

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SUMMARY OF RECOMMENDED LEGISLATION

The following is a summary of recommended legislation, listed alphabetically by committee. Further information on the legislation can be found on the page number provided after certain summaries.

ADMINISTRATIVE RULES REVIEW COMMITTEE

Amendments to Agency Rulemaking Regarding Criminal Penalties, H.B. 32 - This bill modifies various statutory provisions regarding rulemaking authority by repealing statutory provisions that authorize certain state agencies to determine by administrative rule what conduct constitutes a criminal penalty (page 10).

BUSINESS AND LABOR INTERIM COMMITTEE

Enhancement of Truth in Advertising Act, S.B. 30 - This bill authorizes the Division of Consumer Protection to enforce the Truth in Advertising Act.

Exemption for Alcoholic Beverage Manufacturing License, H.B. 51 - This bill modifies the Alcoholic Beverage Control Act to address exemptions from manufacturing license requirements.

Insurance Code Amendments, H.B. 52 - This bill modifies the Insurance Code (page 15).

Utah Injured Worker Reemployment Act, H.B. 39 - This bill modifies the Utah Injured Worker Reemployment Act (page 14).

Utah Residential Mortgage Practices and Licensing Act, S.B. 31 - This bill modifies the Utah Residential Mortgage Practices Act to address requirements under federal law and to make other changes.

Workers' Compensation Premium Assessment and Workplace Safety Funding, S.B. 15 - This bill modifies provisions related to the workers' compensation premium assessment and to the Workplace Safety Account (page 14).

CHILD WELFARE LEGISLATIVE OVERSIGHT PANEL

Amendments to Child Welfare, H.B. 63 - This bill amends: education requirements in order to comply with the requirements of the federal Fostering Connections to Success and Increasing Adoptions Act of 2008; the Child Welfare Services Part of the Utah Human Services Code; and the Juvenile Court Act of 1996. This bill also repeals provisions relating to Foster Care Citizen Review Boards (page 19).

Guardian Ad Litem Amendments, H.B. 69 - This bill amends provisions of the Utah Code relating to attorneys guardian ad litem and the Office of Guardian Ad Litem Director (page 19).

GOVERNMENT OPERATIONS INTERIM COMMITTEE

Ballot Question Amendments, H.B. 48 - This bill modifies the Election Code by amending provisions related to the length of ballot titles (page 26).

Coordinating Municipal and Special District Elections, H.B. 43 - This bill modifies Title 17B, Limited Purpose Local Government Entities - Local Districts by amending provisions related to the election of board members (page 25).

Declaration of Candidacy Amendments, H.B. 56 - This bill modifies the Election Code by amending the dates for filing a declaration of candidacy for general elections (page 26).

Early Voting Amendments, S.B. 24 - This bill modifies provisions in the Election Code relating to early voting polling places (page 26).

Election Law Changes, S.B. 27 - This bill makes changes to Title 20A, Election Code (page 26).

Local and Special Service District Election Amendments, H.B. 44 - This bill allows local districts and

SUMMARY OF RECOMMENDED LEGISLATION

special service districts to conduct elections solely by absentee ballot (page 25).

Online Voter Registration, S.B. 25 - This bill allows the lieutenant governor to create an online system for voter registration (page 26).

Open and Public Meetings Act - Meeting Record, S.B. 26 - This bill modifies the Open and Public Meetings Act by amending provisions related to minutes and a recording of an open meeting (page 26).

Per Diem and Travel Expenses for State Boards and Commissions, H.B. 45 - This bill modifies the Administrative Services Code by amending provisions related to the establishment of per diem and travel expenses for a member of a board, commission, council, or committee in the executive branch of state government (page 27).

Voter Challenge Amendments, H.B. 49 - This bill modifies provisions of the Election Code relating to the procedures for challenging a person's eligibility to vote (page 26).

HEALTH AND HUMAN SERVICES INTERIM COMMITTEE

Adoption Revisions, H.B. 42 - This bill amends provisions of the Utah Adoption Act (page 35).

Expedited Partner Therapy Treatment, H.B. 17 - This bill amends the Pharmacy Practice Act in the Division of Occupational and Professional Licensing Act (page 33).

Family Preservation Services Amendments, H.B. 60 - This bill amends the Services to People With Disabilities chapter of the Utah Human Services Code to convert the pilot program for the provision of family preservation services into an ongoing program, subject to sunset review in 2014 (page 37).

Refund of Unearned Health Insurance Premiums and Medicare Supplement Insurance Premiums, H.B. 33 - This bill amends provisions of the Insurance Code relating

to the refund of unearned health insurance premiums and Medicare supplement insurance premiums (page 36).

Utah Sudden Cardiac Arrest Survival Act, H.B. 31 - This bill enacts the Utah Sudden Cardiac Arrest Survival Act and amends civil liability immunity provisions relating to the act (page 35).

HIGHER EDUCATION AND APPLIED TECHNOLOGY GOVERNANCE COMMITTEE

Career and Technical Education Amendments, H.B. 15 - This bill modifies provisions relating to career and technical education, including governance structures (page 45).

IMMIGRATION INTERIM COMMITTEE

Concurrent Resolution Requesting a Federal Waiver to Establish an Employee Sponsored Work Program, S.C.R. 1 - This concurrent resolution of the Legislature urges the United States Congress to grant the state of Utah waivers to establish an employee-sponsored work program and other strategies to address illegal immigration in the state (page 49).

Deterring Illegal Immigration, H.B. 64 - This bill authorizes the Department of Public Safety to administer and coordinate the operation of a multi-agency strike force to combat violent and other major crimes associated with illegal immigration and human trafficking (page 47).

Immigration Amendments, S.B. 39 - This bill modifies provisions of the Identity Documents and Verification Act (page 48).

Lawful Presence Verification for Issuance of a Driver License or Identification Card, S.B. 40 - This bill modifies provisions of the Uniform Driver License Act (page 48).

JUDICIARY INTERIM COMMITTEE

Condominium and Community Association Provisions, H.B. 10 - This bill addresses the filing and

SUMMARY OF RECOMMENDED LEGISLATION

recording of certain information under Title 57, Chapter 8, Condominium Ownership Act, and Title 57, Chapter 8a, Community Association Act.

Harboring a Runaway, H.B. 22 - This bill amends the section of the Utah Criminal Code that relates to harboring a runaway (page 51).

Material Harmful to Minors Amendments, H.B. 14 - This bill modifies the Criminal Code regarding the offenses of distribution of pornographic material and material harmful to minors (page 51).

Wrongful Death Amendments, S.B. 32 - This bill expands the definition of "heirs" to include a wrongful death designee (page 52).

LAW ENFORCEMENT AND CRIMINAL JUSTICE INTERIM COMMITTEE

Child and Vulnerable Adult Endangerment Provisions, H.B. 26 - This bill amends Utah Criminal Code provisions relating to endangerment of a child or a vulnerable adult.

County Sheriff Qualification Amendments, H.B. 12 - This bill modifies provisions in Title 17, Counties, relating to the qualifications of a county sheriff.

Crime of Strangulation or Smothering, H.B. 13 - This bill modifies the Criminal Code by including the offense of suffocation or strangulation as an aggravated assault.

Criminal Offense Elements and Penalties, H.B. 36 - This bill modifies the Criminal Code regarding the elements of the offenses of aggravated assault and failure to stop at the command of a peace officer and modifies the offense and penalties regarding felony discharge of a firearm (page 56).

Criminal Offense Penalties Amendment, S.B. 19 - This bill amends the Criminal Code to provide an increased penalty for crimes committed in relation to a criminal street gang (page 56).

Criminal Procedure - Investigation Amendments, H.B. 47 - This bill includes municipal attorneys under the definition of prosecutor in the Code of Criminal Procedure.

Gun Dealer Penalty Amendments, H.B. 25 - This bill modifies the penalties provision of the Weapons Part of the Utah Criminal Code regarding penalties for firearms' violations.

Incest Amendments, S.B. 11 - This bill amends the Criminal Code regarding the offense of incest (page 56).

Prohibited Activities of Gang Offenders, S.B. 28 - This bill modifies the Criminal Code regarding prohibitions imposed on persons convicted of a criminal gang-related offense (page 56).

Prohibited Gang Activity, S.B. 16 - This bill amends the Criminal Code by creating the offense of failure to disperse from loitering in a public place by groups that include gang members (page 56).

Sex Offender Registration Amendments, H.B. 41 - This bill modifies the Code of Criminal Procedure regarding the sex offender registry by requiring that offenders not under supervision of the Department of Corrections register with the local law enforcement agency.

Sex Offenders' Contact with Children, H.B. 29 - This bill modifies the Code of Criminal Procedure and requires a registered sex offender whose offense was against a child younger than 14 to obtain permission from a child's parent or guardian to allow a child younger than age 14 to accompany the offender.

Subpoenas for Records in Certain Criminal Investigations, H.B. 59 - This bill modifies the Criminal Code to allow investigative subpoenas of Internet service providers in the investigation of sexual offenses against minors.

Violent Offenses Amendments, H.B. 37 - This bill modifies provisions of the Criminal Code, including a felony committed with other persons, aggravated murder,

SUMMARY OF RECOMMENDED LEGISLATION

predicate criminal gang offenses, and the offense of felony discharge of a firearm (page 56).

NATIVE AMERICAN LEGISLATIVE LIAISON COMMITTEE

Utah Substance Abuse and Anti-violence Coordinating Council Amendments, S.B. 37 - This bill amends provisions related to the membership of the Utah Substance Abuse and Anti-Violence Coordinating Council (page 59).

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENT INTERIM COMMITTEE

Administering Substances to Wildlife, S.B. 13 - This bill enacts a provision relating to wildlife.

Penalties for Destruction of Bald Eagle, H.B. 34 - This bill modifies protected wildlife and minimum restitution values for certain wildlife (page 62).

Protections for Agricultural Practices, H.B. 27 - This bill eliminates the presumption that agricultural operations are conducted in accordance with sound agricultural practices and provides that agricultural operations are not nuisances.

Recodification of Natural Resources Provisions, H.B. 11 - This bill amends and enacts provisions relating to natural resources (page 62).

Safe Drinking Water Act Amendments, S.B. 29 - This bill amends a provision of the Safe Drinking Water Act relating to the addition or removal of fluorine in a public water system owned by a corporation (page 62).

Surface Coal Mining Amendments, S.B. 17 - This bill amends sections relating to surface coal mining.

Water Right Applications and Records, H.B. 18 - This bill amends provisions relating to a water right application and segregation of certain water right records (page 63).

Water Rights - Informal Adjudications, H.B. 19 - This bill amends a section relating to the judicial review of a state engineer's decision in an informal adjudication (page 63).

POLITICAL SUBDIVISIONS INTERIM COMMITTEE

Assessment Area Amendments, H.B. 16 - This bill modifies provisions relating to assessment areas (page 65).

Local Government Entity Changes, H.B. 61 - This bill modifies provisions relating to the process of certifying local government actions affecting the name or boundary of a local entity (page 66).

Local Public Health Emergency Funding, S.B. 20 - This bill modifies provisions relating to funding relating to health expenses (page 66).

State and Local Health Authorities Amendments, S.B. 21 - This bill modifies provisions dealing with Department of Health and local health department responsibilities (page 66).

PUBLIC UTILITIES AND TECHNOLOGY INTERIM COMMITTEE

Utility Transmission Corridor Siting Task Force, S.B. 33 - This bill creates the Utility Transmission Corridor Siting Task Force (page 72).

REVENUE AND TAXATION INTERIM COMMITTEE

Amendments to Sales and Use Tax Exemption for Certain Machinery, Equipment, or Parts, S.B. 34 - This bill amends the Sales and Use Tax Act relating to a sales and use tax exemption for certain machinery, equipment, or repair or replacement parts (page 74).

Amendments to Tourism, Recreation, Cultural, Convention, and Airport Facilities Tax Act, H.B. 55 - This bill amends the Tourism, Recreation, Cultural, Convention, and Airport Facilities Tax Act to address the taxation of sales by a restaurant (page 74).

SUMMARY OF RECOMMENDED LEGISLATION

Amendments to Vehicle Registration Requirements, H.B. 54 - This bill amends the Registration part relating to requirements prior to registration of a vehicle (page 74).

Certified Tax Rate Amendments, H.B. 23 - This bill amends provisions in the Property Tax Act relating to the calculation of a taxing entity's certified tax rate (page 74).

Cigarette Tax Exemption Amendments, H.B. 70 - This bill amends the Cigarette and Tobacco Tax and Licensing Act relating to exemptions from the state tax on cigarettes (page 74).

Exemptions from Requirements to Deduct and Withhold an Income Tax, H.B. 57 - This bill amends the Withholding of Tax part to address exemptions from the requirements to deduct and withhold an income tax (page 74).

Income Taxation of Pass-through Entities and Pass-through Entity Taxpayers, S.B. 23 - This bill amends the Corporate Franchise and Income Taxes chapter and the Individual Income Tax Act to address the income taxation of a pass-through entity and a taxpayer to whom income, gain, loss, deduction, or credit of the pass-through entity is passed through.

Nonrefundable Higher Education Tuition Credit, H.B. 35 - This bill creates a tax credit for higher education tuition and fees (page 74).

Personal Property Tax Amendments, H.B. 28 - This bill amends provisions in the Property Tax Act relating to the collection of personal property taxes (page 74).

Property Tax Amendments, H.B. 66 - This bill amends provisions in the Minimum School Program Act and the Property Tax Act relating to certain property tax levies and the funding of public school programs (page 74).

Public Hearings on Property Tax Increases, H.B. 67 - This bill modifies the Property Tax Act to address certain requirements for a taxing entity to provide notice of public hearings (page 74).

Repeal of Certain Income Tax Credits and Contributions, H.B. 20 - This bill amends the Individual Income Tax Act and related provisions to repeal certain income tax credits and contributions (page 73).

Reporting of Certain Transactions Exempt from Sales and Use Taxes, H.B. 65 - This bill amends the Penalties, Interest, and Confidentiality of Information part and the Sales and Use Tax Act relating to reporting requirements for certain transactions exempt from sales and use taxes (page 74).

Sales and Use Tax - Determining the Location of Certain Transactions, H.B. 58 - This bill amends the Sales and Use Tax Act relating to determining the location of certain transactions (page 74).

Sales and Use Tax Amendments, S.B. 36 - This bill amends the Sales and Use Tax Act relating to prepaid telephone calling cards (page 74).

Sales and Use Tax Definitions Relating to Property, S.B. 35 - This bill amends the Sales and Use Tax Act relating to definitions (page 74).

Severance Tax Amendments, S.B. 38 - This bill provides for the disposition of certain revenues from severance taxes.

Utah Transparency Advisory Board Amendments, S.B. 18 - This bill includes certain local governments and entities as entities required to provide information to and participate in the Utah Public Finance Website (page 74).

Withholding Tax Amendments, H.B. 71 - This bill modifies the Withholding of Tax part to address withholding prepayments (page 74).

STATE WATER DEVELOPMENT COMMISSION

Development Exactions, H.B. 68 - This bill modifies provisions relating to development exactions of counties and municipalities.

SUMMARY OF RECOMMENDED LEGISLATION

State Water Development Commission Amendments, H.B. 62 - This bill amends a provision related to membership criteria for the State Water Development Commission.

TRANSPORTATION INTERIM COMMITTEE

Amendments to Driver License Sanction Requirements, H.B. 21 - This bill modifies the Uniform Driver License Act by amending provisions relating to persons under 21 years of age operating a vehicle with a detectable amount of alcohol in the person's body.

Commercial Motor Vehicle Amendments, H.B. 30 - This bill modifies the Transportation Code by amending provisions relating to commercial motor vehicles (page 80).

Designation of State Highways Amendments, H.B. 46 - This bill modifies the Designation of State Highways Act by amending the definition of a state highway and adding two highways to the state highway system (page 81).

Driver License Amendments - Motor Driven Cycles, H.B. 53 - This bill modifies the Uniform Driver License Act by amending provisions relating to driver license requirements for certain motorcycles, street legal all-terrain vehicles, and motor-driven cycles (page 80).

DUI Amendments, S.B. 12 - This bill modifies the Motor Vehicles Code and the Uniform Driver License Act by amending provisions relating to driving under the influence (page 79).

Firefighter Special Group License Plate Amendments, H.B. 50 - This bill modifies the Motor Vehicles Code by amending provisions relating to firefighter special group license plates (page 80).

Motorcycle Rider Education Program Amendments, H.B. 40 - This bill modifies the Uniform Driver License Act by amending provisions relating to the motorcycle rider education program (page 80).

Street Legal All-terrain Vehicle Amendments, S.B. 22 - This bill modifies the Motor Vehicles Code and the Public

Safety Code by amending provisions relating to street-legal all-terrain vehicles (page 81).

Traffic Accident Clearance Amendments, H.B. 24 - This bill modifies the Motor Vehicles Code by amending provisions relating to a vehicle operator's responsibilities for certain traffic accidents (page 81).

UTAH INTERNATIONAL TRADE COMMISSION

Resolution Urging the Withdrawal of United States' World Trade Organization Commitment on Gambling, H.J.R. 1 - This joint resolution of the Legislature supports the withdrawal of the United States' World Trade Organization commitments on gambling (page 83).

UTAH TAX REVIEW COMMISSION

Income Taxation of Pass-through Entities and Pass-through Entity Taxpayers, S.B. 23 - This bill amends the Corporate Franchise and Income Taxes chapter and the Individual Income Tax Act to address the income taxation of a pass-through entity and a taxpayer to whom income, gain, loss, deduction, or credit of the pass-through entity is passed through (page 86).

Severance Tax Amendments, S.B. 38 - This bill provides for the disposition of certain revenues from severance taxes (page 86).

SUMMARY OF RECOMMENDED LEGISLATION

WORKFORCE SERVICES AND COMMUNITY AND ECONOMIC DEVELOPMENT

Department of Community and Culture - State-owned Art Inventory, S.B. 10 - This bill modifies provisions of the State-Owned Art Collections Inventory Study Program Act by requiring comprehensive and consistent inventories of state-owned art (page 87).

Financial Incentives for Motion Picture Productions, S.B. 14 - This bill modifies provisions of the Motion Picture Incentive Fund and enacts additional statutes related to the process and criteria for granting economic incentives to motion picture companies for new state-approved productions (page 88).

Refugee Services Fund Amendments, H.B. 38 - This bill amends the investment provision of the Refugee Services Fund (page 88).

ADMINISTRATIVE RULES REVIEW COMMITTEE

ADMINISTRATIVE RULES REVIEW COMMITTEE

Membership

Sen. Howard A. Stephenson, Senate Chair
Rep. Ben C. Ferry, House Chair
Sen. Gene Davis
Sen. Mike Dmitrich
Sen. Mark B. Madsen
Sen. Michael G. Waddoups
Rep. James R. Gowans
Rep. Kory M. Holdaway
Rep. Carol Spackman Moss
Rep. Merlynn T. Newbold

Staff

Arthur L. Hunsaker, Policy Analyst
Susan Creager Allred, Associate General Counsel
Tracey Fredman, Legislative Secretary

OVERVIEW

The Administrative Rules Review Committee was established by the Legislature in the 1983 General Session. *Utah Code* 63-46a-11(3)(b) requires the Committee to review agency rules to ensure they do not exceed legislative authority and intent and to determine the rules' impact on the economy, state and local government operations, and affected individuals.

Initially, the Committee primarily reviewed proposed agency rules, which are published twice monthly in the *Utah State Bulletin* by the Division of Administrative Rules. However, committee members expressed concern that existing rules, many of which were based on broad grants of statutory authority, had not been reviewed.

In the 1988 General Session, an appropriation was provided for staff to review existing rules as a component of the Committee's review process. The Committee directed staff to prepare legislation that would delete the broad grants of rulemaking authority given to several state agencies, and to work with each affected agency to ensure the rewritten authorizing statutes would still provide needed specific rulemaking authority. The Committee recognized that this review process could require several years to complete.

As part of an agreement between the Administrative Rules Review Committee and the governor, legislation passed during the 1989 General Session that granted the Committee authority to prepare annual legislation reauthorizing all state agency rules except rules specified in that year's bill. The Committee delayed action on broad statutory grants until after the 1990 General Session.

From 1989 through 1994, the Committee examined the rules of every state agency. Agency representatives were provided with a detailed analysis of their rules and met with the Committee to consider future rule changes. This process prompted agencies to make more concise, carefully prepared rules consistent with Utah statutes.

In the 2002 General Session, for the first time, the annual reauthorization legislation repealed written statements of state agencies that met the definition of a rule that had not proceeded through the required rulemaking process that includes notice, publication, and public comment. In the 2003 General Session, legislation passed clarifying that an agency's written statement conforming to the definition of a rule can only be enforced if it has gone through the statutorily required rulemaking process, including publication and public comment.

Today, the Committee meets regularly to address specific concerns raised by legislators and the public regarding existing and proposed state agency administrative rules.

CRIMINAL PENALTIES DETERMINED BY ADMINISTRATIVE RULE

Background

In 2005, the Committee began identifying statutes that grant state agencies the authority to determine, by administrative rule, what conduct could potentially result in incarceration of the defendant.

Over a three and a half year period, the Committee met with representatives of the agencies with these statutory grants. Several agencies expressed a willingness to see their statutes amended to remove the authority to set criminal penalties by rule; others resisted losing this authority. Over the course of these discussions, the

ADMINISTRATIVE RULES REVIEW COMMITTEE

Committee focused on whether unelected state employees should be given statutory authority to determine, by rule, what actions are criminal offenses that include possible incarceration, or whether the Legislature should withdraw this agency authority and exclusively make these determinations.

Several agencies argued that, due to federal requirements, or the inherent advantages to the state of maintaining primacy over a federal program, they were required to set criminal penalties by rule. After verifying these requirements in federal law or regulation, the Committee agreed to not repeal rulemaking criminal penalty grants in those instances.

Committee legislation passed in the 2007 and 2008 General Sessions that repealed statutory authority to designate criminal conduct by rule from several agencies.

Action

The Committee considered this issue at its August 11 and October 31, 2008 meetings and recommended draft legislation, "Amendments to Agency Rulemaking Regarding Criminal Penalties."

REAUTHORIZATION OF ADMINISTRATIVE RULES

Background

During the 1989 General Session, the Legislature passed legislation requiring annual reauthorization of state agency rules, except for the repeal of rules specified in the legislation.

The Committee met with various state agencies throughout the year regarding specific rules of concern to committee members and citizens. In many cases, agency representatives agreed to make rule changes requested by the Committee and filed those changes with the Division of Administrative Rules. When an agency did not change a rule, the Committee examined the issues involved and weighed whether to reauthorize or repeal the rule when preparing its annual legislation.

Action

The Committee will consider this issue at its January 2, 2009 meeting and plans to recommend draft legislation, "Administrative Rules Reauthorization."

REGENTS' SCHOLARSHIP PROGRAM

Background

S.B. 180, "Regents' Scholarship Program," 2008 General Session, provides scholarships to students entering college. The program came to the attention of the Committee when a recent high school graduate, who took math from 7th to 11th grade, advised a committee member that she was informed that she may not qualify for the scholarship because she did not take math in grade 12. The Board of Regents' draft policy to implement the scholarship required a 12th grade math class. When informed that an administrative rule, not a policy, was required to implement the scholarship program, the Board quickly filed a rule.

