

**MINUTES OF THE
REVENUE AND TAXATION INTERIM COMMITTEE**
Wednesday, November 14, 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. Lyle W. Hillyard
Sen. Howard A. Stephenson
Rep. Ralph Becker
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:

Rep. Kevin S. Garn
Rep. Ty McCartney

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 Harper called the meeting to order at 2:20 p.m.

MOTION: Rep. Holladay moved to approve the minutes of the October 24, 2001 meeting. The motion passed unanimously with Sen. Hillyard, Rep. Becker, Rep. Bradshaw, Rep. Moss, and Rep. Shurtliff absent for the vote.

Mr. Bryant Howe stated that the Tax Commission (Utah State Tax Commission) submitted a letter explaining that the state colleges and universities library contribution fund did not receive \$30,000 per year for 3 consecutive years and so will be removed from the 2002 individual income tax return. A copy of the letter was distributed to the committee.

Mr. Howe introduced a new publication "Tax Primer," which was written by a team from the Office of Legislative Research and General Counsel. This publication provides background information on the Utah tax system. He explained that it had been distributed to legislators and the public can obtain copies from his office.

Mr. Howe distributed and reviewed the handout "Exemption for Sales and Leases of Semiconductor Fabricating or Processing Materials." He explained that this exemption requires a review by the Revenue and Taxation Interim Committee review on an annual basis. This exemption took effect on July 2, 2001 and to date, no taxpayer has claimed this exemption.

Mr. Wayne Welsh and Ms. Maria Stahla, Office of the Legislative Auditor General, distributed and reviewed the handout "A Performance Audit of Unregistered Passenger Vehicles in Utah, October 2001." Ms. Stahla explained that the Transportation Interim Committee is following up on the

recommendations from the report. She stated that the Auditor's recommended to eliminate the county sticker on plates and increase the size of the stickers to increase compliance in registering vehicles. Ms. Stahla indicated that the State is losing money due to residents registering their vehicle in other states. She stated that the Auditor's office has made recommendations to the Utah Highway Patrol and to the courts. Ms. Stahla stated that they also recommended that the fine be increased and eliminate the vehicle to vehicle transfer of the old black and white plates. However, these recommendations are not being addressed by any committee.

2. Individual Income Tax/Corporate Franchise and Income Taxes Legislation

Ms. Rebecca L. Rockwell, Associate General Counsel, OLRGC, distributed and reviewed draft legislation "Individual Income Tax - State Earned Income Tax Credit." She explained that the Tax Review Commission asked to have this legislation drafted. She indicated that this legislation provides a non-refundable individual income tax credit equal to 5 percent of the federal earned income tax credit for a taxpayer with a federal adjusted gross income of \$25,000 or less. She stated that this legislation would be funded out of the General Fund. Ms. Rockwell also distributed and reviewed the handout "Examples of Potential Issues Relating to 'Individual Income Tax - State Earned Income Tax Credit.'"

Ms. Rockwell distributed and reviewed draft legislation "Individual Income Tax - Bracket Adjustments." She indicated that this legislation would require the Tax Commission to make adjustments to the individual income tax brackets and amounts of tax as a result of inflation or deflation. She stated that this is an ongoing adjustment. Ms. Rockwell highlighted that this legislation also clarifies the different filing statuses.

Ms. Rockwell distributed and reviewed draft legislation "Individual Income Tax Personal Retirement Exemption and Deduction for Retirement Income - Eliminating Marriage Tax Penalties" and the handout "Phase-out Under Current Law and Under Draft Legislation." She indicated that this legislation would eliminate the marriage tax penalty by changing the income amounts at which the personal retirement exemption and the retirement income deduction phase-out.

Mr. Bill Crim, Executive Director, Utah Issues, stated that with the current state of our economy, that the earned income tax credit legislation is extremely important. He encouraged the Committee to amend the earned income tax legislation to include refundable component so it targets the people who have taxes withheld, but do not have an income tax liability. He also indicated that although there is not a sponsor for the legislation before the Committee, Rep. Hatch has opened a bill file for an earned income tax credit.

Ms. Linda Hilton, Coalition for Religious Communities, stated that the Coalition strongly supports the earned income tax credit legislation. She also urged the Committee to support the income tax bracket legislation.

Mr. Scott Hoganson, Utah Taxpayers Association, spoke in favor of the income tax bracket legislation.

Ms. Dee Roland, Catholic Diocese, spoke in favor of both the earned income tax credit and the income tax bracket legislation.

