

**MINUTES OF THE
TELECOMMUNICATIONS TAX POLICY SUBCOMMITTEE
REVENUE AND TAXATION INTERIM COMMITTEE**
Tuesday, November 13, 2001 – 1:00 p.m. – Room 131 State Capitol

Members Present:

Sen. Curtis S. Bramble, Senate Chair
Rep. Wayne A. Harper, House Chair
Sen. Ron Allen
Rep. Judy Ann Buffmire
Rep. David Clark

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 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. Call to Order

Chair Bramble called the meeting to order at 1:13 p.m.

2. Sales and Use Tax Exemption for Sales of Telecommunications Equipment

Mr. Bruce Johnson, Commissioner, Tax Commission (Utah State Tax Commission), told the Subcommittee that the Tax Commission had been asked to provide an estimate of the revenue effects of: (1) imposing the sales and use tax on sales of interstate telephone service and (2) exempting from the sales and use tax sales of telecommunications equipment.

Mr. Johnson reported that imposing the state and local sales and use taxes sales on interstate telephone service would result in an additional \$32 million in revenue for state and local governments and if the Legislature were to exempt from the state and local sales and use tax, sales of telecommunication equipment, this would result in a loss of about \$23 million in revenue. The net revenue gain would be about \$8 million. He noted that the Tax Commission's estimates are close to estimated prepared by the telecommunication's industry.

Mr. John Cmelak, Director, Tax Policy, Verizon Wireless, told the Subcommittee that the final sale of a product should be subject to tax and not the inputs purchased by businesses to produce that final product. He said that by endorsing this concept, the Subcommittee is not breaking new ground. Utah has already endorsed this principle in the manufacturing sector. The telecommunications industry is simply asking to be treated similarly.

Mr. Cmelak stated that the Subcommittee should consider whether Utah is doing all that it can to attract new and faster telecommunications technologies. Mr. Cmelak said that the days of unlimited access to capital are over. Investors are very nervous and the slow down in the capital market has lead to very tough investment decisions. He emphasized that while not all capital investment decisions are not based on state and local sales taxes, when the return on investment is computed, taxes are part of the equation. He concluded by stating that enacting the exemption would send a strong signal to telecommunications companies that Utah is modernizing its tax code to foster a strong investment in a modern and effective telecommunications system.

Sen. Allen noted that it will be difficult to sell this idea to the public—imposing a tax on consumers yet grant a tax break to businesses. He said the telecommunications industry will need a very effective and persuasive effort to convince the Legislature and the public that this is the right thing to do. Mr. Cmelak said that the wireless industry in Utah is very competitive and that prices are falling. He said that what might happen over time will be that any savings realized by companies will be pushed down in the form of a rate reduction. He stated that consumers will not loose in this proposition because market forces will push prices down, even after the imposition of the tax.

Mr. Chris Blake, Qwest Communications, told the Subcommittee that his company supports an exemption for sales of telecommunications equipment. He also said that some simplification measures, including eliminating some currently imposed fees, could be implemented to offset the additional \$8 million in revenue that would be gained from this proposal.

Mr. Roger Tew, Utah League of Cities and Towns, told the Subcommittee that while cities are recipients of sales tax dollars and are skeptical of the merits of some sales tax exemptions, there is a strong case in support of this exemption. He stated that good tax policy argues that the final product, and not the business inputs, that should be subject to the sales tax, however, his organization has not taken a formal position on this issue.

Chair Bramble stated that while the concept is worth further exploration, a comprehensive review and study is needed of this proposal and any further action by the Subcommittee at this time may be premature.

Rep. Harper said that there are merits to this idea and that the Legislature should continue the discussion. He stated there will be a meeting of the Revenue and Taxation Interim Committee in January and that this might be an appropriate forum to continue this discussion.

3. State Compliance with Federal Mobile Telecommunications Sourcing Act

Mr. Bryant R. Howe distributed to the Subcommittee portions of a report from the Congressional committee that reviewed and adopted the Federal Mobile Telecommunications Sourcing Act. He explained that the purpose of the federal act was to direct states and local governments to adopt a uniform system for imposing state and local taxes on telecommunications companies.

Ms. Rebecca L. Rockwell reviewed with the Subcommittee draft legislation "State Compliance with Federal Mobile Telecommunications Sourcing Act." She explained that the bill amends various sections of the Utah Code to bring it into conformity with the federal act. She noted that the bill also explicitly provides that certain municipalities may impose a \$1 per month per telephone line for mobile telecommunications services, but an ordinance to impose this fee must have had been enacted before July 1, 2001 and must comply with the federal act. In addition, the authority to impose these ordinances will expire on July 1, 2003.

Mr. Johnson stated that it is important for Utah to pass this bill. Under the supremacy clause, Utah is bound to follow this federal law and it is important to bring state laws into conformity. He commented that the State should do everything possible to make it easier for phone companies who collect this tax for state and local

jurisdictions to operate and efforts should be made whenever possible to simplify the administration of these taxes and fees.

Mr. Tew stated that his organization has always viewed this bill as technical compliance with federal law that needs to be enacted. However, the inclusion of the \$1 fee, the restrictions and future elimination of that fee, also raises many critical issues. He noted that municipalities have enacted these ordinances in good faith to impose this fee and any provision limiting this fee would involve impairment of contracts. In addition, there is no incentive for the telecommunication's industry to work in good faith towards a major simplification effort. Mr. Tew state that both the municipalities and industry have been working together for the past year towards simplification and plan to continue this effort.

Rep. Harper stated that at a previous Subcommittee meeting, it was represented that all cities who were going to implement the \$1 per month fee had already done so. Chair Bramble stated that without this language, municipalities might rush to impose the fee before a deadline.

Mr. Tew said that there are five municipalities that are considering imposing this fee. Rep. Clark said that perhaps some accommodation be made for these cities.

Chair Bramble said that this legislation would be presented to the Revenue and Taxation Interim Committee tomorrow for additional review and consideration.

4. Other Business

Chair Bramble adjourned the meeting at 2:42 p.m.