Committee members expressed concern that, under the current rule, students who began taking core classes in 7th grade and completed all the classes offered by their junior year would not qualify for the scholarship and would essentially be penalized for excelling.

Representatives of the State Board of Regents stated that the proposed rule was amended so that consideration for the scholarship will include credit for advanced placement courses and tests completed during grades 9-12, but that implementation of the amendment will not be made for scholarships for FY 2008-2009 due to lack of funding and in fairness to students who complied with the current process.

Action

The Committee considered this issue at its June 4, August 11, and September 8, 2008 meetings and voted to recommend to the Legislature that the rule not be reauthorized if the Board allows the rule to go into effect.

OTHER STUDIES

Exclusive Catering Services at the Capitol Hill Complex

ADMINISTRATIVE RULES REVIEW COMMITTEE

Current rules of the Capitol Preservation Board require that all catering at the Capitol Hill Complex be provided exclusively by the Board's on-site food service provider. The only exception is catering services arranged for use by the Legislature during legislative sessions.

Representatives of the Capitol Preservation Board testified that, prior to the Capitol remodeling project, no exclusive catering arrangement was in place. Damage to the building and other Capitol Hill facilities caused by various catering service providers was difficult to monitor because the Board did not have sufficient staff to supervise the actions of all catering services employees.

The Capitol Preservation Board distributed to the Committee proposed changes to its Capitol Facility Use rule to clarify the jurisdiction of the Board's catering service authority. The Board also reported that it studied alternative approaches, but ultimately determined that the exclusive arrangement provided the greatest assurance against, and accountability for, potentially costly damage to Capitol Hill facilities.

The Committee considered this issue at its December 1, 2008 meeting, where it requested that the board consider the issue further.

BUSINESS AND LABOR INTERIM COMMITTEE

BUSINESS AND LABOR INTERIM COMMITTEE

Membership

Sen. Kevin T. VanTassell, Senate Chair
Rep. Stephen D. Clark, House Chair
Sen. Gene Davis
Sen. Dan R. Eastman
Sen. John W. Hickman
Sen. Karen Mayne
Sen. Wayne L. Niederhauser
Rep. Jackie Biskupski
Rep. David Clark
Rep. Carl W. Duckworth
Rep. James A. Dunnigan
Rep. Ben C. Ferry
Rep. Kevin S. Garn
Rep. Todd E. Kiser
Rep. Brian P. Monsen (as of 8/1/2008)
Rep. Karen W. Morgan
Rep. Paul A. Neuenschwander
Rep. Patrick Painter
Rep. Gordon E. Snow
Rep. Mark W. Walker (until 7/6/2008)

Staff

Allison M. Nicholson, Policy Analyst
Patricia Owen, Associate General Counsel
Phalin L. Flowers, Legislative Secretary

OVERVIEW

The Business and Labor Interim Committee considers issues related to the interests of businesses, employees, consumers, and others involved in the state's economy. Safeguarding these interests involves balancing the need for appropriate regulation with the need to foster a healthy economy by avoiding unnecessary governmental interference.

The Committee has legislative responsibility for six departments and commissions: Alcoholic Beverage Control Commission, Department of Alcoholic Beverage Control, Department of Commerce, Department of Financial Institutions, Department of Insurance, and Labor Commission.

Issues addressed by the Committee in recent years include regulation of construction activities, employer-employee relationships, apprenticeship programs, professional licensing, affordable health insurance, insurance regulation, workers' compensation, financial services, consumer protection, and real estate activities.

APPRENTICESHIP PROGRAMS

Background

Apprenticeship programs provide workers with on-the-job training while at the same time completing educational classroom instruction. The Committee discussed various apprenticeship programs available in the state, including the "Helmets to Hardhats" program and the United States Department of Labor's Office of Apprenticeship program. The Committee also toured apprenticeship program training sites of operating engineers and ironworkers.

The construction industry is facing an impending shortage of qualified workers as its workforce ages and younger workers are not entering the industry in similar numbers. The Helmets to Hardhats program is one program trying to address this problem, while also addressing the need to assist members of the military as they return to civilian life. Helmets to Hardhats connects National Guard, Reserve, and transitioning active-duty military members with career training and employment opportunities in the construction industry. Participants of the program can apply their skills obtained in active duty service, including discipline, leadership, and the ability to work in a team environment.

Since the passage of the National Apprenticeship Act in 1937, the United States Department of Labor's Office of Apprenticeship has approved, registered, and monitored apprenticeship programs of private employers that meet certain national standards. Workers who complete these employer-run programs receive national credentials, which are recognized in every state. Approximately 350 employers or groups of employers are participating in Utah's program, with over 3,400 registered apprentices in over 80 occupations.

Action

BUSINESS AND LABOR INTERIM COMMITTEE

The Committee considered this issue at its June, August, and September 2008 meetings, but did not recommend draft legislation. The Committee sent a letter to the Governor encouraging support of the Helmets to Hardhats program.

SECURITIES REGULATION

Background

The Utah Uniform Securities Act divides regulation of securities into three major categories: registration, licensing, and anti-fraud. The Division of Securities registers securities to be sold in the state, licenses those offering or selling securities, and investigates anti-fraud violations that could result in administrative or civil action, or referral for criminal prosecution. The Committee conducted a sunset review of the Act, and also reviewed a legislative audit of the Division. The Committee discussed changes that could be made at the Division as recommended in the audit.

Some have been concerned with the review and disciplinary process at the Division. There are proposals to convert the Securities Advisory Board to a Securities Commission that would have more extensive authority.

Action

The Committee considered this issue at its September and November 2008 meetings and voted to encourage two sponsors who presented legislation to work together to develop a single bill with the recommended changes.

WORKERS' COMPENSATION / REEMPLOYMENT

Background

Every employer in Utah must carry workers' compensation insurance, which provides compensation and medical care for employees who are injured in the course of employment. Preventing injuries on the job is an important aspect of a productive and healthy work environment.

Reemployment

The Labor Commission administers the Utah Injured Worker Reemployment Act to assist in returning a disabled injured worker back to gainful employment. Various parties work together with the injured employee to assess the need for vocational assistance in reemployment and develop a plan to return the employee to work, if possible, in the same job, a modified job, or a new job with any needed retraining. The Committee conducted a sunset review of the Act and identified areas of the law that needed to be updated or changed.

Rocky Mountain Center for Occupational and Environmental Health

The Committee received reports from and discussed funding options for the Rocky Mountain Center for Occupational and Environmental Health (Center), which is an education and research center at the University of Utah providing academic and clinical programs. The Center is statutorily charged to be a resource for affected populations to: (1) improve workplace health and safety, and (2) contribute to economic growth and development in Utah and surrounding regions, and report recommendations to the Committee on these areas. The Center reported on the importance of fostering employer and employee commitment to health and safety, and recognizing the economic cost of workplace injuries and illnesses, which are estimated to be \$200 billion per year. Additional recommendations included expanding training for occupational health nurses and developing additional academic degrees in occupational health and safety.

Workers' Compensation Study - Firefighters and Law Enforcement Officers

In the 2006 General Session, the Legislature appropriated \$500,000 to the Labor Commission to contract with an entity to perform a two-year study on presumptive occupational diseases for firefighters and drug law enforcement officers. The Labor Commission contracted with the Rocky Mountain Center for Occupational and Environmental Health to conduct a comprehensive review of prior epidemiological literature on cancers among these workers and conduct an epidemiological study among Utah's police officers and firefighters.

BUSINESS AND LABOR INTERIM COMMITTEE

The study had very low sample sizes, which compromises the validity of the data. Although the study could not conclude a link between occupation and disease, the study did find some suggestions of elevated risks for lymphoma, melanoma, and colon and rectal cancers among police officers conducting methamphetamine-related tasks, and also suggestions of elevated risks for all cancers combined among firefighters.

Action

The Committee considered this issue at its June, August, October, and November 2008 meetings and recommended draft legislation, "Workers' Compensation Premium Assessment and Workplace Safety Funding," and "Utah Injured Worker Reemployment Act."

the Uniform Limited Partnership Act, and the Uniform Partnership Act. The Committee considered this issue at its August 2008 meeting, but did not recommend draft legislation.

OTHER STUDIES

Antidiscrimination Act

The Utah Antidiscrimination Act currently covers the classes of race, color, sex, national origin, disability, age (over 40), and religion. Some have argued that sexual orientation and gender identity should be included as additional classes under the Act. The Committee considered this issue at its May 2008 meeting, but did not recommend draft legislation.

Insurance Regulation

The insurance industry is a dynamic industry, and each year the Committee discusses changes to remain current in the state's regulation. The Committee discussed general changes to Utah's insurance law, the importance of allowing legitimate life settlement agreements while protecting consumers against deceptive practices, and how reinsurance can be used as a risk management tool for health insurers. The Committee considered this issue at its June, October, and November 2008 meetings, and recommended draft legislation, "Insurance Code Amendments."

Uniform Laws

The Uniform Law Commission provides states with uniform legislation in an effort to bring consistency to certain areas of law. The Committee discussed whether Utah should adopt the Revised Uniform Limited Liability Company Act,

CHILD WELFARE LEGISLATIVE OVERSIGHT PANEL

CHILD WELFARE LEGISLATIVE OVERSIGHT PANEL

Membership

Sen. Dan R. Eastman, Senate Chair
Rep. Steven R. Mascaró, House Chair
Sen. Gene Davis
Rep. David Litvack
Rep. Paul Ray

Staff

Mark D. Andrews, Policy Analyst
Thomas R. Vaughn, Associate General Counsel
Wendy L. Bangerter, Legislative Secretary

OVERVIEW

The Child Welfare Legislative Oversight Panel was created in 1995 to study and recommend improvements to Utah's system for preventing and responding to allegations of child abuse and neglect. The Panel was created following the 1993 Legislative Auditor General's report identifying problems with the state's child welfare system, the passage of the 1994 Child Welfare Reform Act, and the 1994 consent decree entered into by the state in response to the class action lawsuit filed by the National Center for Youth Law, *David C. v. Leavitt*. The Legislature charged the Panel to:

- examine and observe the process and execution of laws governing the child welfare system by the executive branch and the judicial branch;
- receive testimony from the public and from all state agencies involved with the child welfare system;
- receive reports identifying cases not in compliance with judicial time limits;
- study and recommend proposed changes to laws governing the child welfare system;
- recommend, as the Panel considers advisable, budgetary proposals;
- study actions the state can take to preserve, unify, and strengthen a child's family ties whenever possible in the child's best interest; and
- perform such other duties related to the oversight of the child welfare system as the Panel considers appropriate.

DAVID C. EXIT AGREEMENT

Background

On June 28, 2007, the U.S. District Court dismissed the *David C.* lawsuit, without prejudice, pursuant to an exit agreement entered into by the state and the plaintiffs. Under the agreement, the state would be allowed to operate its child welfare system for one year without court oversight, a final report would be prepared by the court monitor at the end of the one-year period, and plaintiffs would be given a final opportunity to file a petition with the court. Unless the court found that the state was not in compliance with the terms of the agreement, the case would be dismissed with prejudice December 31, 2008, meaning that court oversight could not be reestablished except through subsequent litigation.

During the 2008 interim, the Panel considered reports required under the exit agreement, including reports by the Division of Child and Family Services (DCFS) and the court monitor's final report, and reviewed the priorities used during the 2008 Second Special Session of the Legislature to make adjustments to the DCFS budget. During the Special Session, the Legislature adjusted the budgets of agencies throughout state government in response to the expectation that FY 2009 revenue increases will be lower than originally anticipated.

Although the court monitor's report highlighted concerns about the state's performance in three areas — ensuring consistent, high quality feedback from quality improvement committees; ensuring that DCFS practices, including caseworker training, remain consistent with the division's Practice Model; and ensuring that the fiscal effort required to preserve and enhance improvements made since 1994 is maintained — the court monitor informed the court that the state had met the conditions of the exit agreement:

"However, CWPPG [Child Welfare Policy and Practice Group] believes that at this point, having reviewed the Division's performance and operations extensively over the past six months, that the Division and Department have acted in good faith in sustaining the significant gains made in implementing the *David C.* Settlement. The current Department and Division leadership

CHILD WELFARE LEGISLATIVE OVERSIGHT PANEL

is obviously committed to sustaining this reform. More importantly, CWPPG believes that the Division and Department have maintained both the capacity to sustain the gains made and levels of performance present at the time of exit."

"To speak to the expectations of the Agreement to Terminate, CWPPG believes that sustainability requirements have been met, but that additional attention is needed to assure that practice performance as measured by the QCR continues to meet standards and that training and the functioning of Quality Improvement Committees are consistently capable of fulfilling their mission. We hope that State decision makers will continue to provide the agency the resources needed to maintain the progress achieved."

In a letter to the Department of Human Services, the Panel affirmed that its longstanding oversight role would continue following the expected termination of *David C.* and noted the Legislature's fiscal commitment to reform of the child welfare system. It noted that since 1994, funding for DCFS alone (only one part of the overall system) had increased 23 percent faster than the balance of state government.

On December 16, the National Center for Youth Law addressed a letter to the Honorable Governor Jon M. Huntsman, Jr.:

Dear Governor Huntsman,

I am writing to commend you and the State of Utah for reforming your child welfare system so effectively. When the National Center for Youth Law filed suit in 1993, Utah had one of the most troubled foster care systems in the country. Now, it has one of the best. This is not an easy thing to accomplish. It takes perseverance, skill, and great leadership. The Utah reforms were achieved because of your leadership and hard work as well as the efforts of key people in Utah such as Lisa-Michele Church, Duane Betournay, and the lawyers who have in recent years so ably represented your interests. We all should have

great pride in what the Utah foster care system has become.

I also want to tell you that the National Center for Youth Law is pleased to work with your attorneys to ask the federal court to dismiss the David C. case with prejudice, effective December 31, 2008. We do so with confidence and with the expectation that you, Lisa-Michele Church, and your able team of child welfare leaders are fully committed to maintaining the excellent system you have built in Utah. We are pleased that you are committed to ensuring that sufficient resources will be available to sustain the system we all have worked so hard to build. We are especially gratified that the state's current budget problems are being resolved with minimal impact on the Division, and we commend you for your personal commitment to ensure financial resources for the future.

NCYL will continue to monitor Utah's child welfare system through the various means available, and we stand ready to help, if that would be useful. You have done an exemplary job in bringing this lawsuit to an amicable conclusion, and we commend you.

Sincerely yours,

John F. O'Toole
Director

As of this writing, it is expected that *David C.* will be dismissed with prejudice December 31, 2008, following the filing of the joint motion for dismissal with prejudice referred to in the letter above.

Action

The Panel considered this issue at its July, October, and December 2008 meetings, but did not recommend draft legislation.

GUARDIAN AD LITEM

CHILD WELFARE LEGISLATIVE OVERSIGHT PANEL

Background

The Panel received a report from the Office of the Legislative Auditor General on its November 2008 in-depth follow-up audit of the Office of the Guardian ad Litem and determined to review the audit recommendations further at a subsequent meeting.

The Panel considered "Guardian ad Litem Amendments," draft legislation which addresses some of the recommendations made by the legislative audit. Among other things, the legislation:

- provides that supervision of the Office of Guardian Ad Litem is the responsibility of the Guardian Ad Litem Oversight Committee, established by the Judicial Council;
- places limitations on and establishes requirements regarding the appointment of an attorney guardian ad litem in a district court proceeding;
- modifies provisions relating to the duties of an attorney guardian ad litem, a private attorney guardian ad litem, and the director of the Office of Guardian Ad Litem; and
- deletes provisions relating to the court's direct use of volunteers, and the use of peers, to assist in a minor's case.

The Panel also considered the Office of the Guardian ad Litem's FY 2010 budget request for additional funding. The additional funding would be used to reduce the ratio of attorneys to support staff from 2:1 to 1:1. The funding would also be used to increase attorney compensation by 34 percent so that salaries are comparable to those of attorneys in the Office of the Attorney General.

Action

The Panel considered this issue at its November 2008 meeting and recommended draft legislation, "Guardian Ad Litem Amendments."

OTHER STUDIES

Child Welfare Revisions

The Panel reviewed "Amendments to Child Welfare," draft legislation that:

- amends education requirements related to enrollment and attendance in order to comply with the requirements of the federal Fostering Connections to Success and Increasing Adoptions Act of 2008;
- makes the disciplinary team approach to developing a child and family plan optional;
- deletes obsolete provisions relating to records of juvenile court proceedings;
- deletes all provisions and references relating to Foster Care Citizen Review Boards;
- reassigns certain statutory provisions and responsibilities of Foster Care Citizen Review Boards to the Division of Child and Family Services;
- requires a court to attempt to keep sibling groups of minors in state custody together, if keeping the sibling group together is practicable and in accordance with the best interest of the minors;
- amends provisions relating to the conduct of periodic review hearings for a minor in state custody; and
- makes technical changes.

The Panel considered this issue at its December 2008 meeting and recommended draft legislation, "Amendments to Child Welfare."

Family Support Centers

The Panel received a report from the Family Connection Center on family support centers' shortage of capacity to meet the demand for nursery respite and crisis services. The Center discussed two funding alternatives: (1) increasing funding to each family support center by \$30,000 (\$450,000 statewide total); and (2) increasing funding to each family support center by \$30,000 and funding two additional staff positions at each center (\$1,200,000 statewide total).

CHILD WELFARE LEGISLATIVE OVERSIGHT PANEL

The Panel considered this issue at its December 2008 meeting but did not recommend draft legislation.

Foster Care

The Utah Foster Care Foundation reported to the Panel on the recruitment, retention, training, and needs of foster parents in Utah and indicated that foster parenting is becoming cost prohibitive in urban areas of the state among dual income families who need to pay for child care. The Foundation noted that Utah foster parents are paid 50 to 70 percent of the amount it costs, excluding expenses for child care and travel, to care for foster children. Raising foster care rates to levels recommended by a study called "Hitting the M.A.R.C." would cost \$3.5 million.

The Panel considered this issue at its July and October 2008 meetings but did not recommend draft legislation.

Kinship Placements

The Panel reviewed data from the Division of Child and Family Services on the out-of-home placement of children with their relatives. The Panel considered this issue at its October 2008 meeting, but did not recommend draft legislation.

Racial and Ethnic Disparities

The Panel reviewed Division of Child and Family Services data broken down by child ethnicity. The Panel considered this issue at its October 2008 meeting, but did not recommend draft legislation.

EDUCATION INTERIM COMMITTEE

Membership

Sen. Howard A. Stephenson, Senate Chair
Sen. Margaret Dayton, Senate Vice Chair
Rep. Gregory H. Hughes, House Chair
Sen. Curtis S. Bramble
Sen. Lyle W. Hillyard
Sen. Patricia W. Jones
Sen. Mark B. Madsen
Sen. Ross I. Romero
Rep. Syliva S. Anderson
Rep. Brad L. Dee
Rep. Craig A. Frank
Rep. James R. Gowans
Rep. Kory M. Holdaway
Rep. Bradley G. Last
Rep. Rebecca D. Lockhart
Rep. Ronda Rudd Menlove
Rep. Michael T. Morley
Rep. Carol Spackman Moss
Rep. LaWanna "Lou" Shurtliff
Rep. Kenneth W. Sumsion
Rep. Stephen H. Urquhart
Rep. Mark A. Wheatley

Staff

Ms. Constance C. Steffen, Policy Analyst
Mr. Phillip V. Dean, Policy Analyst
Mr. Dee S Larsen, Associate General Counsel
Ms. Glenda S. Whitney, Legislative Secretary

OVERVIEW

The Education Interim Committee provides oversight of and recommends policy relating to the state systems of public and higher education.

MATHEMATICS EDUCATION

Background

Many students entering college do not have the math skills necessary to succeed in college level math courses. A student with inadequate math skills must take a remedial course before enrolling in a college level math class and is not likely to pursue a career that offers high wages, but

requires good math skills, such as engineering or a career in the sciences.

A bill was introduced in the 2008 General Session to create a task force to study math education. Although the bill did not pass, a workgroup consisting of legislators, educators, and parents met throughout the 2008 interim to develop a proposal to improve math education.

The Committee reviewed draft legislation that incorporates the recommendations of the workgroup. The draft legislation provides grants to school districts and charter schools that offer Singapore math in grades kindergarten through 8. Singapore math is the math curriculum created by the education ministry in Singapore for use in Singapore schools. Singapore students are among the highest performing students on internationally administered mathematics tests.

Action

The Committee considered this issue at its June 18, September 17, October 15, and November 19, 2008 meetings, but did not recommend draft legislation.

PERFORMANCE-BASED COMPENSATION

Background

Legislation was introduced in the 2008 General Session to create a task force of legislators, state and local school board members, and teachers to study and make recommendations on how to implement performance-based compensation for educators. The bill did not pass; however, the Legislative Management Committee directed the Education Interim Committee to study performance-based compensation and authorized five additional meetings for the study.

The Committee received testimony and presentations from numerous experts in performance pay and the measurement of student learning gains. The Committee also reviewed the one-time performance pay plans that were funded for the 2008-09 school year and received updates on the progress of a State Board of Education task force studying performance pay.

EDUCATION INTERIM COMMITTEE

Recognizing that budget restrictions will likely preclude the funding of performance-based bonuses for the 2009-10 school year, the Committee considered draft legislation to create a two-year competitive grant program to pilot the development and implementation of performance-based compensation plans. In the first year, a school district or charter school that is awarded a grant will develop performance measures. In the second year, the performance measures will be administered and compensation awarded. The fiscal note for the first year is expected to be relatively modest, because the grant program will be limited to the pilot schools, and monies will be expended only for development of the performance measures, not for compensation.

Action

The Committee considered this issue at its May 22, August 21, September 17, and November 20, 2008 meetings, but did not recommend draft legislation.

UTAH SCHOOLS FOR THE DEAF AND THE BLIND

Background

The Utah Schools for the Deaf and the Blind (USDB) serve children who are deaf, blind, or deafblind by providing: (1) self-contained classes in various regions of the state; (2) a residential campus in Ogden; (3) consulting services for students in school district programs; (4) parent infant programs; and (5) instructional materials for blind students.

Unlike other public schools, funding for USDB is not based on the weighted pupil unit. Instead, USDB receives a separate appropriation from the Uniform School Fund. As a state institution, USDB has no access to local property taxes for the funding of school operations or school construction.

Current issues pertaining to USDB include: (1) the need for a new school building in Salt Lake City; (2) provisions in Utah law that prevent USDB from providing services to students who are no longer performing below grade level; and (3) advocacy for students.

The Committee toured USDB facilities in Ogden and Salt Lake City and received testimony from parents and others

on proposed changes to Utah law. The Committee reviewed draft legislation to modify the governance and structure of USDB and to modify eligibility requirements for receipt of USDB services.

Action

The Committee considered this issue at its April 16, August 20, September 18, and November 20, 2008 meetings, but did not recommend draft legislation.

