

2005 LEGISLATIVE INTERIM REPORT

A report to the 56th Legislature on recommended
legislation and studies from the 2005 Legislative Interim
Committees



OFFICE OF LEGISLATIVE RESEARCH AND GENERAL COUNSEL

Utah State Legislature

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INTRODUCTION AND ACKNOWLEDGMENTS

INTRODUCTION

The *Legislative Interim Report* is prepared each year by the Office of Legislative Research and General Counsel. The yellow pages contain summaries of legislation recommended by legislative committees for the upcoming legislative session. The Report also contains a summary of pertinent interim committee, commission, and task force studies. More information on these studies may be obtained from the Office of Legislative Research and General Counsel. Minutes and histories of meetings are available on the Utah State Legislature's website—<http://le.utah.gov>.

ACKNOWLEDGMENTS

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Each study item selected by an interim committee is approved for study by the Legislative Management Committee. Many of the items studied by interim committees are selected from "The Master Study Resolution" passed during the previous legislative session.

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SUMMARY OF RECOMMENDED LEGISLATION

The following is a summary of recommended legislation, listed alphabetically by committee. Further information on the legislation can be found on the page number provided after certain summaries.

BUSINESS AND LABOR INTERIM COMMITTEE

Filing Liens, H.B. 26- This bill provides that mechanics' liens be filed within 90 days after the date of final completion of the original contract (page 24).

Insurance Department - Sunset Amendments and Revisions, S.B. 14- This bill deletes the time frame limiting when e-commerce fees are treated as dedicated credits; and deletes the sunset date for the e-commerce fees (page 25).

Insurance Related Investment Amendments, H.B. 33- This bill modifies the power to hold property in other than an insurer's own name, including enforcement of these provisions and treatment of securities kept in violation of the provisions; expands the permitted classes of investment; and modifies investment limitations (page 24).

Insurance Reports, Tables, and Examination Amendments, H.B. 34- This bill expands the purposes for which annual statement forms developed by the National Association of Insurance Commissioners shall be used; modifies examination provisions; addresses market regulation surveillance; grants rulemaking authority; addresses cooperation with other states in conducting examinations; deletes requirement that the commissioner obtain and publish certain tables; and adjusts reporting requirements of captive insurance companies (page 24).

Life Insurance and Annuity Law Amendments, H.B. 32- This bill grants rulemaking authority related to life insurance policies, annuity contracts, or certificates; and modifies the amount of life insurance when conversions occur (page 24).

Resolution Urging Congressional Action on the Tax Deductibility of Medical Expenses by Individuals, H.J.R. 2- This resolution urges Congress to adopt the Health Care Freedom of Choice Act, H.R. 66, 109th Cong. (2005), which provides a deduction for uncompensated

medical care of a taxpayer, a taxpayer's spouse, or a taxpayer's dependents; and provides for the distribution of the resolution (page 23).

CHILD WELFARE LEGISLATIVE OVERSIGHT PANEL

Child Protection Amendments, S.B. 7- This bill describes the circumstances and procedures under which a child may be taken into protective custody; describes the circumstances under which a warrant to take a child into protective custody may be issued without first giving the child's parent or guardian notice and an opportunity to be heard; provides an expedited shelter hearing process to determine whether a child should be taken into protective custody; describes the notice requirements relating to an expedited shelter hearing; defines the term "petition"; consolidates existing code provisions relating to the expedited filing of a petition and expedited pretrial and adjudication hearings; and provides notice requirements for shelter hearings (page 28).

Child Welfare - Licensing and Management Information Systems, H.B. 25- This bill addresses the contents of the notice provided to an alleged perpetrator when the Division of Child and Family Services makes a supported finding that the alleged perpetrator committed a severe type of child abuse or neglect; describes the circumstances under which a person's name and information should be entered on, or removed from, the Licensing Information System; provides that, in an adjudicative proceeding to determine whether a person has caused a child to suffer abuse, neglect, or dependency, the Division shall have the burden of proving, by a preponderance of the evidence, that child abuse, neglect, or dependency occurred and that the alleged perpetrator was substantially responsible for the abuse or neglect; and describes the action that must be taken by the Division when an alleged perpetrator listed on the Licensing Information System prior to May 6, 2002 requests removal of the alleged perpetrator's name from the Licensing Information System (page 27).

SUMMARY OF RECOMMENDED LEGISLATION

Child Welfare Revisions, H.B. 21- This bill describes conduct that does not constitute abuse under the child and family services chapter of the Utah Human Services Code; removes services to unwed parents from the list of services provided by the Division of Child and Family Services; describes the training that must be completed by a child welfare caseworker; removes reporting requirements relating to a repealed pilot program; defines the rights and responsibilities of a parent; addresses the provision of family preservation and reunification services by the Division of Child and Family Services; modifies the content of, and the requirements related to, the notice provided when a child is taken into protective custody; provides that an investigation by the Division of Child and Family Services shall include an unscheduled visit to the child's home, unless there is a reasonable basis to believe that the abuser is not the child's parent and does not have access to the child; recognizes the impact upon a child when the child is removed from the child's home; requires the Division of Child and Family Services to attempt to resolve a disagreement with a child's parent regarding a child and family plan and to inform the court if the disagreement is not resolved; addresses the contents of a child and family plan; requires documentation of the grounds for taking a child into protective custody and providing medical care or treatment to a child in protective custody; describes the information that must be given to a parent before interviewing a child who has not been removed from the child's home; expands the list of support persons that may attend an interview of a child; provides defenses to the crime of child abuse; deletes provisions relating to family unity conferences; describes the circumstances under which a court may order medical examination, treatment, or care of a minor; addresses procedures and standards relating to shelter hearings; modifies provisions relating to the grounds under which a child may be retained in protective custody; and requires that a finding that a parent is incapable, due to a mental illness, of utilizing reunification services, must be based on competent evidence from at least two medical or mental health professionals who are not associates (page 28).

Office of Child Welfare Parental Defense Amendments, H.B. 23- This bill provides that the executive director of the

Department of Administrative Services serves as the director of the Office of Child Welfare Parental Defense if the executive director does not appoint a director; describes the duties of the director of the Office of Child Welfare Parental Defense; provides that the Office of Child Welfare Parental Defense may enter into a contract for the provision of assistance, advice, and training to parental defense attorneys; provides that the Office of Child Welfare Parental Defense and a county may, in their discretion, enter into a contract for the office to provide parental defense attorney services directly to the county; provides that the Child Welfare Parental Defense Fund is a nonlapsing, restricted special revenue fund; and provides that the Child Welfare Parental Defense Fund may be used for reasonable training and travel expenses directly related to the functioning of the Office of Child Welfare Parental Defense (page 28).

Utah Child Abuse Prevention Board, H.B. 22- This bill changes the name of the Children's Trust Account to the Children's Trust Fund; describes how funds in the Children's Trust Fund may be used; creates, within the Department of Health, the Utah Child Abuse Prevention Board and lists the duties and powers of the board; grants the board the authority to administer the Children's Trust Fund; establishes membership of the board; provides for the organization of the board, including the appointment of a chair and the creation of committees; provides that members of the board serve without pay, but are entitled to a per diem and reimbursement for expenses; creates the position of executive director of the Children's Trust Fund and establishes the executive director's duties; provides for staff support of the board; requires the executive director of the Children's Trust Fund to report, for consideration and decision, to the Health and Human Services Interim Committee during the 2010 interim regarding the need to reauthorize or modify Title 26, Chapter 7a, Children's Trust Fund, created by this bill; eliminates the responsibility of the Child Abuse Advisory Council and the Board of Child and Family Services to oversee the Children's Trust Account or Children's Trust Fund; and provides under the Legislative Oversight and Sunset Act that Title 26, Chapter 7a, Children's Trust

SUMMARY OF RECOMMENDED LEGISLATION

Fund, created by this bill, will be repealed on July 1, 2011 (page 28).

EDUCATION INTERIM COMMITTEE

Care of Students with Diabetes in School, S.B. 8- This bill requires a public school, when requested by parents, to train school personnel who volunteer to be trained in the administration of glucagon in an emergency; establishes requirements for the training; provides trained school personnel with authority to administer glucagon in an emergency and immunity from liability; exempts the administration of glucagon from other statutes; requires the Department of Health, in cooperation with the state superintendent of public instruction, to create certain forms; and directs a public school to permit a student to possess or possess and self-administer diabetes medication under certain conditions (page 30).

