

**MINUTES OF THE
REVENUE AND TAXATION INTERIM COMMITTEE**
Wednesday, October 18, 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. Robert F. Montgomery
Sen. L. Steven Poulton
Sen. John L. Valentine
Rep. Loretta Baca
Rep. Ralph Becker
Rep. Judy A. Buffmire
Rep. Margaret Dayton
Rep. Wayne A. Harper
Rep. David M. Jones
Rep. Loraine T. Pace
Rep. Tammy J. Rowan
Rep. Jack A. Seitz
Rep. Richard L. Walsh

Members Absent:

Rep. Kevin S. Garn

Staff Present:

Mr. Bryant R. Howe,
Research Analyst
Mr. O. William Asplund,
Assistant Director
Ms. Rebecca L. Rockwell,
Associate General Counsel
Ms. L. Kaye Clark,
Secretary

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

1. Committee Business – Chair Short called the meeting to order at 9:00 a.m.

MOTION: Rep. Walsh moved to approve the minutes of the August 16, 2000 meeting. The motion passed unanimously. Rep. Becker and Rep. Pace were absent for the vote.

2. Revenue Update – Doug Macdonald, Chief Economist, Utah State Tax Commission (Tax Commission) reviewed the handout “Key Economic Indicators.” He stated that while the overall state economy continues to be strong, there are cautionary signs with slower car sales and slowing growth and even some declines in residential and nonresidential construction. However, stronger than expected growth in retail sales and corporate franchise tax revenues are fueling a projected \$30.02 million combined General Fund and Uniform School Fund revenue excess to date.

3. Tax Issues Related to the Navajo Nation – Rep. Keele Johnson discussed the draft legislation “Navajo Nation - Motor and Special Fuel Taxes” and an intergovernmental agreement between the Navajo Nation and the Tax Commission.

Rep. Johnson explained that as the Navajo Nation matures and improves its governing abilities, it is now beginning to impose taxes on its own people and on certain transactions within the boundaries of the Navajo Nation. One of these taxes is a motor fuel tax. Under the proposed

legislation, the motor fuel tax imposed by the state would be reduced to the extent a similar tax is imposed by the Navajo Nation. Otherwise, the five Utah business establishments located within the Navajo Nation that sell motor fuel would be required to collect both the 24.5 cent state motor fuel excise tax and the 18 cent Navajo Nation tax. He also emphasized that the intergovernmental agreement provides that the Navajo Nation will expend the motor fuel tax that it collects in Utah on Utah road projects.

Mr. Gerald Lafont, owner of Goulding's, a Utah business establishment located within the Navajo Nation, told the committee that for years his business only had to manage taxes imposed by state government. However, during the last three or four years the Navajo Nation has begun to also impose a hotel occupancy and a gas tax. This raises a dual taxation problem. He said that he very seldom tells tour groups that they are paying a state and Navajo Nation room tax of 17%; it is just included in the price of the room. He encouraged the state and the Navajo Nation to work together on the imposition of their various taxes.

Rep. Johnson noted that while Wasatch Front communities are enjoying a healthy economy, San Juan County suffers from high rates of unemployment. This legislation would ensure that businesses in San Juan County can continue to operate and provide critical employment opportunities.

Ms. Amy Alderman, attorney, Office of the Navajo Tax Commission, reviewed the proposed legislation and stated that New Mexico and Arizona are addressing the problem of double taxation. Her office wants to ensure that state motor fuel taxes and Navajo Nation taxes are in fact being collected.

Rep. Johnson and Ms. Alderman responded to questions from the committee relating to the fairness of the legislation.

MOTION: Rep. Buffmire moved to pass as a committee bill draft legislation "Navajo Nation - Motor and Special Fuel Taxes. The motion passed with Chair Stephenson and Rep. Dayton voting in opposition. Sen. Poulton and Rep. Becker and Rep. Pace were absent for the vote.

4. Modification of Addition to Income in the Individual Income Tax Act - Lump Sum Distributions – Ms. Rockwell reviewed the draft legislation "Individual Income Tax - Additions to Federal Taxable Income." She explained that under the current state individual income tax provisions, a taxpayer adds certain amounts to federal taxable income in determining state taxable income. One of these additions is for a lump sum distribution, which in general is a distribution of a taxpayer's entire interest in certain retirement plans. Ms. Rockwell explained that although the legislative intent is unclear as to why lump sum distributions were added to federal taxable income when this provision was enacted in 1977, a potential reason for this addition is because on the

federal individual tax return, a taxpayer under certain circumstances may report lump sum distributions after calculating federal taxable income to take advantage of preferential tax rates. Ms. Rockwell noted that certain federal citations in the individual income tax provisions that reference the addition to income for lump sum distributions have been repealed. Under federal law, lump sum distributions are still taxable, but the method of calculating the tax on certain lump sum distributions has been changed. The proposed legislation retains an addition to income for lump sum distributions, but deletes references that were repealed under federal law.

Ms. Rockwell explained that there is another type of income, certain income earned by a child, that a parent may elect to report on the parent's individual income tax return after calculating federal taxable income. Because federal taxable income is the starting point for calculating state taxable income, Ms. Rockwell commented that unless this type of income is added to federal taxable income for state individual income tax purposes, the income would be taxable for federal purposes but not for state purposes. Ms. Rockwell noted that Sen. Valentine directed that this income be added to federal taxable income for state tax purposes.