OTHER STUDIES

Computer-adaptive Testing

The Governor's Blue Ribbon Panel on Assessment proposed a modification of the Utah Performance Assessment System for Students (U-PASS) to include computer-adaptive testing in reading, math, and science. Unlike the existing U-PASS tests that are administered at the end of a course to determine a student's proficiency in the course, a computer-adaptive test will be administered three times a year to determine a student's progress and will measure how much a student's proficiency exceeds or falls below grade level. To pilot computer-adaptive testing, an exemption to the U-PASS testing requirements is needed for the pilot school districts. The Committee considered this issue at its August 20 and September 25, 2008 meetings and recommended draft legislation, "Student Achievement Testing Exceptions," for the 2008 Second Special Session.

Grants to Obtain Advanced-level Certification

A program that awards grants to minimize teachers' expenses to obtain certification from the National Board for Professional Teacher Standards or take tests to meet highly qualified teacher standards is scheduled to sunset on July 1, 2009. The Committee considered two bills, each of which reauthorizes the grant program and expands it to allow grant monies to be used to obtain Distinguished Teacher certification by the American Board for Certification of Teacher Excellence. The difference between the two bills is that one directs the State Board of Education on how to allocate the grant monies and the other gives authority to the Board to determine the allocation. The Committee considered this issue at its May

21 and August 20, 2008 meetings, but did not recommend draft legislation.

Online Learning

The use of online learning is expanding in public schools. In Utah, students may take courses online through the Utah Electronic High School, the Utah Virtual Academy, which is a charter school, or school district programs offered to home school students. The Committee received a presentation on advances in online instruction and reviewed draft legislation to allow school districts and charter schools to establish student-centric learning centers where students assemble customized online courses tailored to the student's learning style. The Committee considered this issue at its September 17 and October 15, 2008 meetings, but did not recommend draft legislation.

Property Tax and School Funding

In the 2008 General Session, the Legislature considered numerous bills pertaining to property taxes imposed for public schools. One of the issues addressed was whether school districts should share a portion of their property taxes with charter schools. Because charter schools have no taxing authority, the state is giving state income tax revenue to charter schools in lieu of local property taxes. As the number of charter schools has increased, those costs have increased significantly. Another issue addressed was whether property taxes for school buildings should be equalized throughout the state. A rapidly growing school age population is requiring some school districts to build many new schools and impose property taxes to pay for those schools. Further legislation to address funding for charter schools and school buildings is expected.

The Committee staff made a presentation on the role of property taxes in funding public schools. The Committee considered this issue at its September 17, 2008 meeting, but did not recommend draft legislation.

School Restructuring of Low-performing Schools

The federal No Child Left Behind (NCLB) law requires a school that fails to make Adequate Yearly Progress (AYP) after five years to develop a restructuring plan and

implement the plan in the following year, if the school continues to not make AYP. Under NCLB, restructuring means implementing an alternative governance arrangement, including: (1) reopening as a charter school; (2) replacing school staff; (3) entering into a contract with a private management company to operate the school; (4) turning the operation of the school over to the state; or (5) other significant change in the school staff or governance. Surveys of restructuring efforts nationwide reveal that few school districts have opted to contract with a private entity, convert a school to a charter school, or turn the operation of a school over to the state. Generally, school districts opt to make other changes to the school's staff or governance, such as: (1) creating smaller learning communities; (2) expanding or narrowing the grade range; or (3) reopening as a theme school.

In 2008, the Uinta School District was required to restructure a middle school. The school district opted to combine the middle school with an elementary school. The Committee considered this issue at its April 16, 2008 meeting, but did not recommend draft legislation.

GOVERNMENT OPERATIONS INTERIM COMMITTEE

GOVERNMENT OPERATIONS INTERIM COMMITTEE

Membership

Sen. Peter C. Knudson, Senate Chair
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Rep. John G. Mathis
Rep. Curtis Oda
Rep. Larry B. Wiley

Staff

Benjamin N. Christensen, Policy Analyst
Christopher R. Parker, Associate General Counsel
Chelsea Barrett, Legislative Secretary

OVERVIEW

The Government Operations Interim Committee considers a broad range of issues, including elections, campaign finance, ethics, government records access and management, appropriations and bonding, open and public meetings, personnel, boards and commissions, and administrative services. The Committee considers policy questions with statewide implications, receives testimony from concerned groups and state agencies, and makes recommendations to the Legislature.

The Committee has legislative responsibility for several departments and agencies of state government, including the offices of the Governor, Lieutenant Governor, Attorney General, State Auditor, and State Treasurer; the Governor's Office of Planning and Budget; the Department of Administrative Services; and the Department of Human Resource Management. The Committee also has primary responsibility for the following titles of the *Utah Code*: Title

20A, Election Code; Title 36, Legislature; Title 63A, Administrative Services; Title 63B, Bonding; Title 63G, General Government; Title 63I, Oversight; Title 63J, Budgeting; Title 63K, Emergency Management; Title 63M, Governor's Programs; and Title 67, State Officers and Employees.

BALLOT COORDINATION FOR LOCAL DISTRICTS AND MUNICIPAL ELECTIONS

Background

Currently, a single ballot is provided to voters on election day and includes all races except local and special service district races. Separate ballots for district races cause confusion and inconvenience to voters who may find it difficult to navigate separate ballots and perhaps be required to vote in different polling places on election day. This issue has been explored in recent years and has proven to be much more complex than first thought. Each voter is entitled to vote on a number of races and issues based on the voter's primary residence. To coordinate election ballots to provide a single ballot, each home and voter in the state must be correctly identified as to address, voting precinct, each local district boundary, legislative house and senate districts, municipality, county, U.S. congressional district, and others. Under *Utah Code* 17B-1-306, an election for local district board members must be held at the same time as the municipal general election and at polling places designated by the county clerk. The clerk is required to coordinate the placement of local district offices in the nonpartisan section of the municipal general election ballot unless it is not feasible. Exceptions apply for irrigation, electric, and gas improvement districts.

During the May 2008 meeting, after a presentation and discussion about placing local district races on the same ballot as other elections, the Committee invited the county clerks to develop a proposal that might allow a single ballot to be a reality. The clerks formed a committee and held several meetings to discuss the logistics, options, and steps that would be needed to achieve a single ballot. The findings and recommendations of that committee were presented to the Committee at its September 2008 meeting. The findings and recommendations included:

- giving special districts the option of by-mail elections;

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- providing greater coordination of polling places;
- installing new software to allow for GIS identification of voter residences; and test/demonstrating elections using new data systems.

After study by the county clerks, a multi-year approach was suggested, with two bills moving forward this year for the Committee's consideration.

Action

The Committee considered this issue at its May, September, and November 2008 meetings. The Committee recommended draft legislation, "Coordinating Municipal and Special District Elections," and "Local and Special Service District Election Amendments."

ELECTION LAW CHANGES

Background

Utah Code, Title 20A, Election Code, contains detailed provisions for the administration of Utah elections. Each year a number of issues are raised that require consideration by the Legislature. Although many of the issues are technical and administrative in nature, others may require a more substantive policy determination. During the 2008 interim, the Office of the Lieutenant Governor and the Association of County Clerks brought a number of issues to the Committee for consideration. The issues that were technical and administrative in nature were addressed in draft legislation prepared for the Committee's consideration. The other issues were presented separately by representatives of the lieutenant governor and county clerks, and were addressed by draft legislation at the direction of the Committee. Table 1 (see page 30) provides a list of the issues and final committee actions.

Action

The Committee considered this issue at its June, August, October, and November 2008 meetings and recommended draft legislation:

- "Ballot Question Amendments,"
- "Declaration of Candidacy Amendments,"
- "Early Voting Amendments,"
- "Election Law Changes,"
- "Online Voter Registration," and

- "Voter Challenge Amendments."

OPEN AND PUBLIC MEETINGS ACT - PROVISIONS OF OPEN MEETING MINUTES

Background

The Open and Public Meetings Act (OPMA) requires the creation of certain records, including written minutes and recordings of meetings. The disclosure of these records is regulated under the Government Records Access and Management Act (GRAMA). The Committee discussed how soon after a meeting a citizen should be able to get a copy of the minutes or recording of an open meeting. Balancing the need for timely release of minutes with a public body's ability to finalize them has been raised recently in the Legislature and remains an issue.

A citizen or the media may want a copy of the minutes of a public meeting before the entity may have completed them because of administrative delays, including staff workload, member review, or other issues. In some circumstances, if the minutes are not available in a timely manner, they may not be helpful at all. *Utah Code* 52-4-203(4) states that minutes and a recording must be available within a reasonable time after the meeting. The statute does not define what is a reasonable time. *Utah Code* 63G-2-305(2) and 63G-2-301(3)(j) and (k) provide that drafts, which include drafts of minutes, are protected records, but require disclosure of drafts that are externally circulated or relied upon in carrying out action or policy. OPMA uses the term "written minutes" but does not address or make a distinction between "unapproved" minutes and "approved" minutes and does not mention the approval of minutes.

After hearing public testimony during the September 2008 meeting, the Committee asked interested parties to provide their recommendations to committee staff so that draft legislation could be prepared to address key issues regarding the availability of minutes of open meetings. Three issues emerged from the meeting: (1) making the recording available early; (2) making draft minutes available without waiting for approval; and (3) requiring approval of minutes. Draft legislation was prepared and discussed during the next two meetings.

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Action

The Committee considered this issue at its September, October, and November 2008 meetings and recommended draft legislation, "Open and Public Meetings Act - Meeting Record."

STATE PER DIEM STANDARDIZATION FOR STATE AGENCY BOARDS

Background

Under *Utah Code* 63A-3-106, the Division of Finance is required to "establish per diem rates for all state officers and employees of the executive branch...for attendance at official meetings." These rates, in *Administrative Code* (R25-5-4), are set at \$60 per diem for each official meeting attended that lasts up to four hours and \$90 for a meeting lasting longer than four hours. This per diem rate is the daily allowance for subsistence expenses for state policy boards, advisory boards, councils, and committees. Figure 1 (see page 31) shows the state agencies' boards for which standard statutory language referring to the Division of Finance rates are used.

Action

The Committee voted to have staff prepare standard language for per diem paid to state agency boards that are not currently using standardized language and to have the Division of Finance share recommendations to update the per diem amounts. The Division reported that after a survey of state agencies and of surrounding states and considering the current down-turn in the economy, no increase in the standard rates is recommended at this time. The Committee considered this issue at its June and October 2008 meetings and recommended draft legislation, "Per Diem and Travel Expenses for State Boards and Commissions."

OTHER STUDIES

Citizen Requests and Ombudsman Processes

During the 2007 interim, the Committee discussed whether ombudsmen and 211 information services should be expanded and what other options are available to provide information to assist citizens and agencies in answering inquiries or resolving disputes involving government services. During those discussions, a representative from the Department of Community and Culture offered to study other agencies and existing 211 information services and report back potential ways to improve citizens' requests for assistance from state government. The report included findings of a study of methods for state agencies to respond to citizen inquires and resolve disputes involving government services. The recommendations included collaborating with the existing 211 information services, adopting a best practices guide, and providing training and resource sharing for front line personnel on complaint-handling systems for executive branch agencies.

The Committee considered this issue at its August 2008 meeting, but did not recommend draft legislation.

Debt Collection

The Office of State Debt Collection of the Department of Administrative Services has overall responsibility for collecting and managing state receivables, developing consistent policies governing the collection and management of state receivables, and overseeing and monitoring state receivables. The Office reported that \$284 million in outstanding receivables are owed to the state and it is undertaking a pilot program using bank and employer garnishment to collect certain debt.

The Committee considered this issue at its June 2008 meeting, but did not recommend draft legislation.

Division of Facilities Construction and Management (DFCM) Five-Year Building Program and Master Plan for State Office Space Needs

Under *Utah Code* 63A-5-103, the State Building Board is required to prepare a master plan for state structures in cooperation with state institutions, departments, commissions, and agencies and to keep current the five-

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year building program for the state. With some exceptions, DFCM supervises the design and construction of projects in the five-year program. Proposed projects are evaluated based on six scoring objectives and criteria for establishing how well each project will satisfy each objective. Each objective is then weighed for final scoring. This evaluation method is designed to provide an objective score from which the board can prioritize each proposed project. In addition, the Division recently completed a master plan of state government office space needed for future use in the Salt Lake City area. DFCM reported on the building board five-year building program, the capital budget funding history, construction project status, and the master plan.

During the 2008 General Session, the Legislature approved \$670,781,200 in state funded building projects, which includes \$247 million from state funds (General Fund and Education Fund) and \$218.7 million in donated higher education funding. Due to projected budget short falls, the amount of state funding was reduced by \$15 million during the 2008 Second Special Session to \$232 million.

In 2006, DFCM completed a study titled "Salt Lake Area State Government Office Building Master Plan," which identified the state's office space needs in the Salt Lake Area over the next 20 years. The study estimates that the state has an immediate office space shortage of 154,000 sq. ft. Over the next ten years the shortage is estimated at 325,000 sq. ft. and 450,000 sq. ft. over the next 20 years. Since the study, the state has sold the Human Services Administration Building (136,000 sq. ft.) and funded the construction of a new Multi Agency Office Building (150,000 sq. ft.) for Human Services and Environmental Quality. After these actions, and two years into the 10-year plan, the immediate space shortage is currently approximately 70,000 sq. ft. Projects that could address the immediate and remaining 10-year space needs include the World Trade Center (100,000 sq. ft. downtown office building), a new Multi Agency Office Building (125,000 to 150,000 sq. ft.) at one of the state-owned properties in Salt Lake, and the potential demolition and reconstruction of the State Office Building.

The Committee considered this issue at its April and August 2008 meetings, but did not recommend draft legislation.

Four-day Work Week for State Employees

On June 26, 2008, the Governor announced the "Working 4 Utah" initiative, which requires most state agency employees to shift to a four-day, ten-hour work schedule. State government service hours changed to 7:00 a.m. to 6:00 p.m., Monday through Thursday beginning August 4, 2008, with offices closed on Fridays. Essential public services that already run on extended hours and during the weekends remain open. Conserving energy and enhancing customer service are two purposes given for the change, which will be evaluated after the first year. Surveys have indicated that most state employees welcome the change. A representative of the Department of Human Resource Management reported on the background and implementation of a four-day work week for state employees and said the estimated economic impact is \$14 million, which includes employee vehicle savings, building energy savings, and reallocation of expenditures into the economy.

The Committee considered this issue at its August 2008 meeting, but did not recommend draft legislation.

State Capitol Complex Construction Projects and Plans

The State Capitol Preservation Board exercises jurisdiction and stewardship over Capitol Hill facilities, Capitol Hill grounds, and the State Capitol Complex, with the exception of certain areas reserved under legislative control. The Board is required to preserve, maintain, and restore the State Capitol Complex, facilities, grounds, and their contents through an annual work plan and a long-range master plan. The employee parking structure east of the Capitol was completed in December 2007. The renovated and seismically upgraded Capitol was dedicated on January 4, 2008, and was used for the 2008 General Session. Currently, renovations are nearing completion on the East and West buildings.

The Committee considered this issue at its June 2008 meeting, but did not recommend draft legislation.

State Property Acquisition

The Utah Department of Transportation (UDOT) acquires several hundred parcels of property each year, much more than any other state entity. The Division of Facilities Construction and Management (DFCM) and other state agencies also occasionally acquire property for state projects. Reports have surfaced which claim that, at times, a seller will inflate the selling price after the seller becomes aware that the state is the potential buyer. Representatives of these agencies reported that they plan to work together to coordinate expertise to help ensure more efficient and fair acquisitions and avoid having to pay inflated prices for property.

The Committee considered this issue at its September 2008 meeting, but did not recommend draft legislation.

Utah State Personnel Management Act Revisions

In recent years, the Department of Human Resource Management has been working on finding ways to improve employee compensation, productivity, and efficiency. During the May 2008 meeting, the Department of Human Resource Management made a proposal to rewrite the Utah State Personnel Management Act to update personnel systems to modern personnel practices. These plans have been delayed due to concerns about changing merit system employee grievance procedures.

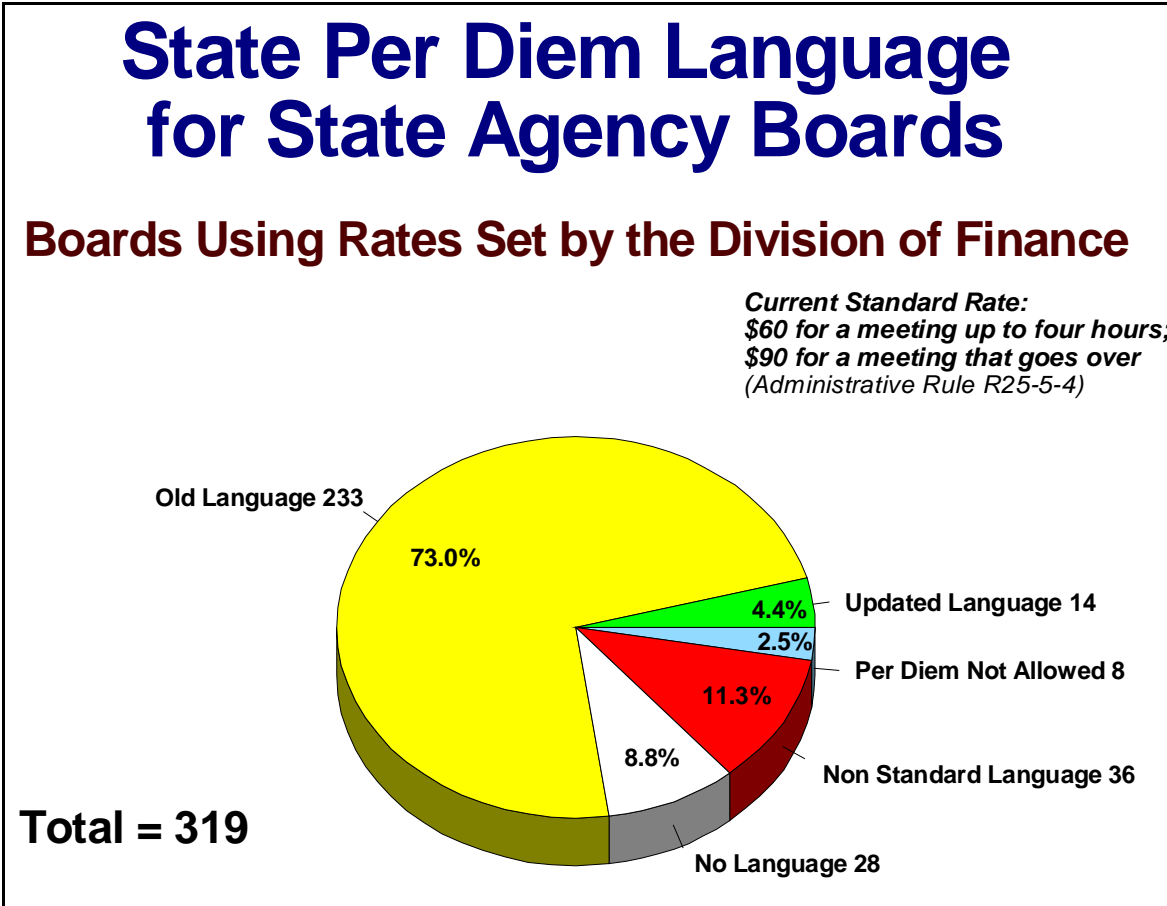
The Committee considered this issue at its May 2008 meeting, but did not recommend draft legislation.

GOVERNMENT OPERATIONS INTERIM COMMITTEE

Table 1 Election Law Changes

Issue	Advocate	Final Committee Action
1. Address technical and administrative issues in a technical amendment bill	Office of the Lieutenant Governor	Draft legislation recommended by the Committee: "Election Law Changes"
2. Move the declaration of candidacy period back so that it does not open during the General Session, which has moved back a week with the passage of Constitutional Amendment C	Office of the Lieutenant Governor	Draft legislation recommended by the Committee: "Declaration of Candidacy Amendments"
3. Move the deadline for unaffiliated presidential candidates nominations from March 17 to August 15	Office of the Lieutenant Governor	Draft legislation recommended by the Committee: "Election Law Changes"
4. Allow unaffiliated presidential candidates to file nomination petitions using an agent	Office of the Lieutenant Governor	Draft legislation recommended by the Committee: "Election Law Changes"
5. Provide that ordinances that are the subject of a local referenda do not remain in effect until after the election	Office of the Lieutenant Governor	No action taken
6. Restore the definition of "media owner" or repeal <i>Utah Code</i> 20A-11-102 regarding filing a statement of ownership of a publication before printing matter that tends to influence voting in an election	Office of the Lieutenant Governor	No action taken
7. Allow online voter registration	Office of the Lieutenant Governor	Draft legislation recommended by the Committee: "Online Voter Registration"
8. Update voter challenge laws requiring clear documented reasons for challenge and provide penalties for malicious challenges	Association of County Clerks	Draft legislation recommended by the Committee: "Voter Challenge Amendments"
9. Limit the number of characters or words for questions on the ballot due to space constraints	Association of County Clerks	Draft legislation recommended by the Committee: "Ballot Question Amendments"
10. Add a voter's date of birth from a voter registration record to the list of records classified as private under GRAMA	Association of County Clerks	Draft legislation prepared but no recommendation was made by the Committee: "Access to Voter Date of Birth Records"
11. Repeal the requirement that Salt Lake County have an early voting location in each state Senate district	Association of County Clerks	Draft legislation recommended by the Committee: "Early Voting Amendments"

Figure 1



HEALTH AND HUMAN SERVICES INTERIM COMMITTEE

HEALTH AND HUMAN SERVICES INTERIM COMMITTEE

Membership

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Rep. Paul Ray, House Chair
Sen. Allen M. Christensen
Sen. Jon J. Greiner
Sen. Scott D. McCoy
Rep. John Dougall
Rep. Jack R. Draxler
Rep. Julie Fisher
Rep. Wayne A. Harper
Rep. David Litvack
Rep. Rosalind J. McGee
Rep. Merlynn T. Newbold
Rep. Phil Riesen
Rep. Stephen E. Sandstrom

Staff

Mark D. Andrews, Policy Analyst
Catherine J. Dupont, Associate General Counsel
Thomas R. Vaughn, Associate General Counsel
Joy L. Miller, Legislative Secretary

OVERVIEW

The Health and Human Services Interim Committee considers a wide range of issues related to public health, health care providers, healthcare facility licensing, health insurance, access to health care, mental health, aging, persons with a disability, child abuse, and substance abuse. The Committee provides oversight to many of the programs administered by the Department of Health and the Department of Human Services.

DISABILITY FUNDING

Background

The Committee was briefed by the Department of Human Services (DHS) on options for addressing the needs of persons awaiting services from the Division of Services for People with Disabilities. The Executive Director of DHS summarized her understanding of the Committee's directions as follows:

- the strategy of funding interventions for people other than those at the top of the waiting list, implemented three years ago, is still consistent with where the Legislature wishes to go;
- the Legislature is fairly comfortable with the waiting list interventions chosen by DHS but wants to make sure that each pans out after a two-year test period; and
- respite care should be evaluated on how it does and what effect it has had prior to funding it on an ongoing basis.