Repeal of Exemption from Nonresident Tuition, H.B. 7- This bill repeals the provision that, if allowed under federal law, a student, other than a nonimmigrant alien, shall be exempt from the nonresident portion of total tuition if the student attended high school in this state for three or more years and graduated from a high school or received its equivalent in this state (page 29).

GOVERNMENT OPERATIONS INTERIM COMMITTEE

Common Polling Places Amendments, H.B. 13- This bill increases the maximum number of active voters allowed for a voting precinct from 1,000 to 2,000; expands the use of common polling places for two or more voting precincts to any election and any county; and repeals the restrictions that the total population of the voters authorized to vote at the common polling place may not exceed 4,000 active voters, in primary elections, the county legislative body may combine voting precincts, and one set of election judges may be used for the combined precincts if the ballots for each of the combined precincts are identical (page 34).

Early Voting, H.B. 15- This bill permits registered voters to participate in early voting during the 14-day period

immediately prior to election day; provides that time periods related to replacement of candidates be based on the date of commencement of voting rather than on election day; provides that candidate vacancies must be filled 30 days prior to election day; provides that voter registration for an election ends 30 days before the date of the election with the exception of satellite registration, in-person registration at the office of the county clerk, and registration for military personnel and overseas citizens voting by absentee ballot; provides that voters who register using satellite registration or who register at the office of the county clerk less than 30 days before a pending election are entitled to vote on election day but not by using early voting; provides that voters must provide valid voter identification at the time of voting if they choose to vote by early voting on a date before the date of the election or by in-person absentee ballot; modifies the Utah Election Registration Form to provide notice that voters must provide valid voter identification in order to vote during the early voting period; provides definitions of documents that are acceptable as valid voter identification; provides that party affiliation may not be changed during the period beginning after the voter registration deadline for a regular primary election and continuing through the date of the regular primary election; modifies language relating to processing of voter registration forms to comply with the 30 day voter registration deadline; modifies the dates for satellite voter registration to comply with the 30 day voter registration deadline; modifies the dates provided in the voter registration notice to comply with the 30 day voter registration deadline; clarifies absentee ballot filing deadlines for overseas and military voters; modifies the application due date for overseas absentee voters to match the existing deadline for other absentee votes; requires election judges to record the type of identification provided by the voter at the time of voting in all cases where a provisional ballot is issued; requires election judges to issue a voter a provisional ballot when the election judge determines that the voter has not presented sufficient identification; provides for the hours and locations of early voting; provides requirements for posting notice of early voting hours and locations; modifies the format of the official register to accommodate identification

SUMMARY OF RECOMMENDED LEGISLATION

requirements; requires the election officer to update voting history records during early voting; and requires write-in candidates to file a declaration of candidacy no later than 30 days before the date of the election (page 34).

Election Code Revisions, S.B. 11- This bill removes obsolete terms; corrects cross-references; clarifies what information election judges should enter on defective ballot envelopes; and clarifies that certain election filing deadlines should be extended when the deadline falls on a weekend (page 34).

Electronic Meeting Amendment, S.B. 12- This bill requires a public body to adopt a resolution, rule, or ordinance governing the use of electronic meetings prior to holding an electronic meeting; allows the resolution, rule, or ordinance adopted by the public body to prohibit or limit electronic meetings based on budget or logistical constraints, require a quorum of the public body to be present at a single anchor location for the meeting and vote to approve establishment of an electronic meeting, require a request for a electronic meeting to be made by a member of a public body up to 14 days prior to the meeting, restrict the number of separate connections for members of the public body that are allowed for an electronic meeting, or establish other procedures, limitations, or conditions governing electronic meetings not in conflict with certain statutes (page 35).

Open and Public Meetings Act Revisions, S.B. 9- This bill updates statutory language to conform to current legislative styles; renumbers sections; and moves some provisions to different or new sections (page 35).

Open Meetings Law Amendments, H.B. 14- This bill clarifies the definition of meeting to include a premeeting or an executive committee meeting; requires that all closed meetings be recorded; requires that closed meetings generally be held in the same location as public meetings; requires that public bodies provide training on the requirements of the Open and Public Meetings Act to the members of a public body whenever a new member is elected or appointed; requires that the attorney general's office provide public bodies with at least yearly notice of

any material changes to the requirements for the conduct of meetings under the act; and provides penalties for violating closed meeting provisions (page 35).

Provisional Ballot Amendments, S.B. 10- This bill provides that a voter whose identity or right to vote is challenged shall be issued a provisional ballot and be permitted to vote; removes the procedure requiring an affidavit to be signed in order to obtain a ballot when a voter's identity or right to vote is challenged; removes criminal penalties associated with the affidavit requirement; and provides a criminal penalty for knowingly providing false information when voting using a provisional ballot (page 34).

Repeal of Utah Digital Signature Act, S.B. 20- This bill repeals the Utah Digital Signatures Act and makes conforming amendments; modifies definitions; and removes references to acknowledgments using digital signatures under the Utah Digital Signatures Act (page 36).

Revisions to Open and Public Meetings Law, H.B. 16- This bill defines "recording" to mean an audio or an audio and video record of the proceedings of a meeting that can be used to review the proceedings of the meeting; encourages public bodies to use electronic means to provide public notice to media agencies that make a periodic written request to receive them and post public notice of its meetings on the internet; requires public notices with agendas to provide reasonable specificity to notify the public as to the topics to be considered at the meeting; prohibits a public body from considering topics that are not posted with the public notice; requires both written minutes and a recording to be kept of all open meetings unless the open meeting is a site visit or traveling tour and no vote or action is taken by the public body; and repeals a provision that only written minutes are evidence of the official action taken at an open meeting (page 35).

SUMMARY OF RECOMMENDED LEGISLATION

GOVERNMENT RECORDS ACCESS AND MANAGEMENT TASK FORCE

Access and Fee Amendments to Government Records Access and Management Act, H.B. 28- This bill provides that an individual's home address, home telephone number, or personal mobile phone number is a protected record if the information is required to be provided in order to comply with a law and by complying with the law and due to the nature of the law the subject of the record has a reasonable expectation that this information will be protected; allows the disclosure of an individual's home address or phone numbers that are otherwise protected if the head of the governmental entity determines that the disclosure is mutually beneficial to the subject of the record, the governmental entity, and to the public by serving a public purpose related to public safety or consumer protection and the person who receives the record from the governmental entity agrees not to use or allow its use for advertising or solicitation purposes; provides that in response to a request, a governmental entity is not required to compile, format, manipulate, package, summarize, or tailor information; provide a record in a particular format, medium, or program; or fulfill a person's records request if the information requested is included in a publication or product of a governmental entity; allows rather than requires a governmental entity to provide a record in a particular form if the governmental entity determines it is able to do so without unreasonably interfering with its duties; allows a governmental entity to charge additional fees above the actual costs as determined by the governmental entity's executive officer, for requests from nongovernmental entities for a series of records if the records are provided in an electronic spreadsheet format, in an electronic database format, or for the purpose of resale of the records; requires additional fees to be reasonable and prohibits additional fees to be designed to compete with a private business that provides substantially similar services; allows contractors and private providers to receive private, controlled, or protected records under certain circumstances; and provides that improper use of a record is a class B misdemeanor (page 39).

Amendments to Government Records Access and Management Act, H.B. 12- This bill modifies the definition of records subject to the act to exclude materials that are not connected with the conduct of the public's business; provides that internal communications that are part of the deliberative process in connection with the preparation of legislation between members of a legislative body or the legislative body's staff are protected records; provides that certain communications between citizens and elected officials are protected records; requires that governmental entities give notice to persons who are providing private or controlled information as to how the information is currently used and shared; clarifies that certain government entities shall submit records retention schedules for approval by the State Records Committee; provides that government entities that do not submit retention schedules for approval shall be governed by the model retention schedule maintained by the state archivist; clarifies that the Legislature may set its own retention schedules and records management, notice, and amendment policies; and clarifies that the judiciary may set its own retention schedules and records management policies (page 39).

Grama Appeals Process and Document Request Amendments, S.B. 15- This bill designates a request for a record that relates to a notice of claim under the Governmental Immunity Act of Utah as an extraordinary circumstance; requires that appeals be heard by the State Records Committee before being appealed to the judiciary; clarifies language relating to time requirements for the filing of appeals and requests for judicial review; removes the procedure for filing a notice of intent to appeal prior to seeking judicial appeal of a records committee order; and modifies language related to attorney's fees to accommodate the requirement for records committee review (page 39).

