

**\*\*REVISED\*\***

**MINUTES OF THE  
TAX REVIEW COMMISSION**

Friday, November 9, 2001 – 1:00 p.m. – Room 405 State Capitol

**Members Present:**

Mr. Gary Cornia, Chair  
Sen. Lyle W. Hillyard  
Sen. Millie M. Peterson  
Rep. Judy Ann Buffmire  
Rep. Greg J. Curtis  
Mr. Larry Barusch  
Mr. Mark K. Buchi  
Ms. Kathleen Howell  
Commissioner Bruce Johnson  
Mr. Bruce Jones  
Ms. Dorothy P. Owen

**Members Absent:**

Mr. Keith Prescott, Co-Chair  
Mr. David Crapo  
Ms. Anne Clark

**Staff Present:**

Mr. Bryant Howe, Research Analyst  
Mr. O. William Asplund, Assistant Director  
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. TRC (Tax Review Commission) Business**

Chair Cornia called the meeting to order at 1:10 p.m.

**MOTION:** Sen. Peterson moved to approve the minutes of the October 12, 2001 meeting with noted changes. The motion passed unanimously with Ms. Owen absent for the vote.

**2. Process to Review Proposed New Exemptions to the Sales and Use Tax**

Mr. Asplund distributed and reviewed the handout "Options for Reviewing Changes in the Sales and Use Tax Base Prior to Legislative Action." He also distributed a summary of the revenue effects of current sales and use tax exemptions as found in the Utah State Tax Commission Annual Report FY 1999-2000. He responded to Commission questions.

**MOTION:** Mr. Barusch moved to adopt the following:

1. The TRC recommend that the Governor and Legislature include in their respective budgets, for information purposes only, the accounting of the revenue effects of all sales and use tax exemptions. This accounting would be performed annually by the Tax Commission (Utah State Tax Commission) and included in the Tax Commission's annual report.
2. The TRC will include, for information purposes only, the revenue effects of all sales and use tax exemptions as published by the Tax Commission as part of the report, Under Utah Code Ann. §59-12-104.1, where the TRC is required to report to the Governor and Legislature annually regarding the TRC's review and recommendations of sales and use tax exemptions.

3. The TRC believes that the revenue effects of sales and use tax exemptions should be treated as expenditures of public funds and should be treated as such during the Governor and Legislature's budget process.

Commission discussion followed. He withdrew his motion.

**MOTION:** Sen. Hillyard moved the following:

1. The TRC request that the Tax Commission annually prepare an accounting of the revenue effects of all sales and use tax exemptions. This would be similar to the document found on page 45 of the Tax Commission's annual report for Fiscal Year 1999 - 2000.
2. The TRC mail this document to the Governor, members of the Legislature, and the media with any additional information or disclaimers that are adopted by the TRC.
3. The TRC request that the Tax Commission report back to the TRC regarding any changes to state law that are needed to improve the ability of the Tax Commission to accurately estimate the revenue effects of these sales and use tax exemptions.

The motion passed unanimously with Rep. Curtis absent for the vote.

### **3. Individual Income Tax Reform**

Mr. Howe distributed and reviewed the handout "Utah Tax Review Commission Consensus Motion Regarding Proposed Legislation," including the "Tax Recodification Commission Income Tax Policy, 1990 General Session, H.J.R. 31," "Individual Income Tax Reform Proposed Legislation," and "Ad Hoc Task Force on Tax Burden Report to Tax Review Commission."

Ms. Owen expressed concern with accepting the proposed legislation mentioned in the policy position. She stated that policy provisions 1 and 5 should be combined. She indicated that TRC should include a copy of the Tax Burden Study, produced by the Tax Commission, along with the policy statement to the Legislature in policy provision 4b. She requested the Tax Commission to update graphs in its study. She also indicated that the TRC should include reasons for endorsing or not endorsing concepts of the proposed legislation in policy provision 4a.

**MOTION:** Mr. Larry Barusch moved to adopt Policy Position A, as attached. The motion passed unanimously.

### **4. Review of Proposed Amendments to the Tax Article of the Utah Constitution**

Mr. Howe distributed and reviewed draft legislation "Resolution Amending Revenue and Taxation Provisions of Utah Constitution" and "Article XIII. Revenue and Taxation." He explained that the current draft was adopted by the CRC (Utah Constitutional Revision Commission) on November 7, 2001.

Mr. Buchi indicated that the use of the term "fair market value" is of some concern to the Tax Commission and that the language on line 98 ". . . property owned or used by. . ." was a compromise

regarding a concern that was brought forth by the Tax Commission. He stated that the Chair of the CRC indicated the concerns would be addressed again.

Commissioner Johnson stated that the proposed revision would be controversial in many ways. Many people will argue that any changes in constitutional language must indicate a change in the law or in constitutional intent. He felt that argument would be weakened, however, because several different terms in the current constitution (e.g., value, fair market value, value in money, just value) had already been interpreted by the courts to mean the same thing.\*

Mr. John McCarrey, Assistant Attorney General, stated that the Attorney General's Office has taken a position to be extremely cautious in modifying the constitution. He indicated that unintended consequences may result in amending the constitution as has been done in the proposed legislation.

Mr. Buchi stated that there is a need to clarify the constitution by substituting archaic language. He indicated that many terms used in the constitution are no longer used and that makes the interpretation of the articles more difficult.

Commissioner Johnson stated that, by reading the current constitution and the proposed revision, an obvious benefit to the new language is present. He stated he supports the project of the CRC in rewriting the article, but that he cannot see any harm if the language does not pass.

Mr. Barusch indicated that making the constitution easier to read could gain confidence from the public. He stated that it is important that the public understand their taxes and this revision would allow the public to understand the article.

Ms. Howell indicated that she and Rep. Buffmire read the provision together and interpreted the language differently. She stated that there is need for clarification.

**MOTION:** Commissioner Johnson moved to approve the draft constitutional amendment, subject to final review. The motion passed unanimously with Rep. Curtis absent for the vote.

Commission discussion followed.

## **5. Other Business**

**MOTION:** Sen. Peterson moved to adjourn the meeting. The motion passed unanimously with Rep. Curtis and Mr. Jones were absent for the vote.

Chair Cornia adjourned the meeting at 4:26 p.m.

\*This paragraph has been revised per Commissioner Johnson's request.