Ms. Sandy Peck, Utah League of Women's Voters, spoke in favor of the earned income tax credit and making it refundable.

Mr. Howe stated that the Tax Review Commission reviewed these three bill but did not recommend any legislation. He highlighted that it did move to support the concept of an earned income tax credit.

Sen. Bramble indicated that there was distributed to the Committee a handout "Individual Income Tax Deduction for Certain Military Pay, NCSL State Surveys" and that the draft legislation will be considered in the next meeting in January.

Rep. Bryson, distributed and reviewed "Higher Education Savings Incentive Program Amendments." She explained that in 1996 the Legislature created the Utah Educational Savings Plans Trust as an incentive for higher education expenses. She highlighted that contributions up to a certain amount can be deducted from state taxable income. She indicated that federal legislation has changed the way these types of savings plans are taxed and so this draft legislation modifies some of these changes.

Mr. Dale Hatch, Administrator, Higher Education Savings Incentive Program, explained that this legislation clarifies that since the money is invested similar to a 401k, the people who put money into this program have made a choice and the program is not responsible with there is a down-turn in the market. He also indicated that since the this program will now be exempt from federal taxes, this legislation changes the exemptions on the state level.

Rep. Bryson asked to have an amendment made on line 191, after "Higher Education Savings Incentive Program" to insert "that is included in federal taxable income" prior to the comma.

Commissioner Bruce Johnson, Tax Commission, stated the Tax Commission will not have any administrating problems with this legislation and strongly supports the amendment asked for by Rep. Bryson.

MOTION: Rep. Buffmire moved to amend "Higher Education Savings Incentive Program Amendments" as follows:

Page 7, line 191: After "Program," insert "that is included in federal taxable income"

The motion passed unanimously with Sen. Hillyard, Rep. Becker, Rep. Bradshaw, Rep. Moss, and Rep. Shurtliff absent for the vote.

MOTION: Rep. Buffmire moved to recommend draft legislation "Individual Income Tax - State Earned Income Tax Credit" and draft legislation "Higher Education Savings Incentive Program Amendments." The motion passed unanimously with Sen. Hillyard, Rep. Becker, Rep. Bradshaw, Rep. Moss, and Rep. Shurtliff absent for the vote.

MOTION: Sen. Bramble moved to recommend draft legislation "Individual Income Tax - Bracket Adjustments" and draft legislation "Individual Income Tax Personal Retirement Income - Eliminating Marriage Tax Penalties." Sen. Bramble withdrew his motion.

MOTION: Sen. Bramble moved to amend "Individual Income Tax - Bracket Adjustments" as follows:

Page 1, line 21: After "wife" insert a comma and bracket "or"

Page 1, line 21: After "head of household" insert ", or surviving spouse"

The motion passed unanimously with Sen. Hillyard, Rep. Becker, Rep. Bradshaw, Rep. Moss, and Rep. Shurtliff absent for the vote.

MOTION: Sen. Bramble moved to recommend draft legislation "Individual Income Tax - Bracket Adjustments" and draft legislation "Individual Income Tax Personal Retirement Exemption and Deduction for Retirement Income - Eliminating Marriage Tax Penalties." The motion passed unanimously with Sen. Hillyard, Rep. Becker, Rep. Bradshaw, Rep. Moss, and Rep. Shurtliff absent for the vote.

Chair Harper relinquished the chair position to Chair Bramble.

3. Resolution Amending Revenue and Taxation Article of the Utah Constitution

Rep. Harper distributed and presented draft legislation "Resolution Amending Revenue and Taxation Article" which would change the residential property tax exemption in the Utah Constitution from 45 percent to 60 percent. He explained that the reason for this change is the increase in property values which is causing a hardship, especially for those who are paying more in property taxes than for mortgage payments.

Mr. Tom Bingham, President, Utah Manufacturers Association, and Mr. Greg Fredde, President, Utah Mining Association, spoke in opposition of this legislation because it would increase taxes on businesses.

Ms. Bonnie Fernandez spoke in favor of this legislation in that it would help relieve some of the heavy burden on homeowners.

Rep. Harper stated that the concept behind this legislation is important and that something needs to be done.

Rep. Harper distributed and explained draft legislation "Joint Resolution - Debt Limits for Political Subdivisions." He commented that this legislation removes from the Utah Constitution the debt limits for cities and town and gives that authority to the Legislature.

