

**MINUTES OF THE  
REVENUE AND TAXATION INTERIM COMMITTEE**  
Wednesday, May 17, 2000 -- 9:00 a.m. -- Room 223 State Capitol

**Members Present:**

Sen. Howard Stephenson, Senate Chair  
Rep. Raymond W. Short, House Chair  
Sen. Ron Allen  
Sen. Mike Dmitrich  
Sen. L. Steven Poulton  
Sen. John L. Valentine  
Rep. Loretta Baca  
Rep. Ralph Becker  
Rep. Judy A. Buffmire  
Rep. Margaret Dayton  
Rep. Kevin S. Garn  
Rep. Wayne A. Harper  
Rep. David M. Jones  
Rep. Loraine T. Pace  
Rep. Tammy J. Rowan  
Rep. Jack A. Seitz

**Members Excused:**

Rep. Richard L. Walsh

**Members Absent:**

Sen. Robert F. Montgomery

**Staff Present:**

Mr. Bryant R. Howe,  
Research Analyst  
Ms. Rebecca L. Rockwell,  
Associate General Counsel

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

**1. Committee Business -** Chair Valentine called the meeting to order at 9:04 a.m.

Due to the lack of a quorum, action was not taken on the minutes of the April 19, 2000 meeting.

**2. Revenue Update -** Mr. Doug Macdonald, Senior Economist, Utah State Tax Commission, distributed to the committee an update on major tax revenue sources for Utah state government. He noted that at this point in the fiscal year, the projected surplus for the General Fund and Uniform School Fund may be as high as \$93 million. However, that figure may decline as more individual income tax refunds are processed.

Mr. Macdonald credited Utah's strong economy for the budget surplus. He said that many taxpayers, including individuals and limited liability companies, have had increases in capital gain income during the last taxable year. Nationally, corporate profits are strong and this has led to increases in corporate income tax collections.

Mr. Macdonald commented that the Utah State Tax Commission (Tax Commission) has to date processed 935,584 individual income tax returns for the 1999 taxable year. A new aspect of processing returns this year is the large increase in taxpayers who are filing electronically,

including Internet filings and filings over the telephone. About one-fourth of the state individual income tax returns have been filed electronically.

Senator Valentine noted that many taxpayers are taking qualified stock options and that this could be a reason for the strong growth in individual income tax revenues. Mr. Macdonald agreed with Senator Valentine. Mr. Macdonald noted that there is some discussion as to whether to treat some individual income tax revenue as "one-time" versus "ongoing" revenue. He explained that the recent increase in the federal funds rate may slow the growth in capital markets, thereby slowing the growth in capital gains income and individual income tax revenues.

### **3. Property Taxes on Secondary Residences -**

a. Public Testimony from Owners of Secondary Residences - Mr. Milt Saathoff, representing the Utah Seniors Legislature, told the committee that this is a fairness in taxation issue. He owns a small cabin in Wasatch County and pays property taxes of \$445 per year. He commented that if he lived in the cabin for the entire year, he would be able to take advantage of the residential exemption and he would also receive more services. Mr. Saathoff asserted that the current taxation of secondary residences amounts to double taxation because he receives few services in return for these property taxes, and Wasatch County should not be able to "freeload" on the backs of other Utahns by taxing cabin owners for services they do not receive. He commented that the handful of expensive summer cabins that the committee was shown pictures of during the last meeting would not receive a reduction in property taxes under Rep. Morgan's and Sen. Mayne's bills because they are connected to municipal water systems.

Mr. Ken Wright told the committee that he owns a cabin and pays property taxes in Summit County, but receives no services from that county. After the deer hunting season is completed for the year, he said that the forest service closes the road to his cabin. For most of the year, he has no access. He explained that he is not opposed to paying taxes for services rendered, and that he owns a home and a business in Salt Lake County on which he pays property taxes. However, if a home does not receive public services, Mr. Wright emphasized that it should have a reduction in property taxes.

Mr. Keith Hall, President, Upper Weber Canyon Residential Owners Association, told the committee that his organization is asking for fairness in the property taxes paid by cabin owners. He said that his family may not be able to continue to own the cabin because he cannot afford to pay the property taxes. Most of the cabin owners in his organization are senior citizens on fixed incomes. He said that he wants fairness in services and taxation.

Mr. Curtis Kennedy, Trustee, Pine Mountains Cabin Owners, told the committee that property taxes constitute 49% of the cost of owning his cabin. Due to urban crowding, it is important that the public find ways to recreate. He also asserted that building secondary

residences in rural communities is a good economic development tool. He urged the committee to consider the social values of recreational property.

