

**MINUTES OF THE
REVENUE AND TAXATION INTERIM COMMITTEE**
Wednesday, October 23, 2002 – 9:00 a.m. – Room 129 State Capitol

Members Present:

Sen. Curtis S. Bramble, Senate Chair
Rep. Wayne A. Harper, House Chair
Sen. Howard A. Stephenson
Sen. Lyle W. Hillyard
Rep. Stuart J. Adams
Rep. Ralph Becker
Rep. Judy Ann Buffmire
Rep. David Clark
Rep. Steven R. Mascaro
Rep. Ty McCartney
Rep. Carol Spackman Moss
Rep. LaWanna Shurtliff
Rep. Gordon E. Snow

Members Absent:

Sen. Ron Allen
Rep. John E. Swallow

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 by contacting the committee secretary at 538-1032.

1. Committee Business

Chair Harper called the meeting to order at 9:10 a.m.

MOTION: Sen. Hillyard moved to approve the minutes of the September 18, 2002 meeting. The motion passed unanimously with Rep. Shurtliff absent for the vote.

2. Revenue Update – First Quarter FY 2003

Mr. Douglas Macdonald, Chief Economist, Economic and Statistical Unit, Tax Commission (Utah State Tax Commission), distributed and reviewed "TC-23 Monthly Revenue Summary: First Fiscal Quarter, FY2002-2003." He indicated that for the first quarter of FY 2003, combined General Fund/Uniform School Fund Revenues are \$3.06 million below target, while Transportation Fund Revenues are \$6.23 million above target. He stated that employment growth, nonresidential construction, and gross taxable sales continue to slump. He also highlighted that the month of September was better than expected in sales tax, withholding tax, and corporate income tax collections.

3. Review of Utah Supreme Court Ruling in the Case of *Heritage Convalescent Center v. Utah State Tax Commission*

Ms. Rebecca L. Rockwell distributed and made the presentation "Heritage Convalescent Center v. Utah State Tax Commission." She reviewed the facts of the case and the decisions made by the Tax Commission and the Utah Supreme Court. She stated that certain hospitals and nursing homes had filed a request with the Tax Commission for a refund of sales and use taxes paid on bulk purchases of food used to prepare inpatient meals. The hospitals and nursing homes did not make a separate charge for these meals. Rather, the meals were included as part of the patient's room and board charges. The Tax

Commission denied the request for the refund determining that no sale of a meal ever took place and that the hospitals and nursing homes, as final consumers of the bulk purchases of food, were liable for the payment of the tax. However, this finding was overturned by the Utah Supreme Court, which concluded that a sale of inpatient meals had occurred even though the meal charges were not separately itemized. She said that the court found that the sales of the meals were exempt under the sales and use tax exemption for inpatient meals provided at medical or nursing facilities and the bulk purchases of food were exempt under the sales and use tax exemption for property purchased for resale in the State.

Mr. Bruce Johnson, Commissioner, Tax Commission, distributed and reviewed "Revenue and Taxation Committee: Bundled Items." He explained that bundled items mean taxable and nontaxable property or services combined in one price. He reviewed examples of bundled items, issues associated with collecting the sales and use tax on transactions involving these items, principles to be used in taxing bundled items, and recommendations. Mr. Johnson stated that the Tax Commission is studying this issue and will develop a recommendation for the Legislature to consider. He noted that the Streamlined Sales Tax Project is also studying this issue and that some areas may be preempted by federal law. He concluded by stating that the Tax Commission may propose a different response for different industries.

MOTION: Sen. Stephenson moved to direct the committee chairs and staff to communicate with the Tax Commission to develop recommendations on the process to discuss this issue. The motion passed unanimously with Sen. Bramble, Sen. Hillyard, Rep. Becker, Rep. McCartney, and Rep. Moss absent for the vote.

4. Resort Community Local Option Sales and Use Tax: Overview of Current Structure, Problems, and Options for Possible Changes

Mr. Bryant R. Howe distributed and reviewed "Resort Community Sales and Use Tax." He said that to be eligible to impose this tax, a municipality's transient room capacity must equal or exceed 66 percent of its permanent resident population. He described the 13 cities and towns that levy the tax and the various rates that the municipalities impose. In the fiscal year ending on June 30, 2002, these municipalities collected \$7,307,016 from this tax. He also reviewed several issues surrounding the administration of this tax. First, he noted that State law does not define "transient room capacity." He said that while information exists on the space that is available in motels, hotels, other lodging facilities, and campgrounds, there is no standard method to determine the capacity of these facilities. Depending on the assumptions that are made regarding capacity, some municipalities that are imposing this tax do not meet the minimum threshold requirement for transient room capacity. He concluded by comparing the property tax rates imposed by municipalities that impose this tax to all other cities in the same county. He noted that some municipalities that impose this tax do not impose a property tax.