The Committee also received testimony from the Disability Law Center on the need for all concerned to be willing to commit to making the hard choices necessary to facilitate the shift from a system rooted in institutional care to one founded on community-based supports.

Action

The Committee considered this issue at its May 2008 meeting, but did not recommend draft legislation.

EXPEDITED PARTNER THERAPY

Background

Chlamydia, a sexually transmitted disease, is by far the most frequently occurring reportable communicable disease among Utahns. The U.S. Center for Disease Control and Prevention has published the following guidance on the use of expedited partner therapy (EPT) to treat chlamydia and other sexually transmitted diseases:

"Both clinical and behavioral outcomes of the available studies indicate that EPT is a useful option to facilitate partner management among heterosexual men and women with chlamydial infection or gonorrhea. The evidence indicates that EPT should be available to clinicians as an option for partner management, although ongoing evaluation will be needed to define when and how EPT can be best utilized. EPT represents an additional strategy for partner management that does not replace other strategies, such as standard patient referral or provider-assisted referral, when available."

EPT enables a medical practitioner to prescribe an antibiotic for a sex partner of a patient treated for a

HEALTH AND HUMAN SERVICES INTERIM COMMITTEE

sexually transmitted disease, even though the doctor does not have a doctor-patient relationship with the patient's sex partner.

The Committee considered draft legislation that would enable the use of EPT as a means of treating chlamydia and gonorrhea. The Department of Health; the Utah Food Industry Association; the Utah Retail Merchants Association; an infectious disease specialist at the University of Utah; and a board certified obstetrician/gynecologist spoke in support of the legislation.

Action

The Committee considered this issue at its October and November 2008 meetings and recommended draft legislation, "Expedited Partner Therapy Treatment."

LOCAL HEALTH DEPARTMENT FUNDING

Background

The Committee met jointly with the Political Subdivisions Interim Committee and considered a request by local health departments that the Legislature study several alternatives for increasing funding to local health departments to enable them to better meet local needs by providing services not mandated by the state or the federal government. The Committee chairs agreed to follow up on four issues:

- creation of an emergency fund to be funded by state revenues and a local property tax;
- imposition of a cigarette tax earmarked for local health department activities;
- mandatory use of the state/local consensus approach for allocation of federal grants to local health departments; and
- consideration of additional information, to be requested from local health departments as follows:
 - ▶ List each local health department duty and the source of the duty (federal statute, federal regulation, state statute, state regulation, county/local health department ordinance, historical practice, etc.).
 - ▶ List the activities used to fulfill each duty and the source of funding during the past fiscal year for

each activity (license and user fees, penalties, ceiling-exempt property tax levy for public health, and other county revenues; state funds; federal funds; etc.). For each activity, list any revenues generated above and beyond, or in addition to, those used to fund the activity.

- ▶ Describe how activities to fulfill the duty vary across health departments for each local health department duty. Are there state or nationally recognized standards related to those activities? How far above or below those standards is each department? Are there more effective activities departments could pursue to fulfill the duty?
- ▶ Does any fee imposed by a local health department duplicate a fee imposed by another state or local agency?

At subsequent meetings the Committee received a written report from the Utah Association of Local Health Departments on local health department duties and funding sources and the Political Subdivisions Interim Committee studied and recommended several pieces of related legislation.

Action

The Committee considered this issue at its August and November 2008 meetings, but did not recommend draft legislation.

MEDICAL MALPRACTICE ARBITRATION AGREEMENTS - SUNSET REVIEW

Background

The Committee considered whether to reauthorize *Utah Code 78B-3-421*, which governs the use of medical malpractice arbitration agreements. The Utah Association for Justice (formerly Utah Trial Lawyers Association) spoke in favor of reauthorization because of the protections the section provides for patients. Chief among those protections is that a patient may not be denied health care simply because the patient refuses to enter into a binding arbitration agreement with the provider. The Utah Medical Association indicated that it does not matter whether *Utah Code 78B-3-421* is reauthorized or not. Either way, the existing program of arbitration will continue. However, if the

HEALTH AND HUMAN SERVICES INTERIM COMMITTEE

statute is reauthorized, the Association recommended that it be moved to Title 78B, Chapter 11, Utah Uniform Arbitration Act.

Action

The Committee considered this issue at its November 2008 meeting and recommended that the sunset date for *Utah Code* 78B-3-421 be extended for 10 years and that *Utah Code* 78B-3-421 be placed within Title 78B, Chapter 11, Utah Uniform Arbitration Act.

UTAH SUDDEN CARDIAC ARREST SURVIVAL ACT

Background

The Committee considered draft legislation that would enact a Utah Sudden Cardiac Arrest Survival Act and amend related civil liability immunity provisions. The legislation removes a training requirement for lay persons that use an automatic or automated external defibrillator.

The Committee received testimony from the draft bill's sponsor and the South Jordan Fire Chief.

Action

The Committee considered this issue at its September 2008 meeting and recommended draft legislation, "Utah Sudden Cardiac Arrest Survival Act."

OTHER STUDIES

Adoption

The Committee reviewed draft legislation supported by the Utah Adoption Council that amends various provisions of the Utah Adoption Act.

The Committee considered this issue at its November 2008 meeting and recommended draft legislation, "Adoption Revisions."

Assertive Community Treatment Team Pilot Program

The Committee received testimony from the sponsor of draft legislation, National Alliance on Mental Illness (NAMI) Utah, and the Disability Law Center about a proposed Assertive Community Treatment Team Pilot Program that would allow persons with serious and persistent mental illness who have failed to respond to other treatment to

stay in their homes and communities rather than enter long-term care.

The Committee considered this issue at its November 2008 meeting, but did not recommend draft legislation.

Autism

The Committee received a report from the Utah Autism Initiative, an interagency workgroup created by the Department of Health last year, on its work to identify existing resources for persons with autism and develop recommendations for extending the availability of those resources. The Committee also considered a proposal by a mother of a child with autism to require health insurance coverage of autism services.

The Committee considered this issue at its May 2008 meeting, but did not recommend draft legislation.

Availability of Mental Health Records in Clinical Settings

The Committee received testimony from an individual whose relative committed suicide. The individual pointed out that when a patient with a mental problem visits a medical provider, there should be a mechanism for informing the provider of any previous visits made by the patient to other medical providers. As follow-up to this suggestion, the Committee received a report from the Utah Health Information Network on how the implementation of 2008 General Session H.B. 47, "Standards for Electronic Exchange of Clinical Health Information," will apply to mental health records.

The Committee considered this issue at its June 2008 meeting, but did not recommend draft legislation.

Death Certificate Procedures

The Committee studied whether changes could be made to improve the process followed by funeral directors, physicians, and the Department of Health for the filing of death certificates.

The Committee considered this issue at its April 2008 meeting, but did not recommend draft legislation.

HEALTH AND HUMAN SERVICES INTERIM COMMITTEE

Detection of Public Health Emergencies Act

The Committee conducted a sunset review of Title 26, Chapter 23b, Detection of Public Health Emergencies Act, and recommended that it be removed from the Legislative Oversight and Sunset Act.

The Committee considered this issue at its October 2008 meeting, but did not recommend draft legislation.

Determination of Criminal Conduct

The Committee reviewed draft legislation developed and recommended by the Administrative Rules Review Committee, and supported by the Department of Health, that repeals the Department's and other state agencies' authority to determine by rule what constitutes criminal conduct.

The Committee considered this issue at its November 2008 meeting, but did not recommend draft legislation.

Emergency Medical Services - Treat and Release Fees

The Committee received testimony from the Department of Health that the Department is planning to repeal the existing fee structure for emergency medical services providers, which includes a "treat and release" fee, and replace it with three fees: a base fee, a fee for mileage, and a fee for supplies.

The Committee considered this issue at its October 2008 meeting, but did not recommend draft legislation.

Family Support Centers

The Committee received a report from the Family Connection Center on the shortage of capacity in family support centers to meet the demand for nursery respite and crisis services.

The Committee considered this issue at its November 2008 meeting, but did not recommend draft legislation.

Health Disparities

The Committee received reports from the Department of Health on the extent of health disparities in Utah and from the Utah Multicultural Health Network on promising

practices and the impact of culturally and linguistically appropriate services, including interpretation services, on health care disparities.

The Committee considered this issue at its June 2008 meeting, but did not recommend draft legislation.

Health System Reform Task Force

The Committee received a report from the chairs of the Legislature's Health System Reform Task Force on the work of the Task Force. The chairs reported that during the 2009 Annual General Session eight to ten pieces of legislation may be introduced to implement health care reforms considered by the Task Force.

The Committee considered this issue at its October 2008 meeting, but did not recommend draft legislation.

Insurance Marketing

The Committee considered draft legislation that would require health insurers to refund unearned premiums to persons who have canceled an insurance policy. This legislation grew out of the Insurance Department's concern that in some cases when an insured has canceled a Medigap insurance policy with a foreign carrier, the carrier has not refunded the unearned portion of the premium.

The Committee considered this issue at its September and October 2008 meetings and recommended draft legislation, "Refund of Unearned Health Insurance Premiums and Medicare Supplement Insurance Premiums."

HEALTH AND HUMAN SERVICES INTERIM COMMITTEE

Licensed Direct-entry Midwives - Annual Report

The Committee received the licensed direct-entry midwives annual report from the Licensed Direct-entry Midwife Board.

The Committee considered this issue at its November 2008 meeting, but did not recommend draft legislation.

Medical Examiner's Office

The Committee was briefed by the State Medical Examiner on the duties, workload, and funding of the Examiner's office and alternatives for addressing insufficient funding of the office.

The Committee considered this issue at its May 2008 meeting, but did not recommend draft legislation.

National Epidemiology Surveillance System

The Committee received a report by the Department of Health on the need to implement the National Epidemiology Surveillance System, a real-time epidemiological surveillance system.

The Committee considered this issue at its September 2008 meeting, but did not recommend draft legislation.

Obesity Prevention

The Committee received a report from the Department of Health on past and future activities by the Department to prevent obesity, including the Gold Medal Schools program and a new federal grant. The Committee also received a report from the Utah Partnership for Healthy Weight on its role in obesity prevention.

The Committee considered this issue at its August 2008 meeting, but did not recommend draft legislation.

Pediatric Mental Health Services

The Committee studied a proposal to develop community-based mental health services in lieu of replacing the pediatric facility for child and adolescent mental health services at the Utah State Hospital. The Committee received testimony from the Department of Human Services, the Division of Substance Abuse and

Mental Health, NAMI Utah, The Children's Center, and Allies with Families.

The Committee considered this issue at its June 2008 meeting, but did not recommend draft legislation.

Performance Audit of Davis Behavioral Health

The Committee received a report from the Office of the Legislative Auditor General on its July 2008 audit of Davis Behavioral Health. The Committee also received testimony from Davis Behavioral Health, the Davis Behavioral Health Board of Trustees, a Davis County commissioner, and the Division of Substance Abuse and Mental Health. As follow-up to this issue, the Division of Substance Abuse and Mental Health will provide the Committee with the results of the Division's January 2009 annual audit of Davis Behavioral Health and will provide the Legislature with information on reserve funds kept by local mental health authorities.

The Committee considered this issue at its November 2008 meeting, but did not recommend draft legislation.

Pilot Program for Family Preservation Services

The Committee conducted a sunset review of the Pilot Program for Family Preservation Services (*Utah Code* 62A-5-103.2), administered by the Division of Services for People with Disabilities, and recommended that it be converted to an ongoing program and reauthorized for five years.

The Committee considered this issue at its October and November 2008 meetings and recommended draft legislation, "Family Preservation Services Amendments."

Preferred Drug List

The Committee received a report from the Department of Health on its implementation of a Medicaid preferred drug list authorized by legislation in 2007. The Department expects net savings from implementation of the preferred drug list to total \$1 million in FY 2009.

The Committee considered this issue at its September 2008 meeting, but did not recommend draft legislation.

HEALTH AND HUMAN SERVICES INTERIM COMMITTEE

Substance Abuse and Misuse

In 2007 the Legislature required the Department of Health to conduct a two-year study of the use and misuse of opiates prescribed for chronic pain, to provide education to providers, patients, and others on proper chronic pain management, and to make recommendations to the Legislature. During the 2008 General Session the Legislature directed the Division of Occupational and Professional Licensing to implement a pilot program for real-time reporting and access to the controlled substance database.

The Committee received testimony from the Department of Health, the Division of Occupational and Professional Licensing, the Utah Medical Association, and the Utah Hospitals and Health Systems Association on prescription opiate misuse and addiction and the implementation of the pilot program.

The Committee considered this issue at its April 2008 meeting, but did not recommend draft legislation.

Treatment of Mentally Ill Offenders

The Committee received testimony from the Division of Substance Abuse and Mental Health, NAMI Utah, and the Salt Lake County Attorney's Office on addressing the mental health needs of persons that either are in, or could enter, the criminal justice system.

The Committee considered this issue at its September 2008 meeting, but did not recommend draft legislation.

Utah Commission on Aging

The Committee conducted a sunset review of the Utah Commission on Aging (Title 63M, Chapter 11) and recommended that it be reauthorized for three years.

The Committee considered this issue at its October 2008 meeting, but did not recommend draft legislation.

HEALTH SYSTEM REFORM TASK FORCE

HEALTH SYSTEM REFORM TASK FORCE

Membership

Sen. Sheldon L. Killpack, Senate Chair
Rep. David Clark, House Chair
Sen. Gregory S. Bell
Sen. Gene Davis
Sen. Peter C. Knudson
Rep. Roger E. Barrus
Rep. Jackie Biskupski
Rep. Bradley M. Daw
Rep. David Litvack
Rep. Merlynn T. Newbold
Rep. Patrick Painter

Staff

Mark D. Andrews, Policy Analyst
Catherine J. Dupont, Associate General Counsel
John T. Nielsen, Advisor to the Governor on Health System Reform
Phalin L. Flowers, Legislative Secretary

OVERVIEW

In the 2008 General Session, H.B. 133, "Health System Reform," created the Health System Reform Task Force and charged it with reviewing and making "recommendations on the state's development and implementation of [a] strategic plan for health system reform." Elements included in the plan and reviewed by the Task Force were spelled out in the legislation.

To discharge its duties, the Task Force met nine times and considered a wide range of options and proposals to reform Utah's health care system. The Task Force relied heavily on the work of five stakeholder groups that met frequently and produced recommendations for the Task Force. These groups represented employers, insurers, hospitals, medical practitioners, and the community at large.

H.B. 133 also charged various executive branch agencies with specific tasks that laid the foundation for significant consumer-oriented, market-driven health care reform. Many of these tasks are well under way, including the development of a standardized, simplified health insurance

application form, creation of an Internet portal that may be integral to various reform initiatives, and the submission of Medicaid waivers that will expand the use of state and federal monies to encourage coverage in the commercial insurance market.

HEALTH CARE REFORM

Background

The Task Force reviewed the current state of Utah's health care system and studied a wide range of options for improving it. The Task Force's work was organized around six major areas of potential reform:

- reforming the health insurance market to increase the availability of plans that:
 - can be selected by an employee from a menu of plans,
 - are portable across employers,
 - can be purchased with multiple funding sources, and
 - are more affordable than existing choices;
- promoting individual responsibility for personal health behaviors and accountability for the consequences of those behaviors;
- promoting the development and use of best practice protocols and consider increasing liability protection for providers that follow those protocols;
- maximizing the use of federal and state tax preferences;
- optimizing the use of public health care programs, including their use to promote private insurance coverage; and
- allowing state employees to participate in the reformed health insurance market and create preferences for state contractors that provide health insurance benefits to their employees.

The Task Force received input from many individuals and organizations, including:

- Advisor to the Governor on Health System Reform
- America's Health Insurance Plans
- Association of General Contractors
- Association for Utah Community Health
- Consumers for Health Care Choices
- Department of Health

HEALTH SYSTEM REFORM TASK FORCE

- Division of Purchasing and General Services
- Division of Health Care Financing
- Governor's Office of Planning and Budget
- Health Behavior Innovations
- HealthInsight
- Heritage Foundation
- Insurance Department
- Intermountain Healthcare
- Legislative Coalition for People with Disabilities
- National Federation of Independent Business
- O.C. Tanner
- Office of Consumer Health Services
- Pacific Research Institute
- Prometheus Payment, Inc.
- Regence BlueCross BlueShield of Utah
- Salt Lake Chamber of Commerce
- Show-Me Institute
- Sutherland Institute
- UnitedHealthcare
- University Health Care
- Utah Health Information Network
- Utah Comprehensive Health Insurance Pool (HIPUtah)
- Utah Health Insurance Association
- Utah Health Policy Project
- Utah Hospitals and Health Systems Association
- Utah Medical Association
- Utah Medical Home Pilot Project
- Utah Oral Health Coalition
- Utah Restaurant Association

In addition to the input of these organizations, the Task Force relied upon the ideas and suggestions of many individual businesses, hospitals, health care practitioners, insurers, insurance brokers, and ordinary citizens provided during numerous meetings of the Task Force's five stakeholder groups.

Each of the Task Force's stakeholder groups made specific recommendations for reform. Highlights of those recommendations and other options considered by the Task Force include:

- creating of a new health insurance market that would be based on the state's health insurance internet

- portal and serve as a pilot program to test reform concepts;
- creating "NetCare," a new family of lower cost, "mandate-lite" health insurance plans that would be available to individuals, small groups, and persons leaving an employer-sponsored plan;
- increasing consumerism in the health care market by:
 - increasing data transparency;
 - increasing the ability of an insured to choose from a variety of providers and a variety of health insurance plans; and
 - facilitating the use of premium contributions from multiple employers and other sources;
- opening plans created under health insurance reform to employees of the state and employees of self-insured businesses;
- expanding the small group market to include groups of one person, under certain conditions;
- reinsuring risk in the small group market;
- creating pilot programs to test medical home and episode of care payment models;
- requiring transparency of insurance broker compensation;
- standardizing the transfer of insurer information;
- reducing health care spending by lowering administrative costs through various changes related to the processing of insurance claims;
- requiring certain contractors who contract with the state of Utah to provide health insurance for their employees;
- changing the standard of proof for emergency department provider liability;
- allowing provider compliance with best practice guidelines to serve as enhanced protection from liability;
- creating a stakeholder group to make recommendations on how to reduce the practice of defensive medicine; and
- increasing the supply of physicians.

The Task Force considered the following draft legislation based on the input and recommendations it received:

The first draft bill, "Health System Reform - Insurance Market," is intended to expand access to the health

HEALTH SYSTEM REFORM TASK FORCE

insurance market, stabilize premiums, and create insurance market flexibility. Specifically, the bill:

- gives a sole proprietor who meets certain requirements access to the guaranteed issue and pre-existing condition protections in the small group market beginning January 1, 2010;
- establishes requirements for insurer transparency of plan benefits and offerings;
- gives the insurance commissioner rulemaking authority to adopt standards for the electronic submission of health plan information to the state's health insurance internet portal created under 2008 General Session H.B. 133, "Health System Reform";
- establishes a new basic benefit package called the Utah NetCare Basic Health Care Plan, which includes:
 - ▶ low and high deductible plans;
 - ▶ first dollar coverage for certain benefits; and
 - ▶ lower premiums;
- amends the exemptions from health insurance standards to facilitate a mandate-free, low-cost product;
- authorizes a preferred provider organization and a health maintenance organization to offer a new health benefit plan that does not include certain state mandated benefits;
- authorizes an employer to offer the Utah NetCare Basic Health Care Plan as alternative coverage for state mini-COBRA coverage, federal COBRA coverage, and a conversion plan;
- requires health insurance producers to disclose payment of commissions to a customer prior to the customer's purchase or renewal of a health benefit plan;
- establishes a defined contribution arrangement which:
 - ▶ requires an insurer to offer products through the state's health insurance internet portal and through a defined contribution arrangement before an insurer may offer products that are not subject to state mandates;
 - ▶ permits small employers, large employers, and ERISA plans to participate;
 - ▶ requires employers who wish to participate to establish Section 125 plans that allow the use of pre-tax dollars for premium payments;
- ▶ gives the employees of a participating employer the option to choose a plan from the internet portal, a plan selected by the employer, or no coverage at all;
- ▶ prohibits an insurer from establishing, as a condition for coverage, an employer minimum contribution level;
- ▶ permits an insurer to require minimum participation of eligible employees as a condition of coverage;
- ▶ requires the insurer to accept premium payments from multiple sources, including government assistance and contributions from other employers;
- ▶ permits underwriting in the defined contribution arrangements based only on age, geography, and family composition; and
- ▶ requires insurers offering products through defined contribution arrangements to participate in a risk adjustment mechanism; and
- establishes the Utah Health Re-insurance Pool as a risk adjuster mechanism for defined contribution arrangements, and includes:
 - ▶ creating the pool as a non-profit entity within the Department of Insurance;
 - ▶ establishing a governing board for the pool;
 - ▶ requiring the board to adopt a plan of operation;
 - ▶ establishing powers of the board;
 - ▶ establishing oversight powers for the insurance commissioner;
 - ▶ requiring the board to select a pool administrator;
 - ▶ establishing eligibility for pool membership and ceding risk to the pool;
 - ▶ authorizing assessments for the pool; and
 - ▶ creating the Utah Health Re-insurance Pool Enterprise Fund.

The second draft bill, "Health Reform - Administrative Simplification," includes various provisions intended to reduce the administrative overhead associated with the processing of insurance claims. The bill:

- amends the timing of the requirement that a hospital send an itemized bill to a patient;
- creates a system wide, broad-based demonstration project between health care payers and health care

HEALTH SYSTEM REFORM TASK FORCE

providers for innovating the payment and delivery of health care in the state;

- requires the insurance commissioner to convene health care insurers and health care providers to establish a more efficient coordination of benefits process;
- requires health benefit plans to issue to enrollees a standardized printed card containing health plan information;
- gives the Insurance Department rulemaking authority to establish standards for the electronic exchange of health plan information using card-swipe technology compatible with national electronic standards;
- requires an insurer to provide information sufficient for a health care provider to determine the compensation or payment terms for health care services;
- requires the insurance commissioner to convene a group of health care insurers and health care providers to:
 - ▶ develop the use of standardized terminology and a standardized format of explanation of benefits so that a patient and health care provider can read and understand the explanation of benefits;
 - ▶ create a more efficient and meaningful pre-authorization process; and
 - ▶ create a consolidated and efficient health care provider health benefit plan credentialing process;
- prohibits an insurer from requiring less than one business day's notice of an emergency in-patient hospital admission; and
- amends the period of time in which an insurer can recover an amount paid to a health care provider when the insurer determines the payment was incorrect.

The third draft bill, "Health Reform - Health Insurance Coverage in State Contracts," requires certain government entities to require that a contractor with the entity offer health insurance coverage to the contractor's employees if a contract is over a certain amount. Specifically, the bill applies to the Department of Environmental Quality, the Capitol Preservation Board, the Department of Natural Resources, the Division of Facilities Construction and Management, the Utah Department of Transportation and

public transit districts, and construction or design contracts entered into, on or after July 1, 2009.