HEALTH AND HUMAN SERVICES INTERIM COMMITTEE

Amendments to Indoor Clean Air Act, S.B. 19- This bill expands the definition of "public place of access" in which smoking is prohibited to include taverns, private clubs, buildings owned or operated by social or fraternal

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organizations, and certain workplaces; removes the exceptions from the Indoor Clean Air Act for taverns, private clubs, buildings owned or operated by social or fraternal organizations, and certain workplaces without public access; repeals the "grandfathering provisions" for private clubs and public places that are adjoined; and repeals the provision that permits smoking in certain nonpublic workplaces (page 43).

Child Welfare - Licensing and Management Information Systems, H.B. 25- This bill addresses the contents of the notice provided to an alleged perpetrator when the Division of Child and Family Services makes a supported finding that the alleged perpetrator committed a severe type of child abuse or neglect; describes the circumstances under which a person's name and information should be entered on, or removed from, the Licensing Information System; provides that, in an adjudicative proceeding to determine whether a person has caused a child to suffer abuse, neglect, or dependency, the division shall have the burden of proving, by a preponderance of the evidence, that child abuse, neglect, or dependency occurred and that the alleged perpetrator was substantially responsible for the abuse or neglect; and describes the action that must be taken by the division when an alleged perpetrator listed on the Licensing Information System prior to May 6, 2002 requests removal of the alleged perpetrator's name from the Licensing Information System (page 42).

Child Welfare Revisions, H.B. 21- This bill describes conduct that does not constitute abuse under the child and family services chapter of the Utah Human Services Code; removes services to unwed parents from the list of services provided by the Division of Child and Family Services; describes the training that must be completed by a child welfare caseworker; removes reporting requirements relating to a repealed pilot program; defines the rights and responsibilities of a parent; addresses the provision of family preservation and reunification services by the Division of Child and Family Services; modifies the content of, and the requirements related to, the notice provided when a child is taken into protective custody; provides that an investigation by the Division of Child and

Family Services shall include an unscheduled visit to the child's home, unless there is a reasonable basis to believe that the abuser is not the child's parent and does not have access to the child; recognizes the impact upon a child when the child is removed from the child's home; requires the Division of Child and Family Services to attempt to resolve a disagreement with a child's parent regarding a child and family plan and to inform the court if the disagreement is not resolved; addresses the contents of a child and family plan; requires documentation of the grounds for taking a child into protective custody and providing medical care or treatment to a child in protective custody; describes the information that must be given to a parent before interviewing a child who has not been removed from the child's home; expands the list of support persons that may attend an interview of a child; provides defenses to the crime of child abuse; deletes provisions relating to family unity conferences; describes the circumstances under which a court may order medical examination, treatment, or care of a minor; addresses procedures and standards relating to shelter hearings; modifies provisions relating to the grounds under which a child may be retained in protective custody; and requires that a finding that a parent is incapable, due to a mental illness, of utilizing reunification services, must be based on competent evidence from at least two medical or mental health professionals who are not associates (page 42).

Health and Human Services Sunset and Reporting Amendments, S.B. 6- This bill amends the Department of Health's annual reporting requirement to the Health and Human Services Interim Committee for AIDS testing data, abortion informed consent data, and the Utah Medical Assistance Program; removes the following programs from the legislative sunset act: Family Health Services, Utah Medical Examiner Act, Department of Health Organization, and Safe Relinquishment of Newborn Child; requires the Department of Health to report to the Legislative Executive Appropriations Committee or the Health and Human Services Appropriations Subcommittee if the Department initiates an amendment to an existing Medicaid waiver; and repeals statutes regarding the 1996 Medicaid freedom of choice waiver and the 1995 Section 1315 Medicaid waiver (page 42).

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Medicaid Dental Reimbursement Amendments, H.B. 24- This bill enacts a statute to establish a standard for reimbursing dentists providing Medicaid services for children. This bill appropriates as an ongoing appropriation subject to future budget constraints, \$2.7 million from the General Fund for fiscal year 2006-07 to the Department of Health to fund children's dental services in the Medicaid program (page 41).

Office of Child Welfare Parental Defense Amendments, H.B. 23- This bill provides that the executive director of the Department of Administrative Services serves as the director of the Office of Child Welfare Parental Defense if the executive director does not appoint a director; describes the duties of the director of the Office of Child Welfare Parental Defense; provides that the Office of Child Welfare Parental Defense may enter into a contract for the provision of assistance, advice, and training to parental defense attorneys; provides that the Office of Child Welfare Parental Defense and a county may, in their discretion, enter into a contract for the office to provide parental defense attorney services directly to the county; provides that the Child Welfare Parental Defense Fund is a nonlapsing, restricted special revenue fund; and provides that the Child Welfare Parental Defense Fund may be used for reasonable training and travel expenses directly related to the functioning of the Office of Child Welfare Parental Defense (page 42).

Pilot Program for the Provision of Services for People with Disabilities, H.B. 31- This bill establishes a pilot program, beginning on July 1, 2006, and ending on July 1, 2008, for the provision of supported employment services to eligible people with disabilities, outside of the service prioritization criteria established by the Division for the provision of other services; grants rulemaking authority to the Division; describes a person who is eligible to receive expedited services under this bill; provides that the Division shall establish criteria to determine the order of priority for receiving services under this bill; provides that the services provided under the pilot program described in this bill do not constitute an entitlement and shall be provided and funded separately from the Medicaid program; requires the director of the Division of Services

for People with Disabilities to report, for consideration and decision, to the Health and Human Services Interim Committee during the 2007 interim regarding whether the pilot program created by this bill should be modified or converted into an ongoing program; and provides under the Legislative Oversight and Sunset Act that the pilot program created by this bill will be repealed on July 1, 2008 (page 42).

Utah Child Abuse Prevention Board, H.B. 22- This bill changes the name of the Children's Trust Account to the Children's Trust Fund; describes how funds in the Children's Trust Fund may be used; creates, within the Department of Health, the Utah Child Abuse Prevention Board and lists the duties and powers of the board; grants the board the authority to administer the Children's Trust Fund; establishes membership of the board; provides for the organization of the board, including: the appointment of a chair; and the creation of committees; provides that members of the board serve without pay, but are entitled to a per diem and reimbursement for expenses; creates the position of executive director of the Children's Trust Fund and establishes the executive director's duties; provides for staff support of the board; requires the executive director of the Children's Trust Fund to report, for consideration and decision, to the Health and Human Services Interim Committee during the 2010 interim regarding the need to reauthorize or modify Title 26, Chapter 7a, Children's Trust Fund, created by this bill; eliminates the responsibility of the Child Abuse Advisory Council and the Board of Child and Family Services to oversee the Children's Trust Account or Children's Trust Fund; and provides under the Legislative Oversight and Sunset Act that Title 26, Chapter 7a, Children's Trust Fund, created by this bill, will be repealed on July 1, 2011 (page 42).

HIGHWAY JURISDICTIONAL TRANSFER TASK FORCE

Highway Transfer Process Amendments, S.B. 17- This bill adds additional criteria that may be considered by the Transportation Commission when considering changes to the state highway system; requires the department to report any proposed additions or deletions to the state

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highway system to the Transportation Interim Committee; requires the Commission to report annually to the Transportation Interim Committee regarding any proposed or recommended additions to or deletions from the state highway system that were considered by the Commission during the preceding year; requires the Transportation Commission to make rules governing the process that will be followed when it is considering additions to or deletions from the state highway system; and outlines items that must be included in the rules, including notification to highway authorities of the Department's intent to collect proposed changes to the state highway system and report them to the Transportation Interim Committee, a public hearing of proposed changes, notification to affected highway authorities, and the ability of any highway authority to initiate the process (page 45).

JUDICIARY INTERIM COMMITTEE

Child Protection Amendments, S.B. 7- This bill describes the circumstances and procedures under which a child may be taken into protective custody; describes the circumstances under which a warrant to take a child into protective custody may be issued without first giving the child's parent or guardian notice and an opportunity to be heard; provides an expedited shelter hearing process to determine whether a child should be taken into protective custody; describes the notice requirements relating to an expedited shelter hearing; defines the term "petition"; consolidates existing code provisions relating to the expedited filing of a petition and expedited pretrial and adjudication hearings; and provides notice requirements for shelter hearings (page 48).