Ms. Carole Murphy told the committee that she resides in Park City, but owns a secondary residence in Rich County. She raised concerns about secondary residence owners being allowed a property tax reduction that would result in owners of permanent residences paying higher property taxes. Ms. Murphy stated that property tax shifts would hurt small school districts and greatly affect the programs districts offer.

Ms. Mary Ellen Pugsley, Chair, Big Cottonwood Canyon Community Council, told the committee that she represents 690 cabin owners in Big Cottonwood Canyon, Salt Lake County. She commented that about 80 percent of these cabins are considered secondary residences and they carry a significant property tax burden. Ms. Pugsley informed the committee that the cabins were recently reappraised and this caused a large increase in most of the cabin owners' property tax bills. She commented that one of the arguments that has been made against granting this property tax reduction is that the Rich County School District would suffer. However, she noted that the Legislature should not balance the school budget by shifting the tax burden to people who already pay taxes to support their own children.

b. Additional Public Testimony - Superintendent Christine Kearl, Rich County School District, told the committee that a property tax reduction for secondary residences would result in a significant tax shift for her school district. She said that the number of students in her district is declining. With fewer students, the minimum school program portion of the district's budget is reduced. She stated that in her county, some of the secondary homes are more valuable than homes owned by permanent county residents, and that there are twice as many secondary residences than primary residences in Rich County. If a reduction is granted, senior citizens and young families will pay higher property taxes. She emphasized that secondary residence owners receive the same public services as primary residence owners. Superintendent Kearl also said that Rich County is economically depressed with 55 percent of students qualifying for free or reduced price school lunches. She asserted that the Legislature has recognized that the purpose of the residential exemption is to protect primary residence owners; it should not be extended to secondary residences.

Superintendent Kolene Granger, Washington County School District, stated that perhaps the committee should view secondary residences as an industry. She said that Washington County does not have large businesses or extractable natural resources, but it does have a pleasant climate and scenery that makes it an attractive place to own a secondary residence. Ms. Granger commented that in many cases, the secondary residences are larger than homes owned by permanent residents. She asserted that for Washington County, "location" is an industry and the service economy provides needed jobs and tax revenue. If the Legislature granted a property tax reduction, property taxes would be raised on everyone else. She stated that the Washington

County School Board is very careful about raising taxes and does not do it very often. Consequently, if taxes increase because this reduction is granted, it would be harder in the future to raise property tax rates.

Mr. Jim Eldridge, Utah Education Association, said that there is no good tax. He commented that the Legislature should focus on the three basic taxes: property; income; and sales and use. Policymakers should ensure that the tax base remains broad with few exemptions and that rates are kept low. He noted that there is a perception that property taxes are paid in exchange for services rendered, but asserted that as a matter of public policy, the Legislature should not make a dollar-for-dollar link between taxes paid and services received. He said that compared to other states, Utahns pay less in property taxes, but more in sales and use taxes and income taxes.

Superintendent Steven Laing, State Superintendent of Public Instruction, told the committee that it is important to recognize the effects of tax shifts and that the funding of public education is both a state and local effort. Capital costs and some operational costs are funded through locally authorized property tax levies. He urged the committee to consider the effects of shifting the property tax burden between different groups of taxpayers.

Representative David Ure said that it is important to remember that the Legislature is considering granting property tax relief to owners of secondary residences when there are many people who do not even own one home. He raised concern that the number of secondary homes in Utah is increasing due to the strong economy, and that allowing this property tax reduction may be just the beginning of more and more property tax reductions for secondary residences. He urged the Legislature to let the free enterprise system work and not grant special tax breaks. Rep. Ure suggested that if the property taxes cannot be paid on a secondary residence, then perhaps the residence should be sold.

Senator Ed Mayne said that he has appreciated hearing the comments from school districts, but commented that under his bill any tax shift would be very modest. He expressed a willingness to continue discussions with interested groups and then come back to the committee with a proposal that is acceptable to all parties.

c. Committee Discussion and Direction for Future Action - Rep. Pace commented that it is good tax policy to provide a partial property tax exemption to primary residences. Primary residences are important and should receive first consideration. She felt that because many secondary residences are used by extended families, perhaps owners should look to family members to share the cost of property taxes. Rep. Pace stated that if a person is fortunate enough to own a second home, that the property tax burden should not be shifted to a person who owns only one home.

**MOTION:** Rep. Short moved that the committee direct staff to draft legislation: (1) requiring a means test for granting a property tax reduction so that the reduction is available only to persons who are poor; and (2) providing that the reduction be available only to a secondary residence that is not connected to a municipal sewer or water system.

Rep. Rowan spoke in opposition to the motion. She stated that while it is important to grant property tax relief to primary residences, good tax policy dictates that relief not be extended to other types of residential property. Sen. Stephenson said that this could be the first of future actions to grant even greater property tax reductions to owners of secondary residences. He questioned whether anyone who owns a second home could ever be considered to be poor.