Action

The Committee considered this issue at its April 17, May 22, June 19, August 21, September 18, October 13, October 31, November 11, and December 16, 2008 meetings, but did not recommend draft legislation.

OTHER STUDIES

Status of Executive Branch Tasks

At the Task Force's November 11, 2008 meeting the Advisor to the Governor on Health System Reform reported on the status of specific tasks with which executive branch agencies were charged by 2008 General Session H.B. 133, "Health System Reform." He reported the following:

- the Office of Consumer Health Services was staffed;
- the deadline for bids on the request for proposals to develop the state's health insurance internet portal was November 3, 2008, and five entities responded;
- the standardized uniform application form for health insurance was completed and will be implemented well before the statutory deadline;
- the Department of Health submitted six Medicaid waivers to the Centers for Medicare and Medicaid Services (CMS) but did not know when CMS will rule on the applications;
- the executive branch was working on the development of a procurement preference for state contractors that provide health insurance to their employees;
- the Department of Health, Department of Workforce Services, and others developed a plan and set goals to reach out to, identify, and enroll individuals who are eligible for state health care programs, including the private sector;
- the executive branch worked with the Utah Insurance Department and legislators on developing low-cost insurance plans, and believes that Utah NetCare provides an excellent start; and
- although not required by H.B. 133, the executive branch consulted with university presidents about the concept of requiring university students to carry health care coverage.

The Committee considered this issue at its November 11, 2008 meeting, but did not recommended draft legislation.

HIGHER EDUCATION AND APPLIED TECHNOLOGY GOVERNANCE COMMITTEE

HIGHER EDUCATION AND APPLIED TECHNOLOGY GOVERNANCE COMMITTEE

Membership

Sen. Curtis S. Bramble, Senate Chair
Rep. Kevin S. Garn, House Chair
Sen. Margaret Dayton
Sen. Lyle W. Hillyard
Sen. Karen Mayne
Rep. Ron Bigelow
Rep. Lorie D. Fowlke
Rep. James R. Gowans
Rep. Kory M. Holdaway
Rep. Brad King
Rep. Gordon E. Snow

Staff

Allison M. Nicholson, Policy Analyst
Dee S Larsen, Associate General Counsel
Wendy L. Bangarter, Legislative Secretary

OVERVIEW

The Legislative Management Committee created the Higher Education and Applied Technology Governance Committee to study and make recommendations on: (1) governance of the state's higher and applied technology education systems with particular emphasis on area technology centers; and (2) the roles, missions, and governance of institutions of higher education.

UTAH COLLEGE OF APPLIED TECHNOLOGY

Background

The importance of post-secondary training in today's rapidly changing economy is increasing. Students need to be highly trained in order to compete in a global marketplace. Post-secondary training includes career and technical education (CTE) and training as well as traditional academic programs. CTE, previously referred to as vocational or applied technology education, encompasses a variety of fields in diverse subject areas including health sciences, agriculture, consumer science, manufacturing, and technology. CTE is taught at the secondary and post-secondary levels in Utah. At the post-secondary level, nine of the ten state higher education

institutions offer career and technical education resulting in credentials including a certificate, license, or degree.

The Utah College of Applied Technology (UCAT) was established in 2001 as the tenth institution in the Utah System of Higher Education (USHE) to deliver CTE to secondary and post-secondary students. There are eight UCAT campuses representing different geographic areas of the state: Bridgerland, Ogden-Weber, Davis, Salt Lake/Tooele, Mountainland, Uintah Basin, Southwest, and Dixie. UCAT offers programs designed to be market-driven and prepare students for employment in a specific occupation. Additionally, UCAT runs a custom-fit program for employers to work with UCAT to customize training specifically for the employer's needs.

Institutions in USHE are governed by the State Board of Regents, which oversees state higher education issues including programs, tuition rates, and budgets. When UCAT was established within USHE, it retained some independent authority from the Board. For example, UCAT's budgets and capital facilities requests are not subject to Board of Regents approval, but instead are reviewed by the UCAT Board of Trustees before being submitted directly to the Legislature and the Utah State Building Board, respectively. The Board does facilitate and coordinate the operation of UCAT within USHE, including appointing a president of UCAT, approving each associate of applied technology degree offered at UCAT campuses, and making rules governing the transfer of these degrees to other institutions of higher education.

The Committee spent much of its time discussing the governance structure of UCAT. Some felt that UCAT should be governed by a different authority than the Board because of its unique role and mission within USHE. The Committee reviewed various options and recommended making the UCAT Board of Trustees the governing body over UCAT. In addition, the Committee recommended changing the membership of the Board of Trustees to include more representation of workforce and economic development and apprenticeship training programs.

Unlike other institutions, UCAT does not offer credit and traditional degrees. Instead, students work toward

HIGHER EDUCATION AND APPLIED TECHNOLOGY GOVERNANCE COMMITTEE

completing competencies in a specific area or skill. UCAT does offer the competency-based associate of applied technology (AAT) degree. The AAT and some UCAT competencies can be transferred to other USHE institutions if the respective institutions have an articulation agreement in place. An articulation agreement represents an agreement among all signing parties that certain classes or competencies are substantially similar at the two institutions, and thus, the student may receive credit at one institution for similar work done at the other institution, within the scope of the agreement. UCAT has entered into articulation agreements with other institutions, where applicable, allowing UCAT students to continue their education at different institutions and receive appropriate college credit for their work completed while at UCAT.

The Committee discussed the possibility of UCAT seeking accreditation in order to offer credit and possibly other associate degrees. The AAT degree is unique to Utah, as it was created when UCAT was created. Given the low student demand, uniqueness of the degree, and its limited recognition outside the state, the Committee recommended that the AAT degree be discontinued. Additionally, the Committee recommended that the Office of the Commissioner of Higher Education provide more support to facilitate articulation agreements between institutions.

Recently, there have been several legislative proposals relating to the delivery of CTE in the Salt Lake/Tooele region. The Salt Lake/Tooele Applied Technology College (SLTATC), Salt Lake Community College (SLCC), Utah State University, and various high school programs offer CTE to students in this region. Some have felt there is unwarranted duplication in Salt Lake County, while Tooele County seems to be underserved. The Committee discussed possible legislative options to address this issue, and recommended combining the Salt Lake portion of the SLTATC and the Skills Center at SLCC to form one entity: the School of Applied Technology at SLCC.

Action

The Committee considered this issue at its April 30, May 13, May 27, July 15, July 28, August 4, August 8, September 9, October 21, and November 11, 2008

meetings and recommended draft legislation, "Career and Technical Education Amendments."

OTHER STUDIES

Concurrent Enrollment

Concurrent enrollment allows high school students to simultaneously earn high school and college credits for certain college-level courses. In the last decade, the program has seen a significant amount of growth in both student headcount and semester hours earned. Similarly, legislative appropriations have increased substantially. The Committee discussed the benefits and challenges of the program, including potential legislative options.

The Committee considered this issue at its October 21 and November 11, 2008 meetings, but did not recommend draft legislation.

IMMIGRATION INTERIM COMMITTEE

IMMIGRATION INTERIM COMMITTEE

Membership

Sen. Scott K. Jenkins, Senate Chair
Rep. Brad L. Dee, House Chair
Sen. John W. Hickman
Sen. Mark B. Madsen
Sen. Ross I. Romero
Rep. Stephen D. Clark
Rep. Glenn A. Donnelson
Rep. Ben C. Ferry
Rep. Neil A. Hansen
Rep. Michael E. Noel
Rep. Mark A. Wheatley

Staff

Arthur L. Hunsaker, Policy Analyst
Christopher R. Parker, Associate General Counsel
Thomas R. Vaughn, Associate General Counsel
James L. Wilson, Associate General Counsel
Chelsea Barrett, Legislative Secretary

OVERVIEW

Courts have determined that the federal government has exclusive jurisdiction over immigration law. However, after immigration reform stalled in Congress during the summer of 2007, the Legislature passed S.B. 81, "Illegal Immigration," in its 2008 General Session. Designed to address pressing immigration issues, S.B. 81 imposes requirements on state and local law enforcement and other state and local government agencies, businesses, and applicants for state and local public benefits. The bill has a delayed effective date of July 1, 2009.

After the 2008 General Session, the Legislative Management Committee established an Immigration Interim Committee. Authorized to meet for one year, the Committee was directed to study and make recommendations on issues related to the implementation of S.B. 81 and:

- (1) current and proposed federal and state laws, programs, and policies that relate to unauthorized or illegal immigrants residing within the state, including:
 - (a) employer verification of an employee's immigration status;

- (b) postsecondary education benefits;
 - (c) access to federal, state, and local public benefits, including health care, food stamps, and cash assistance; and
 - (d) obtaining a valid driver license or identification card;
- (2) the state's role in enforcing federal immigration law, both criminal and civil; and
- (3) federal preemption of current or proposed state immigration laws.

In addition to meetings at the State Capitol, the Committee held meetings in Logan, Park City, Richfield, and St. George to provide the opportunity for statewide public input.

FEDERAL, STATE, AND LOCAL IMMIGRATION ROLES

Background

The first priority of the Committee was to better understand the responsibilities of federal immigration officials in Utah and how they interact with state and local law enforcement. Immigration and Customs Enforcement (ICE) officials were invited to testify before the Committee, but the Committee was informed that ICE officials are prohibited from speaking publicly to state legislative bodies. Two retired federal immigration officials offered their perspective.

The United States Attorney for Utah testified that due to recent court decisions, illegal immigrants cannot be prosecuted in Utah for their illegal presence in the state due to Utah's status as an "interior" state. Illegal entry can only be prosecuted in the "border" state in which an illegal immigrant enters the U.S. He added that illegal immigrants can be prosecuted for the crimes they commit in the state, including illegal reentry.

He also indicated that slightly more than 25 percent of his office's criminal cases are immigration related (does not include drug, firearm, and violent crime enforcement where illegal immigrants are involved), and that in 2007 roughly 2,500 illegal immigrants were deported from Utah.

The Committee also heard testimony from local, state, and federal officials regarding state and local law enforcement

IMMIGRATION INTERIM COMMITTEE

training by ICE officials. The Committee was encouraged to support appropriations for this training.

Action

The Committee considered this issue at its May, June, August, October, November, and December 2008 meetings and recommended draft legislation, "Deterring Illegal Immigration."

PUBLIC COMMENT

Background

The Committee expressed a keen interest in hearing the various viewpoints on immigration from the public. The Committee held meetings in Logan, Park City, Richfield, and St. George to make it easier for citizens in those areas of the state to give their perspective on the issue.

The Committee chairs urged those interested in providing public comment to contact committee staff and explain the points they would make regarding immigration if granted time to speak in a committee hearing. Staff was directed to collect this information and submit it to the chairs.

In addition to this more formal process of providing public comment, the chairs also set aside time in the meetings to allow interested citizens in attendance to speak to the Committee.

Action

The Committee received public comment at its May, June, August, October, November, and December 18, 2008 meetings.

S.B. 81 AMENDMENTS AND CLARIFICATIONS

Background

Several groups expressed concern with how S.B. 81 would impact businesses, government, and the public when implemented on July 1, 2009.

The Salt Lake County Treasurer testified that S.B. 81 requires local governments to verify the immigration status of applicants for public benefits, but expressed concern that local governments may be required to verify the immigration status of those who applied for public benefits prior to July 1, 2009, the effective date of the legislation, if they continue to file for the benefit after July 1, 2009. He requested that the bill be amended to clarify that the state is requiring local governments to verify the immigration status of those applying for a public benefit for the first time as of July 1, 2009.

Furthermore, S.B. 81 requires entities entering into a contract to provide services to a public employer to register and participate in the federal government's Status Verification System to verify the work eligibility status of the entities' new employees. Representatives of the business community requested that "contract," as used in the bill, be defined to aid businesses in determining whether the requirement applies to them.

Action

The Committee considered this issue at its December 3 and December 18, 2008 meetings and recommended draft legislation, "Immigration Amendments."

UTAH DRIVER PRIVILEGE CARDS AND REAL ID ACT

Background

Utah has chosen to participate in the federal REAL ID Act of 2005, which establishes what documents are accepted by federal agencies as proof of identification. Currently, the state has until January 1, 2010 to become substantially compliant with REAL ID requirements.

Provisions of S.B. 81 essentially mirrored the REAL ID Act requirements, but the bill's effective date is July 1, 2009, six months prior to the deadline the state has been given

by the federal government. Complying with the various requirements caused by the differing effective dates could require citizens to go to their local driver license office two times within a few months, causing long lines and poor service.

To improve service, the Driver License Division recommended that state implementation of S.B. 81 identity document provisions be delayed to match the REAL ID deadline of January 1, 2010.

Action

The Committee considered this issue at its December 3 and December 18, 2008 meetings and recommended draft legislation, "Lawful Presence Verification for Issuance of a Driver License or Identification Card."

OTHER STUDIES**Federal Waiver for Work Program**

The Salt Lake Area Chamber of Commerce recommended that the state consider establishing a program that would allow foreign workers and undocumented immigrants currently residing in Utah to receive a two-year, renewable guest worker authorization. The Chamber recommended that the state request a federal waiver to implement an employer sponsored work program and the authority to grant temporary work permits to undocumented persons, to allow state and local law enforcement officials to enforce federal and state immigration law, and to withhold federal FICA and Medicare revenue and apply it to program costs. The Committee considered this issue at its December 3 and December 18, 2008 meetings and recommended draft legislation, "Concurrent Resolution Requesting a Federal Waiver to Establish an Employee Sponsored Work Program."

JUDICIARY INTERIM COMMITTEE

Membership

Sen. Gregory S. Bell, Senate Chair
Rep. Eric K. Hutchings, House Chair
Sen. Lyle W. Hillyard
Sen. Peter C. Knudson
Sen. Ross I. Romero
Rep. Sheryl L. Allen
Rep. Jim Bird
Rep. Jackie Biskupski
Rep. Lorie D. Fowlke
Rep. Kevin S. Garn
Rep. Keith Grover
Rep. Neil A. Hansen
Rep. Gregory H. Hughes
Rep. Christine A. Johnson
Rep. Kay L. McIlff
Rep. R. Curt Webb
Rep. Mark A. Wheatley

Staff

Jerry D. Howe, Policy Analyst
Esther Chelsea-McCarty, Associate General Counsel
Amanda K. Majers, Legislative Secretary

OVERVIEW

The Judiciary Interim Committee studies issues related to the substantive rights of litigants and the administration of certain criminal and civil statutes.

The Committee's scope of policy oversight includes the jurisdictional powers associated with Utah's Justice Court, Juvenile Court, District Court, Court of Appeals, and Supreme Court. The Committee also has statutory oversight of certain programs delegated by the Legislature to the Judicial Council, including Mandatory Education Course for Divorcing Parents, Alternative Dispute Resolution, and the Judicial Nominating Commissions.

HARBORING A RUNAWAY

Background

It is currently a crime to knowingly and intentionally provide shelter to a minor without notifying the minor's parent or guardian within eight hours.

For a variety of reasons, including a difficult economy, the homeless youth population is experiencing a dramatic increase. In conjunction with the Division of Child and Family Services, the Office of the Guardian ad Litem, and the Office of the Attorney General, and with careful consideration to preserving parental rights, the Committee approved a proposal to change current state law regarding harboring a runaway.

The proposed bill provides that a person who harbors a runaway must provide notice to the parent or legal guardian of the minor, the Division of Child and Family Services, or under certain circumstances, to a peace officer or detention center within eight hours from the later of the time that the person begins providing shelter or the time the person becomes aware that the minor is a runaway.

The proposed bill also provides that an individual or a temporary homeless youth center may continue to provide shelter to a runaway after providing the requisite notice when the youth's parent or guardian provides consent or fails to retrieve the runaway. The proposed bill also clarifies that an individual or a temporary homeless youth shelter may provide shelter to an abandoned minor and must report abuse or neglect of a child.

Action

The Committee considered this issue at its October 2008 meeting and recommended draft legislation, "Harboring a Runaway."

MATERIAL HARMFUL TO MINORS

Background

Over the past few years, an alarming trend has been observed by junior and senior high school administrators with regard to how some school age children use cell

JUDICIARY INTERIM COMMITTEE

phone technology to take, send and receive inappropriate digital pictures.

In fact, there have been several complaints from several different school administrators and even some criminal complaints that some students are taking and sending nude pictures of themselves to other students.

Utah state law currently provides that a person is guilty of distributing pornographic material when the person knowingly sends, prepares, publishes, prints, possesses or brings any pornographic material into the state with the intent to distribute or exhibit it to others. An offense of this nature is a third degree felony punishable with a minimum mandatory fine of not less than \$1,000 and a jail term of not less than 30 days.

State and county prosecutors are reluctant to prosecute a minor for sending or forwarding a nude picture of themselves or another because these crimes are inherently different than the production and distribution of a full length pornographic movie, for example, that would receive the same penalty under the current statute.

The Committee was asked to consider a bill that would create an offense for minors engaged in this type of activity, with a penalty that would increase on subsequent offenses, and one that would serve to levy an appropriate punishment without significantly altering a minor's future opportunities for education and employment.

As a consequence of this review, the Committee recommended that distributing pornographic material: (1) by a person younger than 16 years of age be a class B misdemeanor, (2) by a person 16 or 17 years of age be a class A misdemeanor, and (3) by a person 18 years of age or older remain a third degree felony.

Action

The Committee considered this issue at its August and September 2008 meetings and recommended draft legislation, "Material Harmful to Minors Amendments."

WRONGFUL DEATH AMENDMENTS

Background

State law currently allows standing to certain persons to sue in a court of law when a close relative of theirs has died due to the negligence or wrongdoing of another.

The Committee considered whether or not to expand the definition of "heir" to include a wrongful designee that is defined as a person who: is designated by the decedent as the wrongful death heir in the decedent's will, trust, or other notarized written directive; and has been adjudicated by a court of competent jurisdiction by clear and convincing evidence to have a mutually supportive and dependent relationship with the decedent.

The Committee further recommended that all minor children of the decedent should have priority over other heirs in the event of a wrongful death settlement, and that a wrongful death designee be granted standing only if the decedent has no spouse.

Action

The Committee considered this issue at its September and November 2008 meetings and recommended draft legislation, "Wrongful Death Amendments."

OTHER STUDIES

Violation of Protective Order

Current state law allows the court to grant ex parte protective orders. When a protective order has been in effect for at least two years it may be dismissed if the court determines that the petitioner for the protective order no longer has a reasonable fear of future abuse.

Members of the Legislature have received reports from constituents that some people who petition the court for protective orders do so in an attempt to receive preferential treatment in future divorce and custody proceedings or simply to harass or intimidate. It was also reported that even after a protective order has been issued, the person who petitioned for the protective order has knowingly and intentionally induced a breach of the protective order in an attempt to build an exaggerated record of abuse.

The Committee considered the public policy of requiring all protective orders to include a notice to the petitioner that acting in contravention of the protective order provisions may be grounds for amending or dismissing the protective order.

The Committee considered this issue at its May, October, and November 2008 meetings, but did not recommend draft legislation.

WiFi - Legal and Social Issues

The Committee considered two main problems concerning the use of WiFi in Utah. The first issue is that cyber criminals are able to access unsecured WiFi signals all throughout the state. The second problem is that minors are able to access pornography using unprotected WiFi networks.

The Committee was told that one solution to this problem is to regulate WiFi by requiring residences to place a password on wireless internet services, as well as requiring security on free wireless services provided in public places.

The Committee considered this issue at its April 2008 meeting, but did not recommend draft legislation.

LAW ENFORCEMENT AND CRIMINAL JUSTICE INTERIM COMMITTEE

LAW ENFORCEMENT AND CRIMINAL JUSTICE INTERIM COMMITTEE

Membership

Sen. Jon J. Greiner, Senate Chair
Rep. DeMar "Bud" Bowman, House Chair
Sen. D. Chris Butters
Sen. John W. Hickman
Sen. Scott D. McCoy
Rep. Brad L. Dee
Rep. David Litvack
Rep. Rebecca D. Lockhart
Rep. Michael T. Morley
Rep. Curtis Oda
Rep. Jennifer M. Seelig
Rep. Kenneth W. Sumsion
Rep. Stephen H. Urquhart
Rep. Larry B. Wiley
Rep. Carl Wimmer

Staff

Stewart E. Smith, Policy Analyst
Susan Creager Allred, Associate General Counsel
Wendy L. Bangerter, Legislative Secretary

OVERVIEW

The Law Enforcement and Criminal Justice Interim Committee was established to study issues related to law enforcement, criminal law and procedure, illegal drug activity, weapons, corrections, public safety, and the criminal justice system. In studying these issues, the Committee strives to maintain a balance between public safety, victim rights, and offender accountability and rehabilitation.

The Committee's areas of statutory oversight include the Criminal Code, code provisions regulating controlled substances, law enforcement agencies, the Department of Public Safety, the Department of Corrections, the Division of Juvenile Justice Services, the Utah Board of Pardons and Parole, the Utah Commission on Criminal and Juvenile Justice, the Utah Sentencing Commission, the Utah Substance Abuse and Anti-Violence Coordinating Council, and the Office of Crime Victim Reparations.

The Committee has in recent months focused on prevention and enforcement issues regarding gangs, and treatment issues regarding sex offenses. The Committee has studied issues with the goal of improving the efficiency and cost-effectiveness of the criminal justice system and increasing communication and collaboration between programs and agencies. The Committee has also considered the costs of these issues and programs.

CONCEALED FIREARM PERMITS

Background

The number of concealed firearm permits issued by the Bureau of Criminal Identification (BCI) in 2008 is expected to exceed 41,000. This reflects a 47 percent increase over the number of permits issued in 2007, and 164 percent increase over the number issued in 2006. Since 1994, approximately 37 percent of concealed firearm permits have been issued to out-of-state applicants who have been trained by Utah-certified trainers. Current research shows 305 certified instructors residing in Utah and 611 Utah-certified instructors living outside of Utah.

Along with the statutory duties to issue concealed firearm permits within a prescribed time frame, BCI has an additional responsibility to supervise the program and ensure lawful, qualified possession of the permit as set forth in *Utah Code 53-5-704*.

In the past two years the number of revocations, suspensions, and denials has grown significantly. This is due, in part, to the comparative increase in the number of permit applications. In addition, BCI hired additional employees to reduce the waiting period to approximately 39 days, allowing investigators to focus more resources on supervision and investigation. BCI conducts cross match checks on the National Crime Information Center system and the Utah system. This ensures that all permit holders are screened for disqualifying offenses and permits are revoked as appropriate. In fiscal year 2008, BCI denied permits to approximately 450 applicants, and revoked and suspended over 350 permits.

LAW ENFORCEMENT AND CRIMINAL JUSTICE INTERIM COMMITTEE

Action

The Committee considered this issue at its May, June, and October 2008 meetings, but did not recommend draft legislation.

GANG VIOLENCE

Background

Gang violence is a growing concern in many communities in our state. It is a dangerous lifestyle that has crossed all ethnic and socioeconomic boundaries and affects the safety and well-being of many neighborhoods. The Committee considered and recommended five bills intended to provide new tools for civic leaders, prosecutors, and law enforcement officers to prevent and reduce violent gang activity.