Civil Antitrust Amendments, S.B. 16- This bill provides that the attorney general and any person who is injured or threatened with injury in his business or property as a result of a violation of this act may bring an action under this act regardless of whether the person dealt directly or indirectly with the defendant; provides that a defendant is entitled to prove as a partial or complete defense to a claim for damages that the illegal overcharge has been passed on to others who are themselves entitled to recover so as to avoid duplication of recovery of damages;

provides for rebuttable presumptions that allocate damages among injured plaintiffs who dealt directly or indirectly with the defendant; provides for notification to the attorney general of any private class action alleging a violation of the act; and authorizes cy pres distributions of damage and settlement awards in antitrust cases (page 49).

Divorce Education Amendments, H.B. 27- This bill permits the court to require unmarried parents who are involved in a custody or parent-time proceeding to attend an educational course to sensitize both parents to the needs of their child or children (page 48).

Emancipation of a Minor, H.B. 30- This bill creates a procedure for a minor to petition the court for emancipation; provides criteria for a court in determining whether to emancipate a minor; sets out rights and responsibilities of an emancipated minor; and provides a filing fee of \$50 for an emancipation petition (page 48).

Marriage Preparation Education, H.B. 8- This bill provides a mechanism for couples who undergo premarital education to receive a reduction of the marriage license fee; requires eight hours of premarital education; frames the requirements for premarital education; and limits who can conduct the premarital education to licensed or ordained ministers, or their designees, persons who can solemnize marriages, marriage and family therapists, social workers, or psychologists (page 48).

LAW ENFORCEMENT AND CRIMINAL JUSTICE INTERIM COMMITTEE

Domestic Violence and Dating Violence Amendments, H.B. 10- This bill provides for the issuance, modification, and enforcement of protective orders between parties who are, or have been, in a dating relationship when the parties are emancipated or 16 years of age or older; the parties are, or have been, in a dating relationship with each other; and a party commits abuse or dating violence against the other party; requires the Administrative Office of the Courts to develop and adopt uniform forms for petitions and orders for protection relating to dating

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violence; requires law enforcement officers responding to incidents of dating violence to take protective action on behalf of the victim and provide certain information to the victim; integrates dating violence protective orders into the statewide domestic violence network; requires the Division of Child and Family Services, within the Department of Human Services, to provide certain services to victims of dating violence; and describes the conditions that may be placed on an alleged perpetrator of dating violence in a protective order, in an order of probation for violation of a protective order relating to dating violence, or as a condition of release prior to trial for violation of a protective order relating to dating violence (page 54).

Weapons Amendments, S.B. 24- This bill creates an exception to penalty provisions related to the carrying of a concealed dangerous weapon, which is not a firearm, to include carrying a concealed dangerous weapon in or on a vehicle lawfully under a person's control; removes the prohibition from carrying a loaded firearm in or on a vehicle, conditioned on the vehicle being lawfully under the person's control; and provides that a person may have a loaded firearm at the person's residence, on the person's property, in or on a vehicle legally under the person's control, and at a business under the person's control (page 55).

LEGISLATIVE MANAGEMENT COMMITTEE

Resolution Approving Reappointment of Director of Legislative Research and General Counsel, S.J.R. 1- This resolution reappoints Michael E. Christensen as Director of the Office of Legislative Research and General Counsel for a six-year term commencing December 1, 2006 (page 58).

Sunset Review and Reauthorization, H.B. 43- This bill reauthorizes certain named state entities and programs that are scheduled to sunset before the 2007 Annual General Session (page 58).

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENT INTERIM COMMITTEE

Bear River Development Act, H.B. 45- This bill defines preconstruction costs; authorizes the expenditure of funds on preconstruction costs; authorizes water to be made available to Cache County; and limits the amount of water made available to Cache County (page 62).

Energy Policy Amendments, H.B. 46- This bill creates the position of state energy officer; outlines the state energy officer's powers and duties; requires coordination between the state energy officer and state agencies; requires the state energy officer to submit certain reports; and declares the state's energy policy (page 62).

General Fund Surplus Appropriation for Water Development Projects, S.B. 39- This bill at the end of each fiscal year appropriates to the Water Conservation and Development Fund 25 percent of any General Fund surplus remaining after money has been allocated to the General Fund Budget Reserve Account, any necessary debt service, and to industrial assistance funding (page 62).

Lake Powell Pipeline Development Act, S.B. 27- This bill enacts the Lake Powell Pipeline Development Act; authorizes the Board of Water Resources to make rules, build the Lake Powell Pipeline project, and contract for the sale of developed water and operation of the project; creates the Project Management Committee; authorizes the building of hydroelectric generating works; authorizes the water districts to use, exchange, or sell developed water; and establishes an enterprise fund for the operation and maintenance of the project (page 62).

Water Reuse Requirements, H.B. 38- This bill allows reuse of water by a public agency, including water for which water rights are not owned by the agency but a reuse authorization contract exists; establishes a process for approval of a water reuse project; and addresses the effects of a water reuse project (page 63).

SUMMARY OF RECOMMENDED LEGISLATION

POLITICAL SUBDIVISIONS INTERIM COMMITTEE

Local Government Amendments, H.B. 44- This bill expands the reach of the Local Government Bonding Act so that the act applies to additional independent special districts and to local districts; modifies definitions in the Local Government Bonding Act; adds to the Local Government Bonding Act a provision that: authorizes a local political subdivision to require bonds to recite that they comply with applicable law, and makes bonds incontestible if they contain that recital; modifies provisions that validates bonds and tax anticipation obligations and proceedings relating to them; adds a provision authorizing a newly created local political subdivision to issue tax and revenue anticipation notes or bonds; adds to the Local Government Bonding Act a provision that makes bonds legal investments for various funds, allows funds to be invested in or loaned upon the security of local political subdivision bonds, and allows bonds of a local political subdivision to be used as security for the faithful performance on execution of a court or private trust or other act; expands the reach of a provision under which an independent special district may be conclusively presumed to have been lawfully created and existing to apply to all independent special districts rather than those created after May 4, 1999; modifies the bonding authority of cemetery maintenance districts; authorizes mosquito abatement districts to issue notes and bonds, subject to a debt limit; modifies provisions applicable to administrative control boards of special service districts; and eliminates independent special districts provisions made redundant and superfluous because of changes in this bill to the Local Government Bonding Act (page 67).

Township Amendments, H.B. 29- This bill modifies the criteria that an unincorporated area is required to meet in order to be designated as a township so that an area declared to be a census designated place by the United States Census Bureau meets township requirements as an alternative to meeting other requirements relating to population or land area and value (page 71).

PUBLIC UTILITIES AND TECHNOLOGY INTERIM COMMITTEE

Energy Policy Amendments, H.B. 46- This bill creates the position of state energy officer; outlines the state energy officer's powers and duties; requires coordination between the state energy officer and state agencies; requires the state energy officer to submit certain reports; and declares the state's energy policy (page 78).

Notice Requirements for Budget Transfers from Utility Funds, H.B. 36- This bill requires towns, cities, counties, and special districts to provide notice under certain circumstances before transferring money out of a utility fund; and describes the scope of notice required (page 77).

Renewable Energy Tax Credit, H.B. 42- This bill extends the availability of the renewable energy tax credit until 2011; and expands the renewable energy tax credit to include direct-use geothermal and geothermal electricity.

Utah International Trade Commission, H.B. 39- This bill provides for a legislative commission to study policy issues concerning international trade treaties' effects on the Legislature's regulation of state affairs, creation of trade-related position in state government, and the promotion of international trade relationships with Utah (page 77).

Utility Improvement Districts Revisions, H.B. 6- This bill modifies provisions related to how an assessment on property for the underground conversion of overhead utilities is to be calculated; eliminates a requirement that real property owners petition for the creation of an improvement district and allows a county or municipal governing body to create a district by resolution without a petition, subject to protests; modifies the requirements for notice of a proposed improvement district and assessment; establishes a process for property owners to protest the creation of an improvement district and prohibits the creation of the district if adequate protests are filed; and modifies provisions relating to the underground conversion of overhead facilities to include a requirement that the governing body provide notice to

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property owners that underground service is available and of the requirement to convert the owner's existing electric and communications facilities to underground, the consequence of an owner's failure to convert overhead facilities to underground, and the assessment of costs and expenses of the conversion against the property (page 78).