The motion passed with Sens. Stephenson and Valentine and Reps. Dayton, Pace, Rowan, and Seitz voting in opposition and Reps. Becker, Garn, and Jones absent for the vote.

#### **4. Tax Penalties - False Document or Return -**

Presentation of Issue - Mr. Rod Marrelli, Executive Director, Tax Commission, noted that the Utah 2000 General Session proposed legislation had been distributed to committee members. Mr. Marrelli explained that the legislation discourages tax evasion by providing penalties for certain acts relating to a document or return that is: 1) prepared or presented in connection with a matter administered by the Tax Commission; and 2) false as to any material matter. These acts include willfully preparing or presenting a document or return, or aiding in the preparation or presentation of a document or return. Other acts for which penalties are prescribed are provided for in the legislation.

Mr. Marrelli responded to questions from the committee regarding the proposed legislation, including questions pertaining to enforcement. Rep. Harper questioned the six year statute of limitations on page five of the bill. He stated that several years ago this language was modified to three years in other contexts and asked whether this language needed to be changed. He asked staff to look into this issue.

Rep. Buffmire stated that she supports any efforts to simplify tax laws and improve voluntary compliance. Sen. Poulton said that it is important that this legislation not be abused by someone in authority. Sen. Valentine said that the legislation needs to be clear that the willful requirement applies to the false document or return provisions. Rep. Baca commented that the state should not fill its prisons with tax protesters when other people, who commit more serious crimes, do not receive as severe a penalty.

**MOTION:** Sen. Dmitirch moved that the committee move on to the next item on the agenda. The motion passed unanimously with Reps. Becker, Garn, Jones, Seitz and Short absent for the vote.

**5. Sunset Review of Steam Coal Tax Credit -**

a. Explanation of Credit and Historical Review of Number and Dollar Amount of Credits Taken by Taxpayers - Mr. Bryant R. Howe, Research Analyst, distributed to the committee background information on the corporate steam coal tax credit. He explained that the steam coal tax credit was first enacted by the Legislature in 1990. He also noted that under the tax credit provisions, steam coal is coal that is mined in Utah and sold from a permitted mine to a purchaser outside of the United States. The credit is \$1 per ton of steam coal that exceeds the number of tons of steam coal sold during the calendar year beginning on January 1, 1992. He also distributed to the committee background information on coal production in Utah, coal exports, and information on the number of taxpayers who claim this credit. Mr. Howe indicated that about 10 percent of Utah coal is exported overseas. The major markets for this coal are Japan and Taiwan.

b. Public Testimony - Mr. Doug Smith, President, Andalex Resources Inc., distributed to the committee the handout "Presentation to the Revenue and Taxation Interim Committee, State of Utah, May 17, 2000," containing information on how his company uses the steam coal tax credit to sell steam coal overseas. Mr. Smith said that nearly all exported Utah coal is sold to Japan and Taiwan and is used to generate electricity. He noted that Utah's competitors in the Asian coal market are producers in Australia, China, and other far east countries. Recent changes in Australian currency has put Utah coal at a price disadvantage. Mr. Smith concluded that continuation of the credit is important to ensure that his company can continue to sell coal in the Asian market.

Mr. Greg Schaefer, Director of External Affairs, Canyon Fuel Company, told the committee that his company is a partner in a new state-of-the-art coal ship loading facility in Los Angeles. He explained that this new facility will enable his company and other Utah coal producers to compete in the Asian market. Mr. Schaefer noted that Canyon Fuel Company operates three highly productive mines in Utah and is the state's largest coal exporter. He commented that the export market represents 10 percent of his company's production. Mr. Schaefer explained that Canyon Fuel Company pays royalties to both the United States and Utah, and the tax credit is an important benefit of Utah coal production.

Mr. Dennis Ware, Plateau Mining Company, told the committee that at the current time his company cannot take advantage of this credit, but it is an important part of his company's growth potential. He noted that the Mexican market will be opening soon because of a large power plant that is converting to coal use. Mr. Ware cautioned that Utah coal is at a disadvantage because of inland freight costs, but observed that the credit helps Utah companies compete in the export market.

c. Committee Discussion and Direction for Possible Future Action -

**MOTION:** Sen. Dmitrich moved that the corporate steam coal tax credit be reauthorized for five years. Sen. Dmitrich declared a conflict of interest. The motion passed unanimously with Reps. Becker, Garn, Jones, Seitz, and Short absent for the vote.

**6. Sunset Review of Residential Energy Systems Tax Credit** – This item was not considered due to lack of time.

**7. Other Business** - No other business was discussed.

**8. Adjournment** -

**MOTION:** Senator Poulton moved to adjourn the meeting at 11:55 a.m. The motion passed unanimously.