Action

The Committee considered this issue at its October and November 2008 meetings and recommended draft legislation:

- "Criminal Offense Penalties Amendment,"
- "Violent Offenses Amendments,"
- "Criminal Offense Elements and Penalties,"
- "Prohibited Gang Activity," and
- "Prohibited Activities of Gang Offenders."

UTAH'S EMERGENCY RADIO COMMUNICATIONS

Background

The Federal Communications Commission (FCC) has published mandates to reduce bandwidth for emergency communications to make available more bandwidth for commercial use. The FCC rules, which take effect in the year 2013, will require substantial funding for communications equipment and construction of new relay towers.

Action

The Committee considered alternatives, time-lines, and funding required to accomplish the required change at its April and May 2008 meetings, but did not recommend draft legislation. The Committee asked the Utah Communications Agency Network, the State Chief Information Officer, the Department and Public Safety,

Utah Sheriffs' Association and other law enforcement associations, and interested parties to continue to plan for this change and report back with a plan and time frame as agreed to by those involved in the change.

OTHER STUDIES

Incest

Utah's current law prohibits sexual intercourse constituting incest. However, if a defendant claims that the incest was committed by other means of fertilization than sexual intercourse, prosecutors have the difficult task of persuading the victim to testify against a relative in order to attempt to establish that sexual intercourse occurred and allow prosecution. The Committee considered this issue at its November 2008 meeting and recommended draft legislation, "Incest Amendments."

Mentally Ill Offenders

Law enforcement, courts, jails, and corrections agencies must deal with a growing number of individuals who are seriously mentally ill. Our jails and prisons are becoming "de facto" providers of mental health services. Over past decades, the population of prisons has increased dramatically while the population in psychiatric hospitals has decreased due to deinstitutionalization, lack of community-based treatment, and legal barriers to involuntary commitment.

Nationally, 56 percent of state prison inmates, 45 percent of federal inmates, and 64 percent of local jail inmates have some history of mental health problems, and 26 percent have suffered from serious mental illness. The Utah Commission on Criminal and Juvenile Justice reported to the Committee that it is in the process of developing specific recommendations relating to this group of offenders.

The Committee considered this issue at its April 2008 meeting, but did not recommend draft legislation.

LEGISLATIVE MANAGEMENT COMMITTEE

LEGISLATIVE MANAGEMENT COMMITTEE

Membership

Speaker Greg J. Curtis, Chair
President John L. Valentine, Vice Chair
Sen. Curtis S. Bramble
Sen. Gene Davis
Sen. Mike Dmitrich
Sen. Dan R. Eastman
Sen. Brent H. Goodfellow
Sen. Patricia W. Jones
Sen. Sheldon L. Killpack
Rep. David Clark
Rep. Brad Dee
Rep. Brad King
Rep. David Litvack
Rep. Phil Riesen
Rep. Gordon E. Snow
Rep. Carol Spackman-Moss

Staff

Michael E. Christensen, Director
John L. Fellows, General Counsel
Beverlee LeCheminant, Administrative Assistant

OVERVIEW

The Legislative Management Committee (LMC) consists of the combined membership of the Senate Management Committee and the House Management Committee. LMC's main responsibility is to manage the administrative affairs of the Legislature and to provide direction to legislative committees. For example, it creates interim committees and task forces, approves site visits for the Legislature, assigns the study items from the Master Study Resolution to the various interim committees, authorizes study requests from interim committees, assigns new study items to interim committees, and schedules interim committee meeting dates and times.

APPOINTMENT OF LEGISLATIVE GENERAL COUNSEL

Background

On May 31, 2008, M. Gay Taylor, Legislative General Counsel, retired after 25 years of service. After a national search for Ms. Taylor's successor, the legislative search

committee recommended that Mr. John L. Fellows, Deputy General Counsel, be appointed General Counsel.

Action

At its May 2008 meeting, the LMC voted unanimously to accept the recommendation of the research committee to appoint John L. Fellows as General Counsel. A resolution will be prepared for the 2009 General Session that will formally appoint Mr. Fellows as General Counsel for a six-year term.

ASSIGNMENT OF NEW STUDIES AND CREATION OF NEW INTERIM COMMITTEES

Background

During the 2008 General Session, the Legislature considered but defeated H.B. 490, "Legislative Task Forces and Study Priorities." This bill included several items; such as, the creation of several interim committees and the assignment of certain study items to existing interim committees. Though the bill failed, there was still interest in creating new interim committees and in assigning new study items to existing interim committees.

Action

The LMC considered this issue at its March 2008 meeting. The LMC made specific assignments to the following two interim committees and authorized them to meet up to five additional times:

Education Interim Committee - to study the issues of performance and differentiated pay for teachers and make recommendations on:

- (a) the implementation of a goal-driven compensation system, including how performance incentives may be implemented to motivate teachers in improving performance and student achievement;
- (b) the use of differential pay for subject matters where school districts have difficulty in hiring and retaining professionals;
- (c) identifying assessments of teacher performance that are valid, reliable, and objective;

LEGISLATIVE MANAGEMENT COMMITTEE

- (d) evaluating to what extent existing data and data systems may be used to measure learning gains of a teacher's students;
- (e) determining what modifications of data or data systems are needed to effectively measure learning gains of a teacher's students;
- (f) identifying assessments of teacher performance for teachers who teach subjects not tested by Utah Performance Assessment System for Students (U-PASS);
- (g) considering the appropriateness of compensation based on individual, team, or school-based performance, or a combination of those, and to what extent school districts or schools should have flexibility in determining whether awards are based on individual, team, or school-based performance, or a combination of those;
- (h) considering how to transition from existing teacher compensation systems to systems in which a portion of compensation is based on performance; and
- (i) considering what should be an appropriate range for the amount of a performance-based award or what portion of total compensation should be based on performance.

Revenue and Tax Interim Committee - to focus on the issues of property tax, property tax assessment, and the constitutional provisions of Utah's Constitution that deal with property tax.

The LMC also created two new interim committees with membership appointed by the President and Speaker as follows: House - five members of the majority party and two members of the minority party; Senate - three members of the majority party and one member of the minority party for a total of 11 members for each committee. The committees were authorized to meet up to eight times with their authorization expiring December 31, 2008. The two new interim committees are:

Immigration Interim Committee - to study and make recommendations on the following issues:

- (a) current and proposed federal and state laws, programs, and policies that relate to unauthorized or illegal immigrants residing within the state, including:
 - (i) employer verification of an employee's immigration status;
 - (ii) postsecondary education benefits;
 - (iii) access to federal, state, and local public benefits, including health care, food stamps, and cash assistance; and
 - (iv) obtaining a valid driver license or identification card;
- (b) the state's role in enforcing federal immigration laws, both criminal and civil;
- (c) federal preemption of current or proposed state immigration laws;
- (d) issues related to S.B. 81, "Illegal Immigration," passed during the 2008 General Session;
- (e) any other issue relating to illegal or unauthorized immigration as determined by the task force; and
- (f) a final report, including any proposed legislation, to be presented to the Workforce Services and Community and Economic Development Interim Committee, the Business and Labor Interim Committee, and the Law Enforcement and Criminal Justice Interim Committee before November 30, 2008.

Higher Education and Applied Technology Governance Committee - to study and make recommendations on:

- (a) governance of the state's higher and applied technology systems with particular emphasis on area technology centers; and
- (b) the roles, missions, and governance of institutions of higher education.

NATIVE AMERICAN LEGISLATIVE LIAISON COMMITTEE

NATIVE AMERICAN LEGISLATIVE LIAISON COMMITTEE

Membership

Sen. Kevin T. VanTassell, Senate Chair
Rep. DeMar "Bud" Bowman, House Chair
Sen. Fred Fife
Sen. Patricia W. Jones
Sen. Dennis E. Stowell
Rep. Douglas C. Aagard
Rep. James R. Gowans
Rep. Brad King
Rep. Kay L. McIff
Rep. Michael E. Noel
Rep. Mark A. Wheatley

Staff

John Q. Cannon, Managing Policy Analyst
Patricia Owen, Associate General Counsel
Wendy L. Bangarter, Legislative Secretary

OVERVIEW

The Native American Legislative Liaison Committee is an 11-member committee that addresses Native American issues in Utah. The Committee is a liaison for the Legislature with Indian tribes in Utah. The Committee also reviews the operations of the Division of Indian Affairs, sponsors meetings and other opportunities for discussion with and between Native Americans, and recommends legislation. The Committee has visited many of the tribal lands throughout the state.

OTHER STUDIES

Dialogue With Tribal Leaders

One statutory duty of the Committee is to serve as a liaison for the Legislature with Indian tribes in the state. During the 2008 interim, the Committee held a meeting in conjunction with the Governor's Native American Summit seeking feedback from tribal leaders. This meeting was held in Vernal and included tribal leaders from throughout the state and other interested parties. Issues discussed at this meeting spanned a wide range of topics, including those of healthcare, taxation, education, and public safety. The dialogue with the tribal leaders and the Committee

constituted its September 2008 meeting, but the Committee did not recommend draft legislation.

Native American Representation on the Utah Substance Abuse and Anti-Violence Coordinating Council

The Utah Substance Abuse and Anti-Violence Coordinating Council is a statutorily created entity intended to provide leadership and generate unity for Utah's ongoing efforts to combat substance abuse and community violence. The Committee heard presentations and discussed the need for Native American involvement in the Council. The Senate chair brought legislation to the Committee that would add the director of the Division of Indian Affairs to the Council. The Committee considered this issue at its November 2008 meeting and recommended draft legislation, "Utah Substance Abuse and Anti-violence Coordinating Council Amendments."

Statutorily Required Reports

Several entities are required by law to report to the Committee. These entities include:

- Utah Division of Indian Affairs;
- Native American Remains Review Committee;
- Navajo Revitalization Fund; and
- Uintah Basin Revitalization Fund.

The Committee received these reports at its November 2008 meeting, but did not recommend draft legislation.

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENT INTERIM COMMITTEE

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENT INTERIM COMMITTEE

Membership

Sen. Darin G. Peterson, Senate Chair
Rep. Roger E. Barrus, House Chair
Sen. Gene Davis
Sen. Margaret Dayton
Sen. Dennis E. Stowell
Sen. Michael G. Waddoups
Rep. Sylvia S. Andersen
Rep. Melvin R. Brown
Rep. Glenn A. Donnelson
Rep. Jack R. Draxler
Rep. Carl W. Duckworth
Rep. Kerry W. Gibson
Rep. James R. Gowans
Rep. Neal B. Hendrickson
Rep. John G. Mathis
Rep. Michael E. Noel
Rep. Patrick Painter
Rep. Phil Riesen
Rep. Stephen E. Sandstrom

Staff

J Brian Allred, Policy Analyst
Emily R. Brown, Associate General Counsel
Joy L. Miller, Legislative Secretary

OVERVIEW

Under the broad subject of natural resources, the Committee deals with water rights, water development, wildlife, parks and recreation, mining, and forestry. Within the field of agriculture, the Committee is concerned with promoting agricultural production, preventing disease among domesticated animals, and ensuring a wholesome food supply. Environmental issues include air quality, water quality, solid and hazardous waste disposal, and radioactive waste.

Much of the Committee's efforts involve coping with rapid growth and urbanization of the state's population. A top priority has been to assure that Utah has ample water supplies. Maintaining and improving the quality of Utah's water is as critical as developing adequate water supplies.

Wildlife is another natural resource affected by growth. Land development has diminished wildlife habitat and increased competition for the use of the remaining habitat. Wildlife interests and agricultural interests are frequently vying for use of the same land. Accommodating these competing interests and addressing the growing population's increased demand for recreational opportunities present significant challenges to the Committee.

The Committee oversees three state departments: the Department of Natural Resources, the Department of Agriculture and Food, and the Department of Environmental Quality.

ENERGY RESOURCE DEVELOPMENT

Background

The state and nation have experienced increasing energy demands and costs, highlighting the need for energy independence. Climate change and carbon reduction efforts are worldwide issues of concern. The Committee discussed the development of the abundant energy natural resources the state enjoys such as coal, oil shale, and tar sands. The Committee also considered the regulatory framework needed to encourage development of the technology necessary to economically extract these state resources in an environmentally friendly way. The Committee also discussed meeting Utah's and the nation's growing energy demands through expanded natural gas production, conservation, and the development of other resources such as wind, solar, and nuclear power.

Action

The Committee considered this issue at its May, June, August, September, October, and November 2008 meetings, but did not recommend legislation.

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENT INTERIM COMMITTEE

RECODIFICATION OF NATURAL RESOURCES PROVISIONS

Background

In the 2008 General Session the Legislature recodified Title 63 of the Utah Code. Chapter 34, Utah Natural Resources Act; Chapter 73, Geological Survey; Chapter 11, Parks and Recreation; and Chapter 11a, Recreational Trails, all part of the Department of Natural Resources, were not part of the recodification. The Committee discussed creating a new Title 79 for Natural Resources Provisions, renumbering, and amending these chapters omitted from Title 63.

Action

The Committee considered this issue at its April, May, June, August, September, October, and November 2008 meetings and recommended draft legislation, "Recodification of Natural Resources Provisions."

OTHER STUDIES

Endangered Species

An Endangered Species Mitigation Fund was established by the Legislature in 1998 to provide money for species protection actions for plants and animals identified as sensitive by the state or as threatened or endangered under the federal Endangered Species Act. The Department of Natural Resources reported on the fund, focusing on the Upper Colorado River Basin Recovery Program, the Virgin River Resource Management and Recovery Program, and the June Sucker Recovery Program. The Committee considered this issue at its September 2008 meeting, but did not recommend draft legislation.

Penalties for Destruction of Bald Eagle

Bald eagles were recently removed from the federal threatened and endangered species list. Under state law, the restitution value for illegally killing a bald eagle is \$100. The Committee considered whether to increase that penalty to \$1,000. The Committee considered this issue at its November 2008 meeting and recommended legislation, "Penalties for Destruction of Bald Eagle."

Safe Drinking Water Amendments

The Committee discussed whether to allow the majority of the voting shareholders of a corporate public water system to approve the addition or removal of fluorine in the public water system. The Committee considered this issue at its November 2008 meeting and recommended draft legislation, "Safe Drinking Water Act Amendments."

Sunset Review - Title 19, Chapter 2, Air Conservation Act

The purpose of the Utah Air Conservation Act is to implement the federal Clean Air Act, allowing the state to regulate air quality. The Committee considered this sunset review at its April 2008 meeting and recommended reauthorization for five years.

Sunset Review - Title 19, Chapter 4, Safe Drinking Water Act

The purpose of the Safe Drinking Water Act is to ensure a safe and reliable supply of drinking water and to maintain primacy of the Drinking Water Program in Utah under the federal Safe Drinking Water Act. The Committee considered this sunset review at its May 2008 meeting and recommended reauthorization for 10 years.

Sunset Review - Title 19, Chapter 5, Water Quality Act

The purpose of the Utah Water Quality Act is to protect the quality of surface and ground water in the state and protect the public health through regulating the discharge of waste water. The Committee considered this sunset review at its April 2008 meeting and recommended reauthorization for 10 years.

Sunset Review - Title 19, Chapter 6, Part 1, Solid and Hazardous Waste Act

The Solid and Hazardous Waste Act establishes standards and framework for the proper management, treatment, and disposal of hazardous and solid waste in the state. The Committee considered this sunset review at its August 2008 meeting and recommended reauthorization for 10 years.

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENT INTERIM COMMITTEE

Sunset Review - Title 19, Chapter 6, Part 7, Used Oil Management Act

The Used Oil Management Act provides for the collection, recycling, and reuse of used oil. The Committee considered this sunset review at its August 2008 meeting and recommended reauthorization for 10 years.

Water Rights

The Committee discussed issues relating to water rights including: (1) judicial review of a state engineer's decision in an informal adjudication that would allow a court to consider failure to prosecute a suit to final judgment within a certain time period lack of diligence, rather than requiring the court to dismiss the action; and (2) changing the time limit on a water right appropriation for a public water supplier and authorizing the segregation of a water right held by a public water supplier. The Committee considered this issue at its September and November 2008 meetings and recommended draft legislation, "Water Rights - Informal Adjudications," and "Water Right Applications and Records."

POLITICAL SUBDIVISIONS INTERIM COMMITTEE

POLITICAL SUBDIVISIONS INTERIM COMMITTEE

Membership

Sen. Dennis E. Stowell, Senate Chair
Rep. Fred R Hunsaker, House Chair
Sen. Fred J. Fife
Sen. Sheldon L. Killpack
Sen. Michael G. Waddoups
Rep. Sheryl L. Allen
Rep. Tim M. Cosgrove
Rep. Bradley M. Daw
Rep. Gage Froerer
Rep. Kerry W. Gibson
Rep. Richard A. Greenwood
Rep. Christopher N. Herrod
Rep. Christine A. Johnson
Rep. Brad King
Rep. Jennifer M. Seelig
Rep. R. Curt Webb
Rep. Carl Wimmer

Staff

Joseph T. Wade, Policy Analyst
Robert H. Rees, Associate General Counsel
Wendy L. Bangerter, Legislative Secretary

OVERVIEW

The Political Subdivisions Interim Committee has primary jurisdiction over political subdivisions of the state which include: counties, cities, towns, local districts (formerly called special districts), special service districts, conservation districts, community development and renewal agencies, and entities created by interlocal agreements. Although school districts are technically political subdivisions of the state, the Education Interim Committee has primary jurisdiction over school districts.

The Political Subdivisions Interim Committee has statutory responsibility in the *Utah Code* for: Title 10, Utah Municipal Code; parts of Title 11, Cities, Counties, and Local Taxing Units; Title 17, Counties; Title 17A, Local Government Controlled Districts; Title 17B, Limited Purpose Local Government Entities - Local Districts; Title 17C, Limited Purpose Local Government Entities -- Community

Development and Renewal Agencies; and Title 17D, Limited Purpose Local Government Entities, Other Entities.

AFFORDABLE HOUSING

Background

For many years the availability of affordable housing has been a concern and topic of discussion. This interim, the Committee was assigned three study items related to affordable housing:

- Residential Construction and Affordable Housing - cost of municipal land use and construction regulation on residential construction and affordable housing;
- Manufactured Housing - manufactured and mobile home parks preservation; and
- Zoning and Housing Development - ways for the state to encourage zoning, which invites the development of a wide range of housing choices.

Early in the interim, the Committee devoted an entire meeting to discussion of issues related to affordable housing. At the conclusion of the meeting, the Utah League of Cities and Towns volunteered to organize an ad hoc task force to bring interested parties together to discuss affordable housing issues. At subsequent meetings, the Committee heard updates from the ad hoc task force.

Action

The Committee considered this issue at its April, June, August, and November 2008 meetings, but did not recommend draft legislation.

ASSESSMENT AREA AMENDMENTS

Background

Designation of an assessment area by a local entity allows that local entity to assess the property within the assessment area for the purpose of financing the costs of improvements, operation and maintenance, or economic promotion activities that benefit property within the assessment area. Statutes regarding assessment areas were recodified and rewritten by 2007 General Session H.B. 65, "Special and Local District Amendments."

POLITICAL SUBDIVISIONS INTERIM COMMITTEE

The Committee considered several follow-up issues to the 2007 recodification.

Action

The Committee considered this issue at its April, May, and September 2008 meetings and recommended draft legislation, "Assessment Area Amendments."

FUNDING FOR LOCAL HEALTH DEPARTMENTS

Background

Utah has 12 local health departments. Local health departments receive state funds, federal funds, and funds from local sources such as property taxes.

The Committee met jointly with the Health and Human Services Interim Committee and considered a request by local health departments that the Legislature study several alternatives for increasing funding to local health departments to enable them to better meet local needs by providing services not mandated by the state or the federal government. The Committee chairs agreed to follow-up on four issues:

- creation of an emergency fund;
- imposition of a cigarette tax earmarked for local health department activities;
- mandatory use of the state/local consensus approach to allocation of federal grants by the Department of Health to local health departments; and
- consideration of additional information requested from local health departments as follows:
 - ▶ List each local health department duty and the source of the duty (federal statute, federal regulation, state statute, state regulation, county/local health department ordinance, historical practice, etc.).
 - ▶ List the activities used to fulfill each duty and the source of funding during the past fiscal year for each activity (license and user fees, penalties, ceiling-exempt property tax levy for public health, and other county revenues; state funds; federal funds; etc.). For each activity, list any revenues generated above and beyond, or in addition to, those used to fund the activity.

- ▶ For each local health department duty, describe how activities to fulfill the duty vary across health departments. Are there state or nationally recognized standards related to those activities? How far above or below those standards is each department? Are there more effective activities departments could pursue to fulfill the duty?
- ▶ Does any fee imposed by a local health department duplicate a fee imposed by another state or local agency?

At subsequent meetings the Committee received a written report from the Utah Association of Local Health Departments on local health department duties and funding sources.

Action

The Committee considered this issue at its April, May, August, October, and November 2008 meetings and recommended draft legislation, "Local Public Health Emergency Funding," and "State and Local Health Authorities Amendments."

REPORTING LOCAL GOVERNMENT BOUNDARY CHANGES

Background

Prior to 2005, the statutory requirements and processes for reporting a local government boundary change were substantially varied for the various types of local governments and types of boundary changes. H.B. 113, "Government Boundary Changes," 2005 General Session, standardized the flow of information and requirements for reporting a local government boundary change. The process was standardized for reporting an entity creation, dissolution, division, consolidation, annexation, withdrawal, and boundary adjustments for municipalities, counties, special districts, local districts, redevelopment agencies, local school districts, and entities created by interlocal agreement. H.B. 447, "Government Entity Changes," 2008 General Session, which proposed further refinements to the standardized process, was held by the sponsor for further study during the interim.

POLITICAL SUBDIVISIONS INTERIM COMMITTEE

Draft legislation intended to improve the standardized process was considered. The draft legislation essentially addresses two issues: (1) the level of quality required for the boundary plat; and (2) the flow of boundary change information.

Action

The Committee considered this issue at its April, October, and November 2008 meetings and recommended draft legislation, "Local Government Entity Changes."

TOWNSHIPS

Background

A township is an area within the unincorporated part of a county that has been established in accordance with *Utah Code* 17-27a-306. A township is given authority to have a planning commission that makes land use recommendations to the county legislative body. Also, *Utah Code* 10-2-427 provides a township with some protection against annexation into an adjacent municipality unless the entire township is annexed.

H.B. 40, "Sunset of Township Provision," 2005 General Session, extended the sunset date of *Utah Code* 10-2-427 from July 1, 2006 to July 1, 2010. Also, H.B. 40 stated, "It is the intent of the Legislature that: extending to 2010 the sunset date for Section 10-2-427 will give each county of the first class and municipalities within each county of the first class that are adjacent to township areas adequate time to assess and evaluate the desires of residents and property owners within townships with regard to annexation, incorporation, or remaining in the unincorporated area of the county, and to develop a plan to respond to and implement those desires..." H.B. 40 required Salt Lake County and municipalities adjacent to a township to: (1) survey residents and property owners within the township regarding their desires for incorporation, annexation, or remaining unincorporated by July 1, 2008; and (2) "work together to develop and, to the extent feasible, implement a plan to carry into effect the results of the survey."