RETIREMENT AND INDEPENDENT ENTITIES INTERIM COMMITTEE

Retirement Office Amendments, H.B. 11- This bill amends purchase of retirement service credit in the Utah State Retirement System for employment in a private school based in the United States, the purchase is allowed only if the member received an employer paid retirement benefit for the employment, to include public employment in a territory of the United States, and by requiring payments to be made to the retirement system in which the member is currently covered; requires that a court order on the distribution of benefits be made within 12 months of the death of the member; requires rather than allows the Consumer Price Index used in calculating annual cost-of-living adjustments in the Public Employees' Noncontributory Retirement System to be a United States Bureau of Labor Statistics Consumer Price Index average as determined by the board; requires the Public Employees' Benefit and Insurance Program to provide for health insurance coverage for state employees who receive a disability benefit rather than provide a waiver of the cost of the coverage; clarifies that a member's spouse at the time of death is entitled to the spouse's allowance upon the death of a governor or legislator receiving a retirement allowance; and changes from a participating employer to a risk pool as the entity that may elect to provide a waiver for its employees for health insurance coverage (page 81).

Workers' Compensation Coverage of Firefighters and Drug Task Force Officers, H.B. 9- This bill provides for a presumption for purposes of workers' compensation that certain occupational diseases are employment related for firefighters and drug task force officers (page 81).

REVENUE AND TAXATION INTERIM COMMITTEE

Apportionment of Business Income to Utah, H.B. 53-

This bill allows a taxpayer to elect for a one taxable year period to calculate the apportionment of business income on the basis of a fraction that double weights the sales factor; allows a taxpayer to elect for taxable years beginning on or after January 1, 2007 to calculate the apportionment of business income on the basis of a single sales factor; addresses a taxpayer's ability to revoke an election to use a particular method for apportioning business income to the state; addresses the apportionment of business income if an amount is carried forward or carried back; and grants rulemaking authority to the Utah State Tax Commission (page 83).

Gross Receipts Tax Amendments, Repeal and Public Utility Tariffs, S.B. 34-

This bill requires certain public utilities to file new tariffs with the Public Service Commission and establishes procedures for filing those tariffs; decreases the gross receipts tax rate on certain corporations not required to pay corporate franchise or income tax; and repeals the Gross Receipts Tax on Electrical Corporations chapter (page 84).

Local Option Sales and Use Tax Distribution Amendments, S.B. 35-

This bill reduces over a five-year period the minimum amount of sales and use tax a county, city, or town shall receive for purposes of the one percent local option sales and use tax (page 84).

Property Tax - Circuit Breaker Qualifying Limits, H.B. 55-

This bill increases the homeowner credit amounts that a claimant may claim; increases the household income qualifying limits for the homeowner's credit; and increases the household income qualifying limits for the renter's credit (page 84).

Resolution Regarding Property Tax on Personal Property, H.J.R. 1-

This resolution proposes to amend the Utah Constitution to authorize the Legislature to determine the manner of taxing or exempting tangible personal property; provide a constitutional exemption for certain property that previously has been subject to a legislatively

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enacted exemption; and eliminate a provision requiring the Legislature to provide a uniform statewide fee or rate of assessment or taxation on tangible personal property required to be registered before being used on highways, waterways, public land, or in the air, if that property was exempted from taxation (page 85).

Sales and Use Tax - Exemption for Isolated or Occasional Sales, S.B. 28- This bill modifies the sales and use tax exemption for isolated and occasional sales to provide the circumstances under which the exemption applies and grants rulemaking authority to the Utah State Tax Commission (page 85).

Sales and Use Tax Exemption - Telecommunications, S.B. 29- This bill provides a sales and use tax exemption relating to certain telecommunications equipment, machinery, or software (page 85).

Sales and Use Tax Exemption for Sales of Certain Agricultural Products, H.B. 54- This bill repeals a requirement that certain agricultural products be locally grown to be exempt from sales and use taxation; and addresses who may sell agricultural products for purposes of eligibility for the sales and use tax exemption (page 85).

Sales and Use Tax Exemption for Semiconductor Fabricating, Processing, Research, or Development Materials, S.B. 30- This bill modifies a definition relating to the sales and use tax exemption for certain semiconductor materials to include tangible personal property used or consumed primarily in the process of research or development of a semiconductor or semiconductor manufacturing process; repeals a repeal date relating to the sales and use tax exemption for certain semiconductor materials; and repeals reporting requirements to the Revenue and Taxation Interim Committee on this exemption (page 85).

Sales and Use Tax Exemption for Transportation, H.B. 52- This bill repeals from the state and local sales and use tax base amounts paid to certain persons for transportation and repeals certain sales and use tax exemptions relating to transportation to reflect the repeal

of amounts paid to certain persons for transportation in the sales and use tax base (page 85).

School Districts - Limited Amendments to Truth in Taxation, S.B. 36- This bill modifies the State System of Public Education Title and the Property Tax Act to exempt school districts from the advertisement requirements of truth in taxation when budgeting revenue from certain voted leeway programs (page 85).

TAX REFORM TASK FORCE

Apportionment of Business Income to Utah, H.B. 53- This bill allows a taxpayer to elect for a one taxable year period to calculate the apportionment of business income on the basis of a fraction that double weights the sales factor; allows a taxpayer to elect for taxable years beginning on or after January 1, 2007 to calculate the apportionment of business income on the basis of a single sales factor; addresses a taxpayer's ability to revoke an election to use a particular method for apportioning business income to the state; addresses the apportionment of business income if an amount is carried forward or carried back; and grants rulemaking authority to the Utah State Tax Commission (page 90).

Gross Receipts Tax Amendments, Repeal and Public Utility Tariffs, S.B. 34- This bill requires certain public utilities to file new tariffs with the Public Service Commission and establishes procedures for filing those tariffs; decreases the gross receipts tax rate on certain corporations not required to pay corporate franchise or income tax; and repeals the Gross Receipts Tax on Electrical Corporations chapter (page 90).

Local Option Sales and Use Tax Distribution Amendments, S.B. 35- This bill reduces over a five-year period the minimum amount of sales and use tax a county, city, or town shall receive for purposes of the one percent local option sales and use tax (page 90).

Multi-Channel Video or Audio Service Tax - County or Municipality Franchise Fee Tax Credit, S.B. 32- This bill provides a nonrefundable tax credit for a multi-channel

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video or audio service provider; requires a multi-channel video or audio service provider to pass through an amount equal to the tax credit to purchasers located within the state; and provides that a tax on amounts paid or charged for multi-channel video or audio service may not be reduced as a result of the amount a multi-channel video or audio service provider passes through to its customers within this state (page 90).

Property Tax - Circuit Breaker Qualifying Limits, H.B. 55- This bill increases the homeowner credit amounts that a claimant may claim; increases the household income qualifying limits for the homeowner's credit; and increases the household income qualifying limits for the renter's credit (page 90).

Resolution Regarding Property Tax on Personal Property, H.J.R. 1- This resolution proposes to amend the Utah Constitution to authorize the Legislature to determine the manner of taxing or exempting tangible personal property; provide a constitutional exemption for certain property that previously has been subject to a legislatively enacted exemption; and eliminate a provision requiring the Legislature to provide a uniform statewide fee or rate of assessment or taxation on tangible personal property required to be registered before being used on highways, waterways, public land, or in the air, if that property was exempted from taxation (page 90).

Sales and use Tax - Exemption for Isolated or Occasional Sales, S.B. 28- This bill modifies the sales and use tax exemption for isolated and occasional sales to provide the circumstances under which the exemption applies and grants rulemaking authority to the Utah State Tax Commission (page 90).

Sales and Use Tax - Manufacturing Exemptions Amendments, S.B. 31- This bill provides that certain repair parts are exempt from sales and use taxation and deletes a requirement that parts be used to replace or adapt an existing machine to extend the normal estimated useful life of the machine to be eligible for the exemption (page 90).

Sales and Use Tax Exemption - Telecommunications, S.B. 29- This bill provides a sales and use tax exemption relating to certain telecommunications equipment, machinery, or software (page 90).

