

**MINUTES OF THE
REVENUE AND TAXATION INTERIM COMMITTEE**
Wednesday, October 24, 2001 – 2:00 p.m. – Room 129 State Capitol

Members Present:

Sen. Curtis S. Bramble, Senate Chair
Rep. Wayne A. Harper, House Chair
Sen. Ron Allen
Sen. Howard A. Stephenson
Rep. Afton Bradshaw
Rep. Judy Ann Buffmire
Rep. David Clark
Rep. Bryan D. Holladay
Rep. Carol Spackman Moss
Rep. LaWanna Shurtliff
Rep. Gordon E. Snow
Rep. John E. Swallow

Members Absent:

Sen. Lyle W. Hillyard
Rep. Ralph Becker
Rep. Kevin S. Garn

Staff Present:

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

Note: A list of others present and a copy of materials can be found at <http://www.image.le.state.ut.us/imaging/history.asp> or contact the Office of Legislative Research and General Counsel.

1. Committee Business

Chair Bramble called the meeting to order at 2:33 p.m.

MOTION: Rep. Bradshaw moved to approve the minutes of the September 12, 2001 meeting. The motion passed unanimously with Sen. Allen and Rep. Swallow absent for the vote.

2. Revenue Update for the First Quarter of Fiscal Year 2000 - 2001

Mr. Douglas Macdonald, Chief Economist, Tax Commission (Utah State Tax Commission), distributed and reviewed the handout "TC-23 Monthly Revenue Summary." He stated that actual revenue growth is below legislative projections for the first three months of the current fiscal year. Combined General Fund and Uniform School Fund revenues are \$24.5 million below legislative projections and Transportation Fund revenue is \$1.8 million below projections. He noted that Utah's economy is lagging in several sectors including consumer sentiment, new automobile sales, and nonresidential construction. On the positive side, residential construction permits have increased over the last year.

3. Progress Report from the Government Revenue and Tax System Task Force

Rep. Greg Curtis, House Chair, Task Force (Government Revenue and Tax System Task Force), told the Committee that the Task Force is authorized for two years and is charged with a thorough and comprehensive review of state and local government finances. He stated that the Task Force has received testimony from the Utah League of Cities and Towns, Utah Association of Counties, Utah School Boards Association, and Utah Association of Special Districts.

4. Individual Income Tax Reform Issues

Proposal for Tax Relief for Armed Forces Personnel Mobilized for Active Military Duty

Sen. Bramble noted that this item had been added to the agenda so that the Committee could consider ways to provide individual income tax relief to armed forces personnel mobilized for active military duty. He noted that members of the military who are mobilized for active duty are required to make many sacrifices. In addition to leaving family and community, many also experience a reduction in income. Sen. Bramble stated that the Utah Legislature should support these men and women by exempting income received from full-time military duty from State individual income taxes.

General Brian L. Tarbet, Adjutant General, Utah National Guard, told the Committee that there are about 6,500 soldiers and airmen who are members of the Utah National Guard and Utah Air National Guard. As of today, there are about 85 members of the guard deployed overseas and another 149 deployed in other locations. General Tarbet told the Committee that full-time deployments can happen anywhere and at any time. It is possible for a member of the Utah National Guard to be "deployed in place." That is, to be mobilized for federal active duty and not leave the state. He noted that there are several states that grant individual income tax relief for armed forces personnel mobilized for active military duty. During the upcoming Olympic Winter Games of 2002, members of the Utah National Guard will be deployed in several different types of duty status. The Legislature will need to be careful in drafting legislation to ensure that any type of active duty status is allowed an exemption.

Mr. Scott Wares told the Committee that he is a member of the Utah National Guard and a former member of the United States Navy. He stated that members of the Utah National Guard make significant contributions to our nation's defense. He noted that other states not only exempt from individual income taxes the income of mobilized personnel but also exempt the combat pay of full-time military personnel. He urged Utah to consider a similar policy.

Rep. Matt Throckmorton appeared before the Committee to explain his legislation that was considered, but not adopted, during the 2001 Second Special Session. He explained that the legislation would grant health care benefits to state employees who are mobilized for federal active duty. He explained that while the family members of persons who are on full-time active military duty receive military health benefits, these family members must sometimes travel long distances to military facilities to receive medical treatment. This places an additional burden on military families. Under his legislation, Rep. Throckmorton noted that a state employee who is mobilized for active military duty would be able to maintain the regular state health care coverage.

MOTION: Sen. Stephenson moved to request staff to draft legislation exempting from individual income taxation the income of armed forces personnel who are mobilized for full-time active military duty and that the Committee endorse this concept. In addition, if the Legislature is called into special session to consider budget issues, Sen. Stephenson moved that the Committee request the Governor to place the legislation on the special session call.

Rep. Swallow stated that the Legislature needs to do everything possible to support the armed forces and encourage persons to join the armed forces.

Rep. Snow requested that the motion be divided. He stated the Legislature does not have time during a special session to carefully examine all the ramifications of the legislation, and a special session would not allow time for the bill's proper treatment.

Rep. Harper asked about the effective date of the legislation if the legislation is enacted during a special session. Sen. Stephenson said that he would like to see the legislation take effect as soon as possible. Rep. Buffmire asked if enlisted personnel in a combat zone should also be exempt. She encouraged the sponsor of the bill to also include this provision as part of the legislation.