The Committee heard a status report from Salt Lake County.

Action

The Committee considered this issue at its September 2008 meeting, but did not recommend draft legislation.

OTHER STUDIES

Abandonment of Property Taken Under the Threat of Eminent Domain

The *Utah Code* outlines requirements and procedures for when property is abandoned and was taken by eminent domain but the *Utah Code* is silent if the property was taken under the threat of eminent domain. The Committee heard a proposal that would treat abandonment of property taken under the threat of eminent domain similar to abandonment of property taken by eminent domain.

The Committee considered this issue at its November 2008 meeting, but did not recommend draft legislation.

County Surveyors

The Committee discussed the concepts of S.B. 129, "Changes to County Surveyor," and S.B. 153, "Revision to County Elected Offices," both introduced in the 2008 General Session.

The Committee considered this issue at its April and May 2008 meetings, but did not recommend draft legislation.

Designation of an Assessment Area

A municipality, and some other local entities, is statutorily authorized to designate an assessment area under Title 11, Chapter 42, Part 2. Designation of an assessment area by a local entity allows that local entity to assess the property within the assessment area for the purpose of financing the costs of improvements, operation and maintenance, or economic promotion activities that benefit property with the assessment area. A recent designation raised some concerns about the current statutory process for designating an assessment area. The concerns were discussed.

The Committee considered this issue at its October 2008 meeting, but did not recommend draft legislation.

Disaster Funding

POLITICAL SUBDIVISIONS INTERIM COMMITTEE

The Committee considered a proposal that would: (1) allow local districts to set aside funding in a disaster recovery fund to be used in the event of a disaster; and (2) allow municipalities and other entities to obtain a loan from the state disaster recovery fund in the event the municipality's disaster recovery funds are insufficient and the state disaster recovery fund has unneeded funds.

The Committee considered this issue at its April and August 2008 meetings, but did not recommend draft legislation.

Ground Water Management District

The Committee considered a proposal that would authorize the creation of a groundwater management district to address ground water over-allocation issues. This proposal could potentially resolve a problem of over-allocation of ground water in the Enterprise/Beryl area of Utah.

The Committee considered this issue at its April and November 2008 meetings, but did not recommend draft legislation.

Improvement District for Electric Service

The Committee considered a proposal that would authorize the creation of an improvement district to provide electric service. This proposal could potentially resolve a geographic isolation problem of providing electrical service to Ticaboo in Garfield County.

The Committee considered this issue at its April and November 2008 meetings, but did not recommend draft legislation.

Vision Dixie

Quality Growth Commission Annual Report

In 1999, the Legislature created the Utah Quality Growth Commission and required an annual report to the Legislature. Representatives of the Utah Quality Growth Commission reported on the state of quality growth in Utah and outlined local government planning needs.

The Committee considered this issue at its October 2008 meeting, but did not recommend draft legislation.

Relationship of Local Regulation and State Agency Activities

The Legislature has given municipalities and counties broad authority for regulating land use within their jurisdictions. However, that authority does not extend to regulating land owned by the state, although under certain circumstances state agencies are required to cooperate and coordinate with municipalities and counties. The Committee discussed several case studies involving the Department of Transportation, School and Institutional Trust Lands Administration, and Division of Wildlife Resources, in which local officials and property owners believed they did not have enough say in the land use decision. The Committee considered whether state agencies who acquire or develop land should be required to abide by local city and county ordinances, the wishes of the county legislative body, or the city mayor and council.

The Committee considered this issue at its April 2008 meeting, but did not recommend draft legislation.

Riparian Overlay Zones

The Committee considered whether cities should be allowed to put riparian overlay zones on streams and creeks which are used as storm sewers, and where untreated run-off water is channeled.

The Committee considered this issue at its April and September 2008 meetings, but did not recommend draft legislation.

Vision Dixie is a county-wide conversation that was created to provide opportunities for the public to make

POLITICAL SUBDIVISIONS INTERIM COMMITTEE

informed recommendations for the future of Washington County. Residents were asked to help outline a broad vision for how Washington County could accommodate population growth, protect its environment, enhance its economic strength, and maintain its quality of life. Vision Dixie is an outgrowth of the Washington County Growth and Conservation Act of 2006, the so-called Lands Bill. Vision Dixie was formed to help Washington County residents find areas of common interest and guide decisions on public land disposal. The Committee was briefed on Vision Dixie as an example of what could be done in other parts of the state.

The Committee considered this issue at its April 2008 meeting, but did not recommend draft legislation.

PUBLIC UTILITIES AND TECHNOLOGY INTERIM COMMITTEE

PUBLIC UTILITIES AND TECHNOLOGY INTERIM COMMITTEE

Membership

Sen. Scott K. Jenkins, Senate Chair
Rep. Michael E. Noel, House Chair
Sen. Mike Dmitrich
Sen. Mark B. Madsen
Sen. Darin G. Peterson
Sen. Carlene M. Walker
Rep. Roger E. Barrus
Rep. Rebecca Chavez-Houck
Rep. Jim Bird
Rep. Melvin R. Brown
Rep. Janice M. Fisher
Rep. Lynn N. Hemingway
Rep. Steven R. Mascaro
Rep. Kay L. McIff
Rep. Aaron Tilton

Staff

Richard C. North, Policy Analyst
Victoria Stirling, Associate General Counsel
Tracey Fredman, Legislative Secretary

OVERVIEW

The House Public Utilities and Technology Standing Committee was created in 1997 to review legislation related to telecommunication and energy utilities. The Legislature also created the Public Utilities and Technology Interim Committee to provide additional year-round research and review of utility and technology issues.

CLIMATE CHANGE

Background

Scientific research and measurement of the earth's past and present climates have revealed significant changes characterized by very temperate time periods and very cold ice ages. The focus of research is to understand how certain emissions, such as carbon and methane gasses, among others, are involved in climate change. As a result of the research, government and industry are creating commission-type entities to look at public policies regarding climate change.

The Western Climate Initiative and the Governor's Blue Ribbon Commission on Climate Change are two examples of policy entities created in 2007 designed to raise awareness about climate change. Over the last two years, the Western Climate Initiative members have developed a cap and trade proposal for reducing greenhouse gas emissions and an implementation timeline. The 2009 phase of the Initiative calls for the creation of an executive-legislative branch task force to recommend legislation necessary for the statutory implementation.

Action

The Committee considered this issue at its June, October, and November 2008 meetings, but did not recommend draft legislation.

ENERGY FUEL SOURCE DEVELOPMENT

Background

Rapidly increasing populations, projected electric energy demands, and rising oil prices in today's highly competitive energy markets are driving the development of new and traditional fuel sources.

Traditional resource industries are developing cleaner and safer technologies such as clean coal, hydro-gasification, and nuclear pellets. Other fuel sources, such as oil shale, are also undergoing new development as the high price of oil provides economic justification.

Newer fuel source development includes renewables such as solar, wind, geothermal, and biomass. The development of these fuel sources are also benefitting from the high price of oil and new technology creating lower base costs.

The Committee received reports and heard testimony regarding the urgency of developing a variety of new energy technology and energy fuel sources.

PUBLIC UTILITIES AND TECHNOLOGY INTERIM COMMITTEE

Action

The Committee considered this issue at its April, September, October, and November 2008 meetings, but did not recommend draft legislation.

UTILITY TRANSMISSION CORRIDORS SITING

Background

The current statutory process for siting a utility transmission corridor begins when a utility identifies a power and transmission need then requests that the Public Service Commission hold a hearing and grant a certificate of convenience. The certificate then allows the utility to construct a transmission line after negotiating and receiving conditional use permits from any affected local political subdivisions. If an affected local political subdivision requires siting changes from what the utility has chosen, then the local political subdivision either pays the excess costs for moving the transmission corridor or requests a hearing of the Utah Utility Facility Review Board. The Board's powers include deciding if the excess costs of the conditional use permit should be spread across all the ratepayers in the state or only by the local political subdivision.

It is projected that Utah will continue to experience—as it has for the last 20 years—a significant increase in the demand for electricity based on the state's rapid population and business growth. Utah currently has one high voltage transmission line corridor in process, the Ben Lommond-Populus, and six more in the near future.

Action

The Committee considered this issue at its June, August, September, and November 2008 meetings and recommended draft legislation, "Utility Transmission Corridor Siting Task Force."

OTHER STUDIES

Area Code Implementation

Increasing populations across the United States have resulted in the exhaustion of telephone numbers within existing area codes and the consequent need to assign new area codes to the same geographic locations. Utah

currently has area codes 801 and 435, and will start using 385 in March 2009. When an area code is exhausted, the Public Service Commission conducts a hearing and decides whether the overlay or split method will best serve the state's long-term needs. The Committee considered this issue at its August and November 2008 meetings, but did not recommend draft legislation.

Electric Power Line Upgrades

Increased power line voltage and stability to safely and cost-effectively serve electric utility customers is an issue in rural areas experiencing increased agricultural, commercial, and residential development. The Committee considered this issue at its August 2008 meeting, but did not recommend draft legislation.

Underground Sewage Facilities

With increased urban development and the need to place additional pipe facilities in rights of way, locating existing sewage, cable, gas, and water lines has become a critical safety and ownership issue. The Committee considered this issue at its May and November 2008 meetings, but did not recommend draft legislation.

Utilities in Mobile Home Parks

Mobile home park utilities are either provided by the park owner or individual sites within the park have their own meters. Where parks provide the utility services, monthly rates and utility infrastructure ownership and maintenance costs have become issues. The Committee considered this issue at its May and November 2008 meetings, but did not recommend draft legislation.

REVENUE AND TAXATION INTERIM COMMITTEE

REVENUE AND TAXATION INTERIM COMMITTEE

Membership

Sen. Wayne L. Niederhauser, Senate Chair
Rep. John Dougall, House Chair
Sen. Curtis S. Bramble
Sen. Mike Dmitrich
Sen. Brent H. Goodfellow
Sen. Howard A. Stephenson
Pres. John L. Valentine
Rep. Douglas C. Aagard
Rep. Rebecca Chavez-Houck
Rep. Tim M. Cosgrove
Rep. Julie Fisher
Rep. Craig A. Frank
Rep. Gage Froerer
Rep. Wayne A. Harper
Rep. Fred R Hunsaker
Rep. Rosalind J. McGee
Rep. Carol Spackman Moss
Rep. Merlynn T. Newbold
Rep. Paul Ray
Rep. Aaron Tilton

Staff

Phillip V. Dean, Policy Analyst
Leif G. Elder, Policy Analyst
Bryant R. Howe, Assistant Director
Angela D. Oakes, Associate General Counsel
Rebecca L. Rockwell, Associate General Counsel
Phalin L. Flowers, Legislative Secretary

OVERVIEW

The Revenue and Taxation Interim Committee studies a wide range of policy issues and reviews potential legislation affecting the structure and administration of Utah's state and local tax systems. These studies range from establishing new policy to implementing existing policy.

In addition to its regular policymaking emphasis, the Committee makes a special effort to focus on its revenue responsibility and regularly receives briefings from staff on

current state tax revenue collection trends and information on current state and national economic conditions.

The Committee also receives recommendations from the Utah Tax Review Commission (TRC), which is an independent study group composed of legislators, tax practitioners, academics, and citizen representatives. The TRC reports annually to the Committee.

CREDITS AND CONTRIBUTIONS LISTED ON INCOME TAX RETURNS

Background

Under the Utah individual income and corporate franchise and income taxes, taxpayers may claim certain credits for various spending and investment activities, such as research and development, restoration of historic housing, and contributions to sheltered workshops. Under the Utah individual income tax, taxpayers may also make contributions, the proceeds from which benefit programs such as assistance for the homeless and non-game wildlife.

State law provides that unless a minimum number of taxpayers claim these credits over a certain period of time or a minimum dollar amount of contributions are made over a certain period of time, the credit or contribution is removed from the tax form.

Over the last several years, some credits and contributions have been removed from tax forms by the Utah State Tax Commission. The Commission requested that the Committee consider and endorse legislation repealing these credits and contributions from the *Utah Code* since they no longer meet the threshold requirements to be included on a tax form.

Action

The Committee considered this issue at its August 20, 2008 meeting and recommended draft legislation, "Repeal of Certain Income Tax Credits and Contributions."

REVENUE AND TAXATION INTERIM COMMITTEE

HIGHER EDUCATION TUITION TAX CREDIT

Background

Financing of higher education is a major concern to many Utahns. The Committee reviewed ways to improve access to higher education through the use of tax credits. Under the proposal studied by the Committee, a taxpayer would be able to claim a nonrefundable credit equal to a portion of the cost of a higher education obtained at an eligible Utah institution of higher education. The nonrefundable credit is equal to five percent of the claimant's tax liability before tax credits and the claimant may carry forward the tax liability to future taxable years.

Action

The Committee considered this issue at its September 17 and November 19, 2008 meetings and recommended draft legislation, "Nonrefundable Higher Education Tuition Credit."

LEGISLATION REQUESTED BY THE UTAH STATE TAX COMMISSION

Background

The Utah State Tax Commission is constitutionally charged with the overall control and supervision of the state's tax system. Each year, the Commission asks the Committee to review and endorse various legislation related to the administration and collection of taxes.

Action

The Committee considered this issue at its November 19, 2008 meeting and recommended draft legislation:

- "Cigarette Tax Exemption Amendments,"
- "Amendments to Sales and Use Tax Exemption for Certain Machinery, Equipment, or Parts,"
- "Amendments to Vehicle Registration Requirements,"
- "Withholding Tax Amendments,"
- "Amendments to Tourism, Recreation, Cultural, Convention, and Airport Facilities Tax Act,"
- "Sales and Use Tax Definitions Relating to Property,"
- "Sales and Use Tax Amendments,"
- "Exemptions from Requirements to Deduct and Withhold an Income Tax,"

- "Sales and Use Tax - Determining the Location of Certain Transactions," and
- "Reporting of Certain Transactions Exempt from Sales and Use Taxes."

TRANSPARENCY IN GOVERNMENT FINANCIAL REPORTING

Background

During the 2008 General Session, the Legislature enacted "Transparency in Government Finance," which created the Utah Transparency Advisory Board and began the process to improve the public's access to certain government financial documents, such as budgets, audits, vendor payments, and summaries of financial information. As part of implementing this new legislation, state government, state institutions, and political subdivisions are now working to make available through the Internet all sorts of financial information.

Action

The Committee considered this issue at its November 19, 2008 meeting and recommended draft legislation, "Utah Transparency Advisory Board Amendments."

UTAH'S PROPERTY TAX SYSTEM

Background

A property tax has been imposed in Utah since before statehood. Utah's property tax system provides revenue for schools, counties, municipalities, and local districts. The property tax is also used to secure general obligation bonds issued by the state and its political subdivisions.

Compared to other states, property taxes in Utah are generally low. However, the property tax is a politically unpopular tax due to its visibility, perceptions of unfair administration, and no linkage between a taxpayer's property tax burden and ability to pay.

The property tax has also recently come under fire for another reason: lack of tax certainty. Certainty is a hallmark of an optimum tax system. Taxpayers should be certain that over time, absent any major change in their economic activity or condition, that their overall tax liability

REVENUE AND TAXATION INTERIM COMMITTEE

will not dramatically change. During the last several years, some property taxpayers have seen dramatic year-over increases in their property tax liability. While some of these increases were due to a booming housing market, some taxpayers faced large increases because some county assessors had previously failed to keep assessed values current with fair market value, as required by the state constitution.

The Committee conducted a comprehensive review of Utah's property tax system. As part of this review, and to find ways to improve taxpayer certainty, the Committee conducted hearings and received presentations on the following topics:

- staff presentation on an overview of Utah's property tax system, including administration, roles and responsibilities, revenue, base, rates, exemptions, differences between counties, comparison with other states, the role of the property tax in public school financing, and constitutional requirements;
- staff presentation on the property tax burden on renters, homeowners, and business owners;
- staff presentation on 2007 over 2006 changes in assessed valuation for residences and selected apartment complexes;
- staff presentation on Community Development and Renewal Agencies;
- staff presentation on the role of the property tax in funding public schools and public school funding equalization;
- presentation from the Utah State Tax Commission on property tax administration, supervision and oversight of local administration of the property tax system, truth in taxation, and appraisal of centrally assessed property;
- presentation from county assessors on local assessment practices, administration, and methodology;
- testimony from the Office of the State Auditor on the assessing and collecting property tax levy;
- testimony from Joan Youngman, Lincoln Institute of Land Policy, a noted property tax scholar who presented testimony on property tax limitation in other states and an overview of a land value tax;
- testimony from Jonathan Coupal, Howard Jarvis Taxpayers Association, who provided information on the benefits of California's Proposition 13; and Peter Detwiler, Staff Director, California Senate Local Government Committee, who provided testimony on the effects of property tax limitation in that state;
- testimony from Dr. John Merrifield, University of Texas at San Antonio, on the effects of replacing periodic reassessment of property with acquisition value with an annual inflation adjustment;
- testimony from James Wood, Bureau of Economic and Business Research, University of Utah, on recent trends in the Utah housing market;
- testimony from Thomas Wright, FairTax.org, on the benefits of a broad based consumption tax;
- testimony from the state's centrally assessed property taxpayers;
- testimony from the Utah Coalition for Property Tax Fairness on the benefits of redefining fair market value to acquisition value plus an annual inflation adjustment; and
- testimony from the Utah Association of Special Districts regarding the authority of local districts with non-elected board of directors to impose a property tax.

The Committee considered two proposals to improve tax certainty and predictability for individual property taxpayers. Under one proposal, developed by the committee chairs, a property's taxable value would be equal to its fair market value in a base year or the value for which it was acquired. This value would then be annually scaled by a growth factor. Tax rates would still be set by taxing entities and would be adjusted to conform with the current truth in taxation law. The other proposal considered by the Committee was presented by the Utah Coalition for Property Tax Fairness. This proposal called for: (a) redefining "fair market value" to acquisition value plus an annual stabilization index; (b) limiting annual property tax increases; (c) allowing some homeowners to transport their previous tax base if they purchase a new home; and (d) shifting up to 50 percent of school property taxes to sales and use taxes.

REVENUE AND TAXATION INTERIM COMMITTEE

The Committee also considered a proposal for an assessment cap and deferral program submitted by the Washington County Assessor. Under this proposal, annual increases in the taxable value of any residential property would be limited to a certain percentage. Any increase above the limit would be applied to future tax years.

Because over half of property tax revenue goes to public schools, the Committee also considered proposals to reduce the public school system's reliance on property tax and to more fully equalize per pupil funding.

Action

The Committee considered this issue at its April 16, May 21, June 5, June 18, July 8, August 20, September 17, September 24, October 15, November 12, November 19, and December 16, 2008 meetings and recommended draft legislation:

- "Certified Tax Rate Amendments,"
- "Personal Property Tax Amendments,"
- "Public Hearings on Property Tax Increases," and
- "Property Tax Amendments."

OTHER STUDIES

Highway Congestion Pricing

The Committee received testimony on the benefits of congestion pricing and the use of high occupancy toll lanes during peak congestion periods. Congestion pricing is seen as an alternative to traditional highway financing methods, such as gasoline excise taxes. While the technology is not yet available to implement a financing system based solely on vehicle miles traveled, some congestion pricing alternatives, such as high occupancy toll lanes, can now be implemented. The Committee considered this issue at its August 20, 2008 meeting, but did not recommend draft legislation.

Lodging, Restaurant, and Motor Vehicle Rental Taxes

The state, counties, and municipalities are authorized to impose specific taxes on short-term leases of lodging accommodations, the sale of restaurant meals, and the short-term leasing of motor vehicles. Revenue from these specific taxes are used for general fund purposes as well as for tourist promotion, the construction and maintenance of convention facilities, and to purchase highway rights-of-way.

The Committee reviewed the specific taxes that are authorized to be imposed, who imposes these taxes, the allowable uses of revenue from these taxes, and how these taxes compare to those imposed in neighboring states.

The Committee considered this issue at its May 21, 2008 meeting but did not recommend draft legislation.

RURAL DEVELOPMENT LEGISLATIVE LIAISON COMMITTEE

RURAL DEVELOPMENT LEGISLATIVE LIAISON COMMITTEE

Membership

Sen. Dennis E. Stowell, Senate Chair
Rep. DeMar "Bud" Bowman, House Chair
Sen. Mike Dmitrich
Sen. Fred J. Fife
Sen. Scott K. Jenkins
Rep. Melvin R. Brown
Rep. James R. Gowans
Rep. Eric K. Hutchings
Rep. Brad King
Rep. Patrick L. Painter
Rep. Mark A. Wheatley

Staff

Stewart E. Smith, Policy Analyst
James L. Wilson, Associate General Counsel
Joy L. Miller, Legislative Secretary

OVERVIEW

The Rural Development Legislative Liaison Committee is one of four entities created by the Utah Legislature in 2004 to bring significant statewide coordination and focus on rural economic development issues.

Rural Development Legislative Liaison Committee

The duties of the Rural Development Legislative Liaison Committee are to:

- serve as a liaison between the Governor's Rural Partnership Board, the Utah Rural Development Council, rural economic development and planning groups, and the Legislature;
- recommend legislation for each annual general session of the Legislature if the Committee determines that modifications to current law are in the best interest of the state and the economic and planning interests of rural Utah;
- review the operations of the Office of Rural Development and other state agencies involved in rural economic development and planning; and
- help sponsor meetings and other opportunities for discussion with and between rural economic development and planning interests.

Governor's Rural Partnership Board (GRPB)

The 15-member GRPB works collaboratively with the Utah Rural Development Council and the Rural Coordinating Committee to develop an annual strategic plan that includes a work plan for accomplishing the objectives it identifies for rural economic development. It also functions as an advisory board to the governor on rural economic and planning issues.

Office of Rural Development

The Office of Rural Development within the Governor's Office of Economic Development helps facilitate the implementation of the strategic plan developed by the GRPB. The Office also helps foster and support economic development for the benefit of rural counties and communities.

Rural Coordinating Committee

The Rural Coordinating Committee coordinates efforts and resources to help implement the strategic plan for rural economic development, planning, and leadership training.

GOVERNOR'S RURAL PARTNERSHIP BOARD (GRPB) REPORT TO THE LEGISLATURE

Background

The GRPB is required by law to make recommendations on economic planning and development in the state's rural areas and on related issues to the Legislature through the Rural Development Legislative Liaison Committee. The GRPB made the following prioritized recommendations in its 2008 report to the Legislature:

- **Education Reform and Workforce Development.** This top priority includes K-16 education, curriculum and governance of the Utah College of Applied Technology, and immigration as it pertains to the work force. The GRPB's concern is the need for more and better qualified workers if businesses and communities are to survive in rural Utah.
- **Infrastructure.** Basic infrastructure includes roads, commercial air service, telecommunications, water, gas, and electricity which are essential for economic development and quality of life in rural Utah.

RURAL DEVELOPMENT LEGISLATIVE LIAISON COMMITTEE

- **Business Resource Centers.** The 2008 Legislature enacted the Utah Business Resource Centers Act, which describes the business resource center concept and duties. These business resource centers provide assistance in coordinating available resources for business development. The GRPB would like to see the number of these centers expand from the three that the Legislature funded.
- **Health Care and Insurance Reform.** The GRPB wants to find a way for small businesses and entrepreneurs to obtain affordable health care and insurance in rural Utah. The GRPB believes that this business need is essential to having a flourishing entrepreneurial, small business economy in rural Utah.