Sales and Use Tax Exemption for Sales of Certain Agricultural Products, H.B. 54- This bill repeals a requirement that certain agricultural products be locally grown to be exempt from sales and use taxation; and addresses who may sell agricultural products for purposes of eligibility for the sales and use tax exemption (page 90).

Sales and Use Tax Exemption for Semiconductor Fabricating, Processing, Research, or Development Materials, S.B. 30- This bill modifies a definition relating to the sales and use tax exemption for certain semiconductor materials to include tangible personal property used or consumed primarily in the process of research or development of a semiconductor or semiconductor manufacturing process; repeals a repeal date relating to the sales and use tax exemption for certain semiconductor materials; and repeals reporting requirements to the Revenue and Taxation Interim Committee on this exemption (page 90).

Sales and Use Tax Exemption for Transportation, H.B. 52- This bill repeals from the state and local sales and use tax base amounts paid to certain persons for transportation and repeals certain sales and use tax exemptions relating to transportation to reflect the repeal of amounts paid to certain persons for transportation in the sales and use tax base (page 90).

Sales and Use Tax Exemptions for Certain Business Inputs, S.B. 33- This bill expands the definition of "manufacturing facility" to include certain establishments listed under the North American Industry Classification System; provides that certain repair parts are exempt from sales and use taxation; deletes a requirement that parts be used to replace or adapt an existing machine to extend the normal estimated useful life of the machine to be eligible for the exemption; provides a sales and use tax exemption for certain machinery, equipment, or repair or replacement parts purchased or leased by certain

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establishments listed under the North American Industry Classification System; grants rulemaking authority to the Utah State Tax Commission; and addresses study requirements related to these sales and use tax exemptions (page 90).

Sales and Use Taxation of Amusement Devices and Cleaning or Washing of Tangible Personal Property, H.B. 51-

This bill provides definitions of "assisted amusement device," "assisted cleaning or washing of tangible personal property," and "unassisted amusement device"; modifies the sales and use taxation of sales or rentals of the right to use or operate certain amusement devices; and modifies the sales and use taxation of cleaning or washing of tangible personal property (page 90).

School Districts - Limited Amendments to Truth in Taxation, S.B. 36-

This bill modifies the State System of Public Education Title and the Property Tax Act to exempt school districts from the advertisement requirements of truth in taxation when budgeting revenue from certain voted leeway programs (page 90).

TOURISM TASK FORCE

Expenditures for Tourism, Recreation, Cultural, and Convention Facilities and Activities, H.B. 40-

This bill requires an audit of and report on the use of tourism, recreation, cultural, and convention facilities tax funds imposed by the legislative body of a county; provides that the report on the use of transient room tax funds and tourism, recreation, cultural, and convention facilities tax funds shall include a breakdown of expenditures of the tax funds into designated categories; and provides that a copy of the report shall be forwarded to the Governor's Office of Economic Development, the county's tourism tax advisory board, and the Office of the Legislative Fiscal Analyst (page 94).

TRANSPORTATION INTERIM COMMITTEE

Commercial Driver License Amendments, S.B. 13- This bill provides that a person who holds or is required to hold

a CDL is disqualified from driving a commercial motor vehicle for not less than one year if convicted of a first offense of failing to give aid or provide identification when involved in an accident resulting in death or personal injury; requires the Driver License Division, upon receiving notice of a plea in abeyance agreement to a disqualifying offense, to disqualify, suspend, cancel, or revoke a person's CDL for a conviction of that disqualifying offense, even if the charge is subsequently reduced or dismissed; requires the division to report a plea in abeyance to the CDLIS within 10 days of taking a licensing action; provides that a plea in abeyance agreement may not be removed from a person's driving record for 10 years from the date of the plea in abeyance agreement, even if the charge is subsequently reduced, dismissed, or expunged; requires the division to notify the licensing state when the division receives a report of a plea in abeyance of a nonresident holder of a CDL of a violation of a state law or local ordinance relating to traffic control; and prohibits a magistrate from granting diversion for certain offenses (page 98).

Commercial Driver Training School Act Amendments, H.B. 20-

This bill creates a school operator license for a person that is authorized to operate or manage a driver training school; creates a commercial testing only school license for a business that engages only in testing students for the purpose of obtaining a driver license; and provides that commercial driver training school, commercial testing only school, school operator, and instructor licenses expire one year from the date of issuance (page 99).

Driving Under the Influence Amendments, S.B. 18-

This bill prohibits an interlock restricted driver from operating or being in actual physical control of a vehicle without an ignition interlock system; provides penalties for operation without an ignition interlock system; provides an affirmative defense for an ignition interlock system violation; repeals the requirement that a person's driver license be coded if the person is required to use an ignition interlock system; requires a peace officer to warn a person that has been placed under arrest for refusing to submit to a chemical test for alcohol or drugs that a refusal

SUMMARY OF RECOMMENDED LEGISLATION

may result in a three-year prohibition of driving without an ignition interlock device; provides that a peace officer shall impound a vehicle if the peace officer cites a person for an ignition interlock system violation; extends the repeal of restrictions on pleas to driving under the influence violations from June 30, 2006 to June 30, 2008; repeals the provision that prohibits a plea in abeyance to a driving under the influence violation beginning on July 1, 2006; prohibits a plea in abeyance to a driving under the influence violation beginning on July 1, 2008; and amends restrictions on pleas to driving under the influence violations (page 97).

Highway Transfer Process Amendments, S.B. 17- This bill adds additional criteria that may be considered by the Transportation Commission when considering changes to the state highway system; requires the Department to report any proposed additions or deletions to the state highway system to the Transportation Interim Committee; requires the Commission to report annually to the Transportation Interim Committee regarding any proposed or recommended additions to or deletions from the state highway system that were considered by the Commission during the preceding year; requires the Transportation Commission to make rules governing the process that will be followed when it is considering additions to or deletions from the state highway system; and outlines items that must be included in the rules including notification to highway authorities of the Department's intent to collect proposed changes to the state highway system and report them to the Transportation Interim Committee, a public hearing of proposed changes, notification to affected highway authorities, and the ability of any highway authority to initiate the process (page 97).

Identification Card Expiration Amendments, H.B. 19- This bill provides that an identification card issued on or after July 1, 2006 expires on the applicant's birth date in the fifth year following the date of issuance rather than the tenth year; provides that a person older than 21 years of age with a disability may extend the expiration of an identification card for five rather than 10 years if the person follows certain procedures; and provides that an identification card issued on or after July 1, 2006 to a

person 65 years or older is not effective until death and expires every five years (page 99).

State Highways Amendments, H.B. 35- This bill conforms statutory descriptions of state highways to the existing state highway alignments (page 99).

Uninsured Motorist Identification Database Program Amendments, H.B. 17- This bill reduces the number of consecutive months that a vehicle must show on the uninsured motorist identification database as being uninsured before the first warning letter is sent to the vehicle owner; requires certain insurers that issue a policy that includes certain motor vehicle coverages to provide a record of coverage before the seventh and twenty-first day of each calendar month rather than once a month to the Department of Public Safety's designated agent; and requires the designated agent to update and compare the database with vehicle registrations for certain motor vehicle coverages at least twice a month rather than monthly (page 98).

UTAH TAX REVIEW COMMISSION

Income Tax - Taxation of Individuals, Estates, and Trusts, S.B. 37- This bill modifies the additions to and subtractions from federal taxable income of a resident or nonresident individual; modifies the adjustments to state taxable income for purposes of individual income taxes; modifies the additions to and subtractions from federal taxable income of a resident or nonresident estate or trust; modifies the adjustments to state taxable income for purposes of income taxes on estates and trusts; modifies the fiduciary adjustments for purposes of income taxes on estates and trusts; creates the Nonrefundable Tax Credit Act and renumbers and amends as part of this Act the nonrefundable income tax credits authorized under the Individual Income Tax Act; creates the Refundable Tax Credit Act and renumbers and amends as part of this Act the refundable income tax credits authorized under the Individual Income Tax Act; and addresses which of the nonrefundable and refundable income tax credits an estate or trust may claim (page 101).

SUMMARY OF RECOMMENDED LEGISLATION

Individual Income Taxation of Certain Trust Distributions, S.B. 38- This bill defines "distributable net income"; and modifies an addition to income for certain distributions received by a resident beneficiary of a nonresident trust that was taxed at the trust level for federal tax purposes, but was not taxed at the trust level by any state (page 101).