The first half of the motion, to draft legislation providing an individual income tax exemption for armed forces personnel mobilized for full-time military duty and to endorse this concept passed unanimously with Sen. Allen absent for the vote.

The second half of the motion, to request the Governor to place the legislation on the call of a special session, passed with Rep. Snow voting in opposition and Sen. Allen absent for the vote.

MOTION: Rep. Buffmire moved that the Committee explore the feasibility of exempting combat pay from the state individual income tax. The motion passed unanimously with Sen. Allen absent for the vote.

MOTION: Rep. Buffmire moved that the Committee endorse the concept of providing health care insurance to state employees who are mobilized for active duty. The motion passed unanimously with Sen. Allen absent for the vote.

5. Tangible Personal Property That Is Exempt from the Sales and Use Tax -- Sales and Use Tax Treatment of Repairs of That Tangible Personal Property

Mr. Bruce Johnson, Commissioner, Tax Commission (Utah State Tax Commission), distributed to the Committee the handout "Taxability of Parts/Labor for Items Exempt from Sales Tax" explaining how the Tax Commission treats for sales and use tax purposes repairs of tangible personal property if the tangible personal property subject to repair is exempt from sales and use taxes. Mr. Johnson noted that there are some inconsistencies in Tax Commission practice in this area. He asked the Committee to consider legislation to clarify this practice.

MOTION: Sen. Stephenson moved that the Committee request staff to draft legislation under direction of the Committee chairs, and with the assistance of the Tax Commission, to provide for consistent treatment of repairs of tangible personal property for sales and use tax purposes. The motion passed unanimously with Sen. Allen absent for the vote.

6. Implementation of the Farmland Assessment Act

Mr. Art Partridge, Washington County Assessor, appeared before the Committee on behalf of the Assessors (Utah Association of County Assessors). He explained that the Assessors have been meeting for the past several months to recommend changes to the FAA (Farmland Assessment Act). Mr. Partridge concluded by stating that Rep. Tom Hatch has expressed interest in sponsoring legislation to implement these suggested changes.

Rep. Harper asked if the Assessors were also considering changes to the FAA regarding conservation easements. Mr. Partridge said that this would be a separate bill. Rep. Harper said that these are important issues that need to be addressed.

Mr. Brent Armstrong, Attorney, Armstrong Law Offices, told the Committee that he has worked extensively with the FAA. He stated that the rollback tax is not something under budgetary control of the county. Because a county receiving rollback tax revenue is triggered by landowner's actions and not county actions, these revenues are not included in any budget and should not be relied on for ongoing budget needs. Mr. Armstrong asserted that for counties, the rollback tax is essentially a windfall of unexpected revenues. Because ongoing revenues are not at issue, and there is plenty of time for an appeal, Mr. Armstrong recommended that the FAA be changed to allow a taxpayer to appeal the fair market value of land that is assessed under the FAA.

Mr. Armstrong explained that many taxpayers do not closely examine the fair market value of their property subject to the FAA as determined by the county assessor. He said that the taxpayer is only concerned with the property tax owed and usually does not pay attention to the property's fair market value. He told of one property where the fair market value was increased by 200 percent but the FAA assessment did not change. He recommended that for FAA and rollback tax purposes the appeal deadline should be one year after the sale of the property.

Mr. Armstrong also suggested that the Committee consider changes to the 5 acre minimum acreage requirement for FAA assessment purposes. He said that the law should be changed to allow for adjoining parcels of land that is part of a revocable trust to be combined for purposes of the FAA. Mr. Armstrong also recommended that the law be changed to allow for detached parcels of land that are connected to a farming operation to be combined for purposes of the FAA.

Rep. Harper urged the Assessors and Mr. Armstrong to work together to develop recommendations for changes to the FAA.

With regards to granting more time to appeal the fair market value of property subject to the FAA, Sen. Bramble noted that the current system is unfair in that there are no options for redress for a taxpayer in this situation. He said that he was aware of one situation where certain property was grossly overvalued by the county assessor. However, because the taxpayer did not appeal the valuation within the short time frame provided by statute, he was obligated to pay the taxes due.

Mr. Armstrong said that the same rules should apply for FAA appeals as for the regular property tax appeals. Only the time frame for FAA appeals should be changed.

Mr. Dennis Ayres, Iron County Assessor, asked whether under Mr. Armstrong's proposal a county assessor would have the ability to change the value of property subject to the FAA at the time the rollback tax is assessed if the sales price is higher than the fair market value listed on the property tax valuation notice. He also asked whether under Mr. Armstrong's proposal the rollback tax could be increased if the sales price is higher than the fair market value listed on the property tax valuation notice. Mr. Ayres commented that most taxpayers are very well aware of the fair market value of their FAA property listed on the property tax valuation notice, and are aware of the benefits of FAA assessment.

Mr. Denny Lytle, Property Tax Division, noted that the example discussed by Sen. Bramble of property being grossly overvalued could be handled under the "illegal or erroneous" assessment provision. Sen. Bramble said that relief is granted under this provision at the discretion of the county, and that in Sen. Bramble's example the county did not grant relief.

7. Review of Individual Income Tax Credits

Because of a lack of time, this item will be postponed until the November interim meeting.

8. Other Business

Chair Bramble adjourned the meeting at 5:16 p.m.