Action

The Committee considered this issue at its November 2008 meeting and recommended that the Legislature also support prioritization of four new off-ramps on I-15 near Mills, Utah in Juab County to accommodate new industry, jobs, and revenue to the state.

OTHER STUDIES

Utah Science Technology and Research Authority

In addition to the four priorities listed above, the GRPB requests that the Utah Science Technology and Research Authority (USTAR), the executive, and the legislative branches of state government impanel and vigorously utilize the advisory board provided for by statute to assure USTAR benefits to rural Utah. The Committee considered this issue at its November 2008 meeting, but did not recommend draft legislation.

TRANSPORTATION INTERIM COMMITTEE

TRANSPORTATION INTERIM COMMITTEE

Membership

Sen. Carlene M. Walker, Senate Chair
Rep. Todd E. Kiser, House Chair
Sen. Scott K. Jenkins
Sen. Sheldon L. Killpack
Sen. Karen Mayne
Sen. Kevin T. VanTassell
Rep. Stephen D. Clark
Rep. Bradley M. Daw
Rep. Bradley G. Last
Rep. Ben C. Ferry
Rep. Richard A. Greenwood
Rep. Lynn N. Hemingway
Rep. Kory M. Holdaway
Rep. Brad King
Rep. Ronda Rudd Menlove
Rep. Brian P. Monsen (as of 8/1/2008)
Rep. Paul A. Neuenschwander
Rep. LaWanna "Lou" Shurtliff
Rep. Mark W. Walker (until 7/6/2008)

Staff

Leif G. Elder, Policy Analyst
Shannon C. Halverson, Associate General Counsel
Tracey Fredman, Legislative Secretary

OVERVIEW

The Transportation Interim Committee has responsibility for issues relating to the safe and efficient movement of people and property within Utah. Issues considered by the Committee include highway construction and maintenance, highway safety, traffic laws, motor vehicle insurance, driver licensing and personal identification, vehicle licensing and registration, transportation-related taxation, and public transportation.

The Committee has oversight responsibility for the Utah Department of Transportation (UDOT), the Driver License Division of the Department of Public Safety, and the Motor Vehicle and Motor Vehicle Enforcement Divisions of the Utah State Tax Commission. In addition, the Committee hears periodic reports by the Utah Transit Authority relating to public transit issues.

DUI AMENDMENTS

Background

Alcohol and drug-impaired drivers kill or injure many people on Utah roadways each year. To aid the Committee in assessing the effectiveness of Utah's laws in deterring driving under the influence violations, the Commission on Criminal and Juvenile Justice annually reports to the Committee on the most current DUI-related data, such as characteristics of those arrested, number of crashes involving injuries and fatalities, number of convictions, average jail sentences, and treatment program outcomes. The report also provides recommendations.

Action

The Committee considered this issue at its November 2008 meeting and recommended draft legislation, "DUI Amendments."

REAL ID ACT OF 2005

Background

The REAL ID Act of 2005 was enacted by Congress to improve the security of identification. Eventually citizens may not use state issued identification at federal facilities, including commercial airliners, Social Security offices, etc., unless the identification is issued in accordance with the Act and Department of Homeland Security rules. Earlier this year, Utah was granted an extension until December 31, 2009 to comply with the Act. If the state shows material compliance, it can apply for an additional extension that would be effective until May 10, 2011. Earlier this year, Utah received federal grant money that can be used to pay for some of the costs of complying with the Act.

Action

The Committee considered this issue at its April, June, and November 2008 meetings, but did not recommend draft legislation.

ROAD AND BRIDGE MAINTENANCE

Background

Utah's bridges are in good condition although most of them were built in the 1960s and 1970s. Those bridges were designed to last for 40 years, but due to good maintenance

TRANSPORTATION INTERIM COMMITTEE

practices implemented by UDOT, some of the bridges will likely last closer to 50 years. However, according to UDOT over 500 bridges are due to be replaced over the next decade.

Like most infrastructure, the condition of a road tends to degrade over time. Through timely maintenance treatments, the life of a road can be extended by several years. Maintaining a road costs less in the long run than letting a road degrade until it needs to be rebuilt. In a presentation to the Committee, UDOT said that their strategy in regard to roads has been to keep them well maintained to avoid the high costs of having to replace them. However, due to the skyrocketing costs of materials used to build and maintain roads and the increasing number of roads that need to be maintained, UDOT said that it cannot sustain the current maintenance levels for state roads. UDOT informed the Committee that maintenance levels for roads, other than interstate roads, have been on the decline since 2004. UDOT also said it has been researching ways to make roads last longer.

Action

The Committee considered this issue at its June and August 2008 meetings, but did not recommend draft legislation.

OTHER STUDIES

Driver License Issues Involving Motor Driven Cycles

As motor fuel costs have increased, certain fuel efficient vehicles, such as motor-driven cycles, have become more popular. A motor-driven cycle includes motorcycles, motor scooters, mopeds, electric assisted bicycles, motor assisted scooters, and motorized bicycles that have an engine with less than 150 cubic centimeters displacement or a motor that produces 5 horsepower or less. There has been some confusion on what licenses and endorsements are needed to operate certain motor-driven cycles. The Committee considered this issue at its September and November 2008 meetings and recommended draft legislation, "Driver License Amendments - Motor Driven Cycles."

Firefighter Special Group License Plate Amendments

The Committee considered proposed legislation that converts the existing firefighter special group license plate from a recognition special group license plate to a contributor special group license plate. Applicants for a contributor plate would be required to make a \$15 annual donation to the Firefighter Support Restricted Account. Upon renewing their motor vehicle registration, a person who has already been issued a firefighter recognition plate can choose to donate \$15 to the restricted account or replace the recognition plate with a new license plate. The Committee considered this issue at its November 2008 meeting and recommended draft legislation, "Firefighter Special Group License Plate Amendments."

Motor Carrier Safety

The Federal Motor Carrier Safety Administration (FMCSA) conducted a regulatory review of Utah's Motor Carrier Safety Assistance Program in April of this year. The FMCSA found that Utah was not compliant with certain regulations. Remaining noncompliant could jeopardize federal funding of motor carrier programs. The Committee considered this issue at its September and October 2008 meetings and recommended draft legislation, "Commercial Motor Vehicle Amendments."

Motorcycle Rider Education

During the 2008 General Session, the Legislature enacted H.B. 72, "Motorcycle License and Endorsement Amendments." This legislation prohibited the Driver License Division from issuing a motorcycle endorsement to a person under 19 years of age who has not held a motorcycle learner permit for two months unless the person completes a motorcycle rider education program. The legislation also provides that a motorcycle learner permit may only be issued to a person who holds a driver license.

The Committee considered allowing a person who holds a valid learners permit and is at least 15 years and six months of age to enroll in and complete a rider training course if the course meets certain requirements. The Committee considered this issue at its November 2008

meeting and recommended draft legislation, "Motorcycle Rider Education Program Amendments."

State Highway System

Public highways in the state are owned and maintained by various government entities. State highways are used primarily for interstate or inter-region movement of goods and people and generally have higher traffic volumes than highways maintained by other jurisdictions. County and city highways are used primarily for access to homes, businesses, or property. As the demographics of an area change, highway characteristics may also change. In areas of rapid growth, a highway that was once local in nature can become a primary thoroughfare. In other instances, the state has jurisdiction of a road that serves a local purpose. The Committee considered potential changes to the state highway system based on recommendations made by the Transportation Commission and local governments. The Committee considered this issue at its June, October, and November 2008 meetings and recommended draft legislation, "Designation of State Highways Amendments."

Street Legal All-terrain Vehicle Amendments

During the 2008 General Session, the Legislature enacted S.B. 181, "Off-Highway Vehicle Use on Public Highways." This legislation defined equipment and other requirements necessary to operate certain all-terrain vehicles on specified public highways.

During the interim, some law enforcement agencies expressed concerns that S.B. 181 may have some unintended consequences. The Committee considered legislation that would set requirements for height and width, tire tread, driver licensing, and safety inspection certificates for street-legal all-terrain vehicles. The Committee considered this issue at its August and November 2008 meetings and recommended draft legislation, "Street Legal All-terrain Vehicle Amendments."

Traffic Accident Clearance Amendments

Current state statute requires the operator of a vehicle involved in an accident resulting only in damage to another vehicle or other property to immediately stop the vehicle at the scene of the accident or as close as possible without

obstructing traffic. The operator is also required to report the accident to the nearest law enforcement agency if the accident resulted in \$1,000 or more of property damage. The Committee considered allowing an operator of a vehicle involved in an accident resulting only in damage to another vehicle or other property to move the vehicle as soon as possible off the roadway or freeway main lines, shoulders, medians, or adjacent areas to a location on an exit ramp shoulder, a frontage road, the nearest suitable cross street, or other suitable location that does not obstruct traffic and increasing the property damage limit from \$1,000 to \$2,000. The Committee considered this issue at its November 2008 meeting and recommended draft legislation, "Traffic Accident Clearance Amendments."

UTAH INTERNATIONAL TRADE COMMISSION

UTAH INTERNATIONAL TRADE COMMISSION

Membership

Sen. Mark B. Madsen, Senate Chair
Rep. Sheryl L. Allen, House Chair
Sen. Brent H. Goodfellow
Sen. Carlene Walker
Rep. Jackie Biskupski
Rep. Kerry W. Gibson
Rep. Eric K. Hutchings
Rep. Brad King
Mr. Brett W. Heimbürger
Mr. Miguel R. Rovira

Staff

Richard C. North, Policy Analyst
Victoria Stirling, Associate General Counsel
Tracey Fredman, Legislative Secretary

OVERVIEW

In 2006, the Commission was created as a response to the growing number of international trade treaties and their impact on state government and Utah business. Because international treaties ratified by the U.S. Senate have the effect of federal law, all states, including Utah, are subject to their provisions. In some areas, such as gambling, there may be a conflict between Utah state laws and international treaty provisions.

International imports and exports to Utah can also be affected by the terms of global treaties. The Commission's other statutory charge is to assist and promote local businesses in developing international trade opportunities.

INTERNET GAMBLING

Background

In 1995 the United States and other World Trade Organization (WTO) members approved the General Agreement on Trades in Services (GATS) treaty. Cross-border gambling was one of the services agreed to and was made available via the Internet. The United States prohibited cross-border gambling and in 2003, Antigua and Barbuda filed a trade dispute with the WTO. In 2004 the WTO Dispute Review Panel ruled against the United

States. Negotiations including arbitration between the parties did not produce any favorable results over the following three years and the WTO appellate body refused to review the case.

Currently, the WTO is in the process of determining how compensation will be awarded, and the United States has announced it is withdrawing its GATS cross-border gambling. The WTO allows member nations to withdraw treaty commitments but only after compensating affected members and not as a mechanism to resolve disputes.

Action

The Committee considered this issue at its May, October, and November 2008 meetings and recommended draft legislation, "Resolution Urging the Withdrawal of United States' World Trade Organization Commitment on Gambling."

UTAH INTERNATIONAL TRADE

Background

Utah has multiple international trade entities, public and private, that provide leadership and support for its trade exports: the governor's Utah International Trade and Diplomacy Office; the Office of Economic Development; and the Utah World Trade Center. The Utah International Trade Commission was also created in 2006 by the Legislature to provide for trade development and to provide oversight.

International trade with Utah accounts for over 17 percent of the state's gross domestic product, totals over \$1 billion in export dollars, and has grown 65 percent since 2004. Major trading partners include China, India, Mexico, and Asia, and the top three export categories are primary metals, electronics, and food preparations.

Action

The Committee considered this issue at its May and October 2008 meetings, but did not recommend draft legislation.

OTHER STUDIES

UTAH INTERNATIONAL TRADE COMMISSION

United States - Columbia Free Trade Act

The proposed Free Trade Act is designed to eliminate tariffs on goods exported to Columbia from the United States that would result in an additional \$4 billion of new trade for the United States. Currently, over 90 percent of all goods coming from Columbia to the United States are duty-free. At this time, the United States Senate has deferred action on the treaty until next year. The Committee considered this issue at its May 2008 meeting, but did not recommend draft legislation.

among themselves. Examples in the United States include the North American Free Trade Act, the Dominican-Central Americas Free Trade Act, and the Canadian-United States Free Trade Act. The Committee considered this issue at its May and October 2008 meetings, but did not recommend draft legislation.

United States Trade Assistance Act

The Commission reviewed how the United States government has provided monetary and educational benefits to workers displaced by international trade and outsourcing of jobs. The Trade Assistance Act was companion federal legislation with the Trade Act of 1974 and is the mechanism that Congress uses to provide annual appropriations for displaced workers who meet the criteria and apply.

United States Trade Representative Office's Intergovernmental Policy Advisor Committee (IGPAC)

The IGPAC was created by Congress in the Trade Act of 1974 to provide input from parties, such as states, not directly involved in trade negotiations. Utah is one of only three state legislatures represented on the 30 member committee. The IGPAC provides state and local government input on how trade treaties will affect their government's ability to domestically regulate and conduct trade. The Committee considered this issue at its October 2008 meeting, but did not recommend draft legislation.

World Trade Organization (WTO)

The WTO was created in 1995 by the 125 signatories to the 1947 General Agreement on Trades and Tariffs (GATT). Between 1947 and 1995, attempts were made to create the International Trade Organization for the purpose of managing the GATT agreement. Until the WTO was created, all provisions of the GATT agreement were considered provisional rather than permanent and enforceable. The WTO process of developing broad treaties has, in the last 10 years, been undercut with the growth of the Internet and nations agreeing individually

UTAH TAX REVIEW COMMISSION

Membership

Mr. M. Keith Prescott, Chair
Mr. David Crapo, Vice Chair
Sen. Lyle W. Hillyard
Sen. Brent H. Goodfellow
Sen. Wayne L. Niederhauser
Rep. John Dougall
Rep. Wayne A. Harper
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Mr. Larry Barusch
Mr. Mark K. Buchi
Mr. Gary Cornia
Ms. Janis A. Dubno
Ms. Kathleen Howell
Commissioner Bruce Johnson
Mr. Bruce Jones
Mr. Dixie Leavitt

Staff

Phillip V. Dean, Policy Analyst
Leif G. Elder, Policy Analyst
Bryant R. Howe, Assistant Director
Angela D. Oakes, Associate General Counsel
Rebecca L. Rockwell, Associate General Counsel
Phalin L. Flowers, Legislative Secretary

OVERVIEW

The Utah Tax Review Commission (TRC) was created by the Legislature to comprehensively review the tax laws and the political subdivisions of the state and all issues related to revenue and taxation. The TRC also makes recommendations to the governor and the Legislature on specific tax issues and the tax policy of the state and its political subdivisions. Members of the TRC are appointed by the governor, the Speaker of the House of Representatives, the President of the Senate, and by the TRC.

OIL AND GAS SEVERANCE TAXES

Background

Since 1964, the state has imposed a tax on the severing of oil, natural gas, and liquid natural gas from the ground. Called a severance tax, this tax yielded just over \$73 million in revenue in FY 2008.

The TRC has twice been asked to review certain aspects of the oil and gas severance tax. In 2008, the TRC was directed by statute to study and make recommendations regarding the following provisions of the oil and gas severance taxes:

- the rate structure;
- the following tax exemptions:
 - the value of all oil and gas produced from a stripper well,
 - the value of oil and gas produced during the first 12 months of operation from a wildcat well, and
 - the value of oil and gas produced during the first six months of operation from a development well;
- the tax credit for recompletions and workovers approved by the Division of Oil, Gas, and Mining; and
- the 50 percent reduction in tax rate imposed on the incremental production from an enhanced recovery project.

As part of its review, the TRC retained the services of an economic consultant whose report estimated the effects of the above provisions on the number of oil and natural gas wells drilled in Utah. The TRC also received testimony from the oil and gas exploration and production industry, the Division of Oil, Gas, and Mining, and the Utah Geological Survey.

Action

The TRC considered this issue at its May, September, November, and December 2008 meetings, but did not recommend draft legislation.

TAXATION OF PASS-THROUGH ENTITIES

UTAH TAX REVIEW COMMISSION

Background

A pass-through entity is an entity which, with some exceptions, is generally not subject to income tax at the entity level. Rather, the income, gain, loss, deduction, or credit of the pass-through entity is passed through to owners. An owner's share of these amounts is then included in determining the owner's income tax liability. Pass-through entities include general partnerships, limited partnerships, limited liability partnerships, limited liability companies, and S corporations. The TRC appointed a working group that drafted legislation to address the income tax treatment of owners that receive a share of the income, gain, loss, deduction, or credit of a pass-through entity.

Action

The TRC considered this issue at its November 2008 meeting and recommended draft legislation, "Income Taxation of Pass-through Entities and Pass-through Entity Taxpayers."

OTHER STUDIES

Severance Tax Trust Fund

In the 2008 General Election, the electorate approved Constitutional Amendment B. This constitutional amendment allows the Legislature to place additional sources of revenue into the Permanent State Trust Fund.

Under implementing legislation enacted during the 2007 and 2008 General Sessions, beginning July 1, 2009, revenue from severance taxes on oil, gas, and minerals above a certain threshold amount will be deposited into the Permanent State Trust Fund. Trust fund earnings are then deposited into a restricted account and appropriated by the Legislature for infrastructure and economic diversification projects, with some earnings earmarked for projects in the energy producing areas of the state.

The TRC considered whether to accelerate the diversion of severance tax revenue from the General Fund to the Permanent State Trust Fund until all severance tax revenue is deposited into the Permanent State Trust Fund. The TRC considered the extent to which revenue from a

depleting resource should be consumed by current versus future generations.

The TRC considered this issue at its November and December meetings and recommended draft legislation "Severance Tax Amendments."

Utah Corporate Income and Franchise Taxes - Deduction for Foreign Operating Company

A foreign operating company is a company that is incorporated in the United States but has at least 80 percent of its payroll and property offshore. Utah law allows a corporation, when determining Utah taxable income, to deduct 50 percent of the income from a foreign operating company. The Utah State Tax Commission asked the TRC to review this deduction because of concerns that it is subject to abuse. The TRC reviewed the deliberations and recommendations of the Corporate Tax Task Force when it studied this issue in 1992 as part of a recodification of state statutes governing the state corporate and franchise income taxes.

The TRC considered this issue at its October 2008 meeting, but did not recommend draft legislation.

Utah Corporate Income and Franchise Taxes - Definition of Business Income

State statutes governing the state corporate income and franchise taxes define "business income." This definition is important because business income and non-business income are subject to different apportionment rules and tax treatment. Recent litigation in Utah and nationally has sought to clarify the definition of business income when a business is liquidated. Other litigation has focused on whether court ordered awards in civil litigation constitute business income. The Utah State Tax Commission asked the TRC to consider amendments to more clearly define what constitutes business.

The TRC considered this issue at its October and November 2008 meetings, but did not recommend draft legislation.

WORKFORCE SERVICES AND COMMUNITY AND ECONOMIC DEVELOPMENT INTERIM COMMITTEE

WORKFORCE SERVICES AND COMMUNITY AND ECONOMIC DEVELOPMENT INTERIM COMMITTEE

Membership

Sen. Mark B. Madden, Senate Chair
Rep. Steven R. Mascaró, House Chair
Sen. Allen M. Christensen
Sen. Dan R. Eastman
Sen. Fred J. Fife
Sen. Patricia W. Jones
Rep. James A. Dunnigan
Rep. Janice M. Fisher
Rep. Christopher N. Herrod
Rep. Karen W. Morgan
Rep. Gordon E. Snow

Staff

Arthur L. Hunsaker, Policy Analyst
James L. Wilson, Associate General Counsel
Glenda S. Whitney, Legislative Secretary

OVERVIEW

The Legislature created the Department of Workforce Services in 1997 in order to make welfare and job training programs in Utah more efficient. The following programs were consolidated into this new department: Quality Control and the Office of Family Support from the Department of Human Services; the Department of Employment Security, Job Training and the Office of Child Care from the Department of Community and Economic Development; and the Turning Point Program from the State Office of Education.

During the 2001 Interim, the Committee's area of responsibility was expanded by the Legislative Management Committee to include the Department of Community and Economic Development. In 2005, the Legislature approve legislation transferring the Department's economic development and tourism components from the Department to a newly created Governor's Office of Economic Development. The Department of Community and Economic Development

was then renamed the Department of Community and Culture.

ART INVENTORY

Background

Representatives of the Department of Community and Culture discussed the need to catalogue works of art owned by the state. Certain pieces of the state's art collection are unaccounted for, in part due to the lack of a systematic tracking approach. The Department recommended that the Division of Arts and Museums be authorized to provide educational outreach and technical training to entities in possession of state-owned art to assist in creating a required art inventory and compliance with certification requirements.

An art inventory bill was introduced in the 2008 General Session and passed in the Senate, but it did not pass in the House.

Action

The Committee considered this issue at its May 2008 meeting and recommended draft legislation, "Department of Community and Culture - State-owned Art Inventory."

IDENTITY THEFT

Background

In April 2008, a Department of Workforce Services employee was arrested and charged with identity theft in relation to records that the employee had access to at the Department. Members of the Committee were concerned with the safety measures in place within the Department to protect personal identifying information. The Committee requested that the Department report on the incident and what was being done to prevent it from recurring.

Representatives of the Department of Workforce Services explained how the theft took place and proposed increased safety measures. Although the Department acknowledged that there was no way to completely remove the possibility of a recurrence, it claimed that its new security measures greatly minimized the risk.

WORKFORCE SERVICES AND COMMUNITY AND ECONOMIC DEVELOPMENT INTERIM COMMITTEE

Action

The Committee considered this issue at its April, June, and August 2008 meetings, but did not recommend draft legislation.

The Committee considered this issue at its October and November 2008 meetings and recommended draft legislation, "Refugee Services Fund Amendments."

MOTION PICTURE INCENTIVES

Background

Despite the success of the modestly-budgeted "High School Musical" film franchise, over the past several years the state of Utah's ability to attract motion picture productions has greatly decreased. Motion picture industry executives attribute this to the fact that the current incentives the state offers to production companies considering filming in the state have not kept pace with those being offered by other states and Canada.

The Committee heard testimony from representatives of the film industry and the Governor's Office of Economic Development urging the Committee to support increased incentives for motion picture companies that agree to film in Utah.

The Committee expressed a willingness to continue its support providing increased cash rebate incentives for small budget motion picture productions and to endorse refundable tax credits for larger budget productions.

Action

The Committee considered this issue at its May, August, September, and October 2008 meetings and recommended draft legislation, "Financial Incentives for Motion Picture Productions."

OTHER STUDIES

Interest Earned by the Refugee Services Fund

In the 2008 General Session, The Refugee Services Fund was created to aid those granted refugee status by the federal government who have relocated to Utah. The Fund is a restricted account and is funded through grants or private donations. Potential donors have urged that interest earned by the Fund stay in the Fund and not be transferred to the General Fund.