Resolution Enlarging Revenues and Assets in State Trust Fund, S.J.R. 2- This resolution proposes to amend the Utah Constitution to provide that a permanent state trust fund includes revenues and assets given to the fund by any provision of law (page 103).

Sales and Use Tax - Exemption for Isolated or Occasional Sales, S.B. 28- This bill modifies the sales and use tax exemption for isolated and occasional sales to provide the circumstances under which the exemption applies and grants rulemaking authority to the Utah State Tax Commission (page 101).

Sales and Use Tax Exemption for Transportation, H.B. 52- This bill repeals from the state and local sales and use tax base amounts paid to certain persons for transportation and repeals certain sales and use tax exemptions relating to transportation to reflect the repeal of amounts paid to certain persons for transportation in the sales and use tax base (page 103).

UTAH TECHNOLOGY COMMISSION

Department of Technology Services Personnel Transfer - Supplemental Appropriation, H.B. 49- This bill provides budget increases and decreases for the use and support of certain state agencies and provides budget increases and decreases for other purposes as described. This bill appropriates for fiscal year 2006 \$30,179,400 from various sources as detailed in this bill (page 105).

Utah Technology Industry Council Revisions, H.B. 50- This bill removes the requirement for a joint meeting between the Utah Technology Commission and the Utah Technology Industry Council; changes the membership of the Utah Technology Industry Council; changes the

selection of the chair of the Utah Technology Industry Council; allows for the creation of ad hoc committees to participate in the Utah Technology Industry Council's work; and requires the Office of Legislative Research and General Counsel to staff the Utah Technology Industry Council (page 107).

WATER ISSUES TASK FORCE

Sales Tax Diversion for Water Projects and Water Financing, H.B. 47- This bill requires that certain state sales and use tax revenues be transferred to the Water Resources Conservation and Development Fund and used by the Division of Water Resources for preconstruction costs for certain water projects; requires that certain state sales and use tax revenues be transferred as dedicated credits to and used by the Division of Water Rights for hiring staff; and addresses the treatment of unexpended funds (page 110).

Water Company Amendments, H.B. 48- This bill allows a water company shareholder who is requesting a change to a water right held by the company to recover damages in an action against the water company under certain conditions (page 110).

Water Reuse Requirements, H.B. 38- This bill allows reuse of water by a public agency, including water for which water rights are not owned by the agency but a reuse authorization contract exists; establishes a process for approval of a water reuse project; and addresses the effects of a water reuse project (page 109).

WORKFORCE SERVICES AND COMMUNITY AND ECONOMIC DEVELOPMENT INTERIM COMMITTEE

Department of Community and Culture Amendments, S.B. 22- This bill provides that one of the three ex officio trustees on the Utah Housing Corporation's board of trustees shall be the executive director of the Department of Community and Culture or the executive director's designee and modifies the distribution formula for federal Community Services Block Grant funds received by the State Community Services (page 111).

SUMMARY OF RECOMMENDED LEGISLATION

Employment Security Amendments, S.B. 21- This bill modifies provisions related to exempt employment services to be uniform with the Federal Unemployment Tax Act and to distinguish between exempt services under federal and state law; provides that a determination regarding a nonprofit reimbursable employer by the Division of Unemployment Insurance may be appealed to the Division of Adjudication; and provides that the Division of Unemployment Insurance may file a lien against contributions or benefit overpayments directly with the clerk of a district court to make the lien valid against other lien creditors (page 111).

Expenditures for Tourism, Recreation, Cultural, and Convention Facilities and Activities, H.B. 40- This bill requires an audit of and report on the use of tourism, recreation, cultural, and convention facilities tax funds imposed by the legislative body of a county; provides that the report on the use of transient room tax funds and tourism, recreation, cultural, and convention facilities tax funds shall include a breakdown of expenditures of the tax funds into designated categories; and provides that a copy of the report shall be forwarded to the Governor's Office of Economic Development, the county's tourism tax advisory board, and the Office of the Legislative Fiscal Analyst.

Office of Museum Services, S.B. 23- This bill provides for the relocation of the Offices of Museum Services from the Division of Housing and Community Development to the Division of Arts and Museums within the Department of Community and Culture and changes the name of the Division of Fine Arts to the Division of Arts and Museums (page 112).

Preservation of and Access to State Publications, H.B. 41- This bill requires the State Library Division to establish, operate, and maintain a digital library of state publications; requires state agencies and political subdivisions to deposit digital copies of their publications with the Division; provides that state agencies may not remove state publications from public access unless digital copies of the publications have been deposited with the division; and eliminates distinctions between complete and selective depository libraries (page 112).

Public Assistance Amendments, H.B. 37- This bill modifies the public assistance fraud time line for disclosing a change in a material fact that affects the determination of a person's eligibility to receive public assistance from the Department of Workforce Services or the Department of Health (page 112).

Unemployment Compensation - Social Security Offset, H.B. 18- This bill extends the Social Security benefits offset of 50 percent against an individual's weekly unemployment benefit amount through the benefit year ending on or before July 1, 2011 and provides that the Department of Workforce Services shall fund the Social Security offset costs from federal Reed Act moneys (page 112).

ADMINISTRATIVE RULES REVIEW COMMITTEE

ADMINISTRATIVE RULES REVIEW COMMITTEE

Membership

Sen. Howard A. Stephenson, Senate Chair
Rep. David Ure, House Chair
Sen. Mike Dmitrich
Sen. Mark B. Madsen
Sen. Ed Mayne
Sen. Michael G. Waddoups
Rep. James R. Gowans
Rep. Kory M. Holdaway
Rep. Carol Spackman Moss
Rep. Merlynn T. Newbold

Staff

Arthur L. Hunsaker, Policy Analyst
Susan Creager Allred, Associate General Counsel
Tracey Fredman, Legislative Secretary

OVERVIEW

The Administrative Rules Review Committee was established by the Legislature in the 1983 General Session. *Utah Code*, 63-46a-11(3)(b) requires the Committee to review agency rules to ensure they do not exceed legislative authority and intent and to determine the rules' impact on the economy, state and local government operations, and affected individuals.

Initially, the Committee primarily reviewed proposed agency rules, which are published twice monthly in the *Utah State Bulletin* by the Division of Administrative Rules. However, committee members expressed concern that existing rules, many of which were based on broad grants of statutory authority, had not been reviewed.

In the 1988 General Session, funds were appropriated for full-time staff to provide for review of existing rules as a component of the Committee's review process. The Committee directed staff to prepare legislation deleting the broad grants of rulemaking authority given to several state agencies and to work with each affected agency to ensure that the rewritten authorizing statutes would still provide needed specific rulemaking authority. The Committee

anticipated that the effort to delete these grants from all agency statutes would require several years to complete.

As part of an agreement reached between members of the Administrative Rules Review Committee and the Governor during the 1989 General Session, legislation passed which granted the Committee authority to prepare annual legislation reauthorizing all rules of the state except any rules enumerated in each year's bill. The Committee delayed any action on broad statutory grants until after the 1990 General Session.

From 1989 through 1994, the Committee examined the rules of every state agency. Agency representatives were provided with a detailed analysis of their rules and met with the Committee to establish agreements regarding rule changes to be made. This process prompted agencies to file more concise, carefully prepared rules that were in harmony with Utah statutes.

The 2002 General Session marked the first time the annual reauthorization legislation repealed written statements of state agencies that met the definition of a rule but that had not proceeded through the required rulemaking process that includes notice, publication, and public comment. In the 2003 General Session, legislation passed clarifying that an agency's written statement that conformed to the definition of a rule is, in fact, a rule, but is only enforceable if it has gone through the statutorily required rulemaking process, including publication and public comment.

Today, the Committee meets regularly to review the large number of proposed agency rules published twice monthly in the *Utah State Bulletin* and addresses specific concerns raised by legislators and the public regarding proposed and existing rules.

ANNUAL ADMINISTRATIVE RULES REAUTHORIZATION LEGISLATION

Background

During the 1989 General Session, the Legislature enacted a law requiring that legislation be passed annually to

ADMINISTRATIVE RULES REVIEW COMMITTEE

reauthorize state agency rules, except for rules specified in the bill to be repealed.

Action

The Committee met with various state agencies through the year regarding specific rules of concern to committee members and citizens. In many cases, agency representatives agreed to make changes requested by the Committee and filed those changes with the Division of Administrative Rules. When an agency chose not to change a rule, the committee members considered whether to reauthorize or repeal the rule when preparing its annual legislation.