Sen. Valentine explained that this legislation closes an unintended loophole. While the amount of individual income tax revenue could increase slightly under this bill, we do not know at this time what that amount will be. He emphasized that the Legislature did not intentionally create this preferential tax treatment for this type of income. He stated that it is bad tax policy to allow preferential tax treatment on the basis of how income is reported, in this case exempting from state taxation certain income if it is reported by a parent and taxing that income if a child files a return under the child's name. Sen. Valentine said that similar transactions should receive similar tax treatment. However, unless this change is made, an inequitable tax treatment will continue.

MOTION: Sen. Valentine moved to approve as a committee bill draft legislation "Individual Income Tax - Additions to Federal Taxable Income."

SUBSTITUTE MOTION: Rep. Short moved to hold the bill until a fiscal note has been prepared for the bill. The motion passed unanimously. Rep. Becker and Rep. Pace were absent for the vote.

5. Indexing Individual Income Tax Brackets for Inflation – Ms. Rockwell reviewed the draft legislation "Individual Income Tax - Bracket Adjustments." She noted that the Tax Review Commission (TRC) favorably recommended this bill during its October meeting. Ms. Rockwell explained that the legislation adjusts the individual income tax brackets, but not the tax rates, to compensate for the effects of inflation or deflation. The Legislature considered the legislation during the 2000 General Session, but the legislation did not pass.

Mr. Greg Fredde, Vice President, Utah Taxpayers Association, distributed the handout "Easing the Pain of April 15th: Reforming Utah's Income Tax Structure." He explained that this

legislation is necessary to stop the “silent” tax increase that affects all Utahns because the individual income tax brackets are not indexed for inflation.

MOTION: Rep. Harper moved to pass as a committee bill draft legislation “Individual Income Tax - Bracket Adjustments.” The motion passed unanimously. Sen. Allen and Rep. Short, Rep. Baca, Rep. Becker, Rep. Pace, and Rep. Seitz were absent for the vote.

6. Sales and Use Tax Exemption for Mining Establishments – Ms. Rockwell reviewed the draft legislation “Sales and Use Tax Exemption for Mining Establishments.” She explained that this legislation grants a sales and use tax exemption for sales or leases of certain machinery, equipment, or a part for machinery or equipment purchased or leased by a mining establishment.

Ms. Rockwell explained that under the proposed legislation “mining establishment” means an establishment described in Section 21, Mining, of the 1997 North American Industry Classification System (NAICS) of the federal Executive Office of the President, Office of Management and Budget. She noted that this is the first time that NAICS has been referenced in Utah Code Annotated. Ms. Rockwell also explained that Sector 21 is the broadest category of mining establishments under NAICS and includes establishments that extract: naturally occurring mineral solids, such as coal and ores; liquid minerals; and gases..

Mr. Tom Bingham, Director, Utah Mining Association, told the committee that his association welcomes any assistance that the Legislature can provide the mining industry in Utah, particularly the coal industry. He said that while the coal industry is particularly distressed, the entire mining sector has been negatively affected by low worldwide commodity prices. Mr. Bingham discussed the importance of mining in Utah, and the benefits of offering incentives to encourage mining in an increasingly competitive market.

Sen. Stephenson said that some would argue that because the ore bodies are in Utah there is no place else for mining to occur. Mr. Bingham replied that while that used to be the case, today’s mining companies are national and international concerns. If conditions are not favorable in one area, production simply shifts to other areas. Companies can now find reserves elsewhere and take the jobs and investment overseas.

Mr. Greg Fredde, Vice President, Utah Taxpayers Association, told the committee that the manufacturing sales and use tax exemption has been reviewed by the Legislature numerous times and has been found to return in tax dollars more than the exemption costs in lost revenue. He also commented that it is good public policy for the Legislature to not tax business inputs.

Sen. Valentine asked how local governments would be able to make up the loss of local sales and use tax revenue. He said that this exemption could particularly affect rural communities that would lose tax revenues, but must still provide services. Mr. Fredde replied that the manufacturing

exemption was phased in over three years to allow local governments to adjust to the revenue change.

Sen. Dmitirch emphasized that mining is important in both Utah and the nation. The loss of jobs resulting from mine closures or workforce reductions has a greater impact on communities than the revenue loss due to a sales and use tax exemption. He stressed the importance of offering help to Emery County and Carbon County. Sen. Dmitirch noted that this exemption may encourage new companies to come to Utah. Finally, he added, the mining industry has not traditionally asked the Legislature for special tax treatment, and approving this exemption would indicate the Legislature's recognition of the important contribution that the mining industry makes to Utah's economy.

Mr. Bruce Johnson, Tax Commission, told the committee that rapid fluctuation in capital purchases by mines from year to year makes it difficult to accurately estimate the revenue effects of this proposal. The revenue effects provided by the Tax Commission are based on a 1997 census of mining. However, that year was also a peak year for capital purchases by mining companies.

MOTION: Rep. Dayton moved to approve as a committee bill draft legislation "Sales and Use Tax Exemption for Mining Establishments." Rep. Short and Sen. Dmitirch declared a conflict of interest. The motion passed unanimously. Sen. Allen and Rep. Becker and Rep. Jones were absent for the vote.

7. Other Business – Chair Stephenson announced that the next meeting of the Revenue and Taxation Interim Committee would be held on Wednesday, November 15, 2000.

Ms. Rockwell provided a copy of the draft legislative review note for the draft legislation "Reauthorization of Utah Steam Coal Tax Credit."

Chair Stephenson complimented the Tax Commission regarding their administration of a certain sales and use tax exemption for agriculture.

Rep. Short complimented the the Salt Lake County Assessor for providing residents with advance notice of proposed property tax increases, allowing sufficient time for issues relating to the proposed increases to be addressed.

6. Adjournment

MOTION: Rep. Rowan moved to adjourn the meeting at 11:30 a.m. The motion passed unanimously.