Mr. David Spatafore and Mr. Roger Tew, ULCT (Utah League of Cities and Towns), explained that ULCT is currently working with the Tax Commission to develop recommendations on the issues raised by Mr. Howe. The ULCT and the Tax Commission have held one meeting and are currently examining several different options. The ULCT indicated that they would return in the November meeting with recommendations for the Committee's consideration.

5. Property Tax Notice and Hearing Requirements

Sen. Stephenson distributed and reviewed the draft legislation "Property Tax Modifications." He explained that the legislation will modify the requirements of a taxing entity to impose a new tax rate that exceeds the certified tax rate.

Ms. Rockwell reviewed the draft legislation with the Committee. She stated that current law requires taxing entities having a fiscal year that begins on January 1 and ends on December 31 that wish to impose a property tax rate that exceeds the certified tax rate must hold two public hearings and publish two newspaper notices: once when the taxing entity's budget is adopted and again the following summer when the actual property tax rate is adopted. She explained that the legislation eliminates the summer public hearing and newspaper notice requirements for these taxing entities. She said that the draft legislation requires taxing entities to publish in the November property tax notice a notice of a public hearing if the taxing entity intends to impose a tax rate that exceeds the taxing entity's certified tax rate. Ms. Rockwell also explained other changes in the legislation to the requirements a taxing entity must meet to impose a tax rate that exceeds the taxing entity's certified tax rate.

Mr. Brent Gardner, Utah Association of Counties, distributed the handout "Salt Lake County Treasurers: 2001 Original Tax Notice." He raised some concerns about this bill and noted that there are taxing entities that operate on a January 1 through December 31 fiscal year that have not yet had the opportunity to review this legislation.

Mr. Joel Campbell and Mr. Michael Fox, Utah Press Association, explained that the Utah Press Association maintains a searchable website, "www.utahlegalnotices.com," which includes legal notices from the state's 42 daily and weekly newspapers. Mr. Fox said that the Utah Press Association plans on adding to this website all truth in taxation notices that are now being published in newspapers. He noted that this will increase the potential distribution of these notices, and will provide a searchable historical database for notices of truth in taxation hearings.

6. A Proposal for Tax Incentives for Investing in Utah Businesses

Sen. Bramble distributed and reviewed "Investing in Our Future: The Utah Business Venture Capital Tax Plan." He stated that this proposal would provide tax advantages to taxpayers who invest in certain Utah businesses. In general, these would be small businesses that are seeking capital investment for plant and equipment, hiring and training new employees, and establishing distribution networks. He stated that he will bring draft legislation to the next meeting for further consideration by the Committee.

7. Individual Income Tax Credits for Donations to School District Foundations

Mr. Dean Duncan, CPA, distributed "Proposed Utah Education Credit" and made a presentation. He explained that his proposal would establish a tax credit against individual income taxes and corporate franchise and income taxes equal to between 50 and 90 percent of a donation made by a taxpayer to a public education foundation. Under this proposal, certain taxpayers would receive a net tax benefit. He said that adopting this credit would increase the amount of funding available to the state's public schools without increasing the taxpayer's combined state and federal income taxes. He said that at this point this is still a very general concept and that several important issues need to be examined. For example, there would need to be some adjustment in the revenue distribution to school districts from the Uniform School

Fund to compensate for varying levels of donations that will be made to school district foundations. He also distributed a letter "Utah Education Credit Plan: Summary of Sample Tax Return Situations."

Chair Harper asked Mr. Duncan to proceed with the idea and return with draft legislation at a future meeting.

8. Other Items / Adjourn

Chair Harper asked Mr. Lee Gardner to present information that the Committee asked for in the last meeting regarding valuations of secondary residences.

Mr. Lee Gardner, Salt Lake County Assessor, distributed and reviewed a packet of information on real property valuations conducted by his office. As requested by the Committee at its last meeting, he reviewed the appeal and valuation history of Mr. Delbert Draper, a mountain cabin owner who testified before the Committee last month.

MOTION: Rep. Buffmire moved to adjourn the meeting. The motion passed unanimously with Rep. Becker, Rep. Moss, and Rep. Shurtliff absent for the vote.

Chair Harper adjourned the meeting at 12:21 p.m.