The Committee will consider this issue at its January 2006 meeting and is scheduled to discuss and likely recommend draft legislation "Administrative Rules Reauthorization."

STATUTORY AUTHORITY GRANTED TO STATE AGENCIES TO ESTABLISH CRIMINAL PENALTIES BY RULE

Background

A citizen expressed concern that a misdemeanor penalty for the violation of a particular rule was too harsh. Agency representatives indicated that state statute requires the agency to set the criminal penalty by administrative rule. The Committee voted unanimously to refer the issue of whether to change the statute to lessen the penalty to the Natural Resources, Agriculture, and Environment and Law Enforcement and Criminal Justice Interim Committees and directed staff to research statutes that grant agencies authority to establish criminal penalties by rule and review the legal basis of these statutes.

Staff reported that the Utah Supreme court, in *State v. Gallion*, 572 P.2d 683, has established that defining crimes and setting the penalty for their violation is an essential legislative function that cannot be delegated by the Legislature. Staff also provided a list of statutes that authorize or direct agencies to establish misdemeanor, and in some cases, felony penalties by rule.

The Committee met with representatives of 18 of the agencies with these statutory grants. Some agencies expressed a willingness to have their statutes amended to remove the authority to set criminal penalties by rule. Others, while disagreeing philosophically with the interpretation of case law on the issue, expressed a willingness to have their statutes amended. It was noted by several agencies that no prosecutions had ever taken place that were based on a criminal penalty established by rule. Other agencies, however, have prosecuted criminal offenses established by rule.

Several agencies expressed concern with removing statutory authority to set criminal penalties by rule, argued that it did not violate case law, and discussed the impact of trying to place all affected provisions in state rule into state statutes. Concern about agency compliance with federal requirements was also raised.

Action

The Committee directed staff to prepare legislation to repeal some of the statutory grants of authority to agencies to establish criminal penalties by rule. The Committee also directed staff to research the issue further and report to the Committee in its December 14, 2005 meeting. The Committee discussed this issue at its July, November 4, November 22, and December, 2004 meetings.

TIME FRAME REQUIREMENT FOR AGENCY RESPONSE TO A RULE PETITION

Background

The state Property Rights Ombudsman expressed concern, on behalf of a citizen, that the Division of Water Quality did not comply with *Utah Code* 63-46a-12(4), an Administrative Rulemaking Act provision which states that an agency must respond within 30 days to a citizen's request for a rule change. Agency representatives responded that they did not feel they had violated the statute.

ADMINISTRATIVE RULES REVIEW COMMITTEE

Committee members, while acknowledging that 30 days may be too stringent, expressed concern that the agency had not complied with the time frame of statute.

Action

The Committee voted to have staff prepare legislation that would define the period of time a department has to respond to a petition for variance from a rule and whether the agency response needs to be a notice or a completed rule. The legislation would also provide a time frame for an agency to consider any public comment made prior to the effective date of the rule. The Committee considered this issue at its June and July 2005 meetings, and it was anticipated that it would also be discussed, and draft legislation acted upon, in its January 2006 meeting.

Timely Payment of Child Care Assistance Funds

As part of a staff report on the distribution by a private party of certain child care expense documents during a previous committee meeting, the Committee heard testimony from child care providers concerned with the amount of time before clients receive child care assistance and are then able to pay child care providers for services.

The Committee considered this issue at its June 2005 meeting and sent a letter to the Workforce Services and Community and Economic Development Interim Committee requesting that the Committee review the process for child care assistance clients to receive child care subsidies.

OTHER STUDIES

Sharing of Student Contact Information Among Public and Charter Schools

Charter school representatives expressed concern that some public schools denied their requests for student contact information. The charter schools requested the information so that a mailing could be sent to the public school students encouraging them to attend the charter school.

Committee members suggested that perhaps rulemaking was needed to govern the granting and denying of charter school requests for student contact information. A representative of the State Office of Education stated that federal law provides that school districts may release student contact information but they are not required to do so.

A member of the Committee stated that he would file a bill request and work with the State Board of Education to determine the appropriate statutory language to provide for the sharing of student contact information for advertising of charter schools.

The Committee discussed this issue at its October 2005 meeting but took no action.

BUSINESS AND LABOR INTERIM COMMITTEE

BUSINESS AND LABOR INTERIM COMMITTEE

Membership

Sen. Scott K. Jenkins, Senate Chair
Rep. Stephen D. Clark, House Chair
Sen. Gene Davis
Sen. Thomas V. Hatch
Sen. John W. Hickman
Sen. Ed Mayne
Sen. Michael G. Waddoups
Rep. J. Stuart Adams
Rep. Jackie Biskupski
Rep. David Clark
Rep. Carl W. Duckworth
Rep. James A. Dunnigan
Rep. Craig A. Frank
Rep. Neil A. Hansen
Rep. Todd E. Kiser
Rep. Michael T. Morley
Rep. Curtis Oda
Rep. Gordon E. Snow
Rep. Scott L. Wyatt

Staff

Allison Morgan, Policy Analyst
Patricia Owen, Associate General Counsel
Tracey Fredman, Legislative Secretary

OVERVIEW

The Business and Labor Interim Committee considers issues relating to the interests of business owners, employees, and consumers. Safeguarding these interests involves balancing the need for appropriate regulation with the need to foster a healthy economy by avoiding unnecessary governmental interference in free enterprise.

The Committee has legislative responsibility for six departments and commissions: Alcoholic Beverage Control Commission, Department of Alcoholic Beverage Control, Department of Commerce, Department of Financial Institutions, Department of Insurance, and Labor Commission.

Issues addressed by the Committee in recent years include regulation of construction activities and mechanics' liens, affordable health insurance, use of consumer credit information, consumer lending, insurance regulation, business assistance and recruitment programs, workers' compensation, regulation of financial institutions, consumer protection, and real estate activities.

AFFORDABLE HEALTH INSURANCE

Background

With the rising costs of health care, providing affordable health insurance to employees is one of the most important issues facing employers today. Alternatives such as health savings accounts and association health plans are entering the marketplace. A gubernatorial working group that is examining issues related to reaching the uninsured reported to the Committee.

Action

The Committee considered this issue at its May, July, September, and November 2005 meetings and recommended draft legislation "Resolution Urging Congressional Action on the Tax Deductibility of Medical Expenses by Individuals."

INSURANCE ISSUES

Background

The Committee studied several insurance issues during the interim. Insurance rehabilitation and liquidation laws are intended to protect the interests of insurers, creditors, and the public when an insurance company fails or is poised for failure. Individuals in the reinsurance industry are seeking to change Utah law that establishes the reinsurance process. Two-tier annuities are not available to sell in Utah's marketplace since the Legislature changed the nonforfeiture provisions of the Utah Code in 2004. Advocates of two-tier annuities believe there is a gap in choice for consumers, and that instead of banning the product, the public policy should be full disclosure in contracting practices. To curb perceived deceptive sales practices, several states have recently enacted stricter laws regarding annuities especially related to permanent

BUSINESS AND LABOR INTERIM COMMITTEE

surrender charges and full disclosure by companies. The Committee considered draft legislation, "Rights for Motor Vehicle Repairs" which requires insurers and body shops to provide certain notices detailing consumers' rights, and does not allow insurers to require a vehicle to be repaired at a specific body shop. The Department of Insurance also presented three draft bills addressing insurance related investments, life insurance and annuities, and insurance reporting provisions.

Action

The Committee considered insurance rehabilitation and liquidation in its June 2005 meeting, two-tier annuities in its September 2005 meeting, and rights for motor vehicle repairs in its September and November 2005 meetings, but did not recommend legislation. The Committee considered the Department of Insurance issues in its November 2005 meeting and recommended draft legislation "Insurance Related Investment Amendments," "Life Insurance and Annuity Law Amendments," and "Insurance Reports, Tables, and Examination Amendments."

SCR (STATE CONSTRUCTION REGISTRY) AND MECHANICS LIENS

Background

During the 2004 General Session, the Legislature amended the mechanics' lien statute to create the SCR, an online statewide database of commercial and residential construction projects with the associated notices of commencement, preliminary notices, and notices of completion. The Committee monitored the implementation of the SCR and received testimony from stakeholders. The supplier groups