MOTION: Rep. Swallow moved to go to the next item on the agenda. The motion passed unanimously with Sen. Allen, Rep. Becker, Rep. Bradshaw, Rep. Moss, and Rep. Shurtliff absent for the vote.

4. Removal of Tax Credits from Tax Form and Prohibition of Claiming or Carrying Forward Tax Credit

Ms. Rockwell distributed and presented draft legislation "Tax Credits - Removal of Tax Credit From Tax Form and Prohibition on Claiming or Carrying Forward Tax Credit." She explained this legislation will require the Tax Commission to remove a tax credit for a tax return and not allow an individual filing a tax return from claiming or carrying forward a tax credit if the total amount claimed or carried forward is less than \$10,000 for 3 consecutive years and if fewer than 10 persons per year for 3 consecutive years claim the credit. She explained that this legislation also requires the Tax Commission to report to the Revenue and Taxation Interim Committee on these credits.

Chair Harper noted that information on this tax credits is available on the handout "Utah Individual Income and Corporate Franchise and Income Tax Credits 1996 through 2000 Tax Years, Number of Returns Claiming Credit and Amount of Credit Claimed" which was distributed to the committee.

Commissioner Johnson stated this is a means of simplifying the tax form and eliminating the credits that are not being used. He commented that the issue of reporting to the Interim Committee is to allow the legislature to keep the credit if it so chooses.

Ms. Kris Fawson, Legislative Coalition for People with Disabilities, stated that even through some of these credits are not widely used they are important to the people who do use them.

MOTION: Rep. Clark moved to amend "Tax Credits - Removal of Tax Credit From Tax Form and Prohibition on Claiming or Carrying Forward Tax Credit" as follows:

Page 2, line 38: After "Three" insert "Consecutive"

The motion passed unanimously with Sen. Allen, Rep. Becker, Rep. Bradshaw, Rep. Moss, Rep. Shurtliff, and Rep. Swallow absent for the vote.

MOTION: Sen. Bramble moved to recommend the draft legislation "Tax Credits - Removal of Tax Credit from Tax Form and Prohibition on Claiming or Carrying Forward Tax Credit." The motion passed, with Rep. Buffmire and Rep. Snow voting in opposition to the motion and Sen. Allen, Sen. Stephenson, Rep. Moss, Rep. Shurtliff, and Rep. Swallow absent for the vote.

5. Property Tax - Judgment Levy

Ms. Rockwell distributed and presented draft legislation "Property Tax - Judgment Levy." She explained that this changes the minimum amount of a taxing entity's share of a judgment levy or order that is required to impose a judgment levy. She stated the legislation also amends the time period for refunding the tax as ordered to be paid.

Mr. Fredde commented on the extent taxing entities impose judgment levies.

MOTION: Sen. Hillyard moved to recommend draft legislation "Property Tax - Judgment Levy" as a Committee bill.

SUBSTITUTE MOTION: Rep. Snow moved to go to the next item and for the sponsor to continue running this through the normal process. The motion passed with Sen. Hillyard, Rep. Harper, and Rep. Holladay voting in opposition to the motion and Sen. Allen, Sen. Stephenson, Rep. Moss, Rep. Shurtliff, and Rep. Swallow absent for the vote.

6. State Compliance with Federal Mobile Telecommunications Sourcing Act

Due to lack of time this item was delayed until the next meeting in January.

7. Sales and Use Tax - Taxability of Parts and Labor

Ms. Rockwell distributed and reviewed the draft legislation "Sales and Use Tax - Taxability of Parts and Labor." She explained this legislation amends the Sales and Use Tax Act to exempt from sales and use tax sales of certain parts and labor. Ms. Rockwell commented that the Tax Commission practices were inconsistent and this legislation would make certain exemptions consistent as the handout from the Tax Commission distributed in the October's meeting.

MOTION: Sen. Bramble moved to recommend draft legislation "Sales and Use Tax - Taxability of Parts and Labor." The motion passed unanimously with Sen. Allen, Sen. Hillyard, Rep. Moss, Rep. Shurtliff, and Rep. Swallow absent for the vote.

8. Other Business

MOTION: Sen. Bramble moved to adjourn the meeting at 4:45 p.m. The motion passed unanimously with Sen. Allen, Sen. Stephenson, Rep. Moss, Rep. Shurtliff, and Rep. Swallow absent for the vote.

Chair Harper adjourned the meeting at 4:45 p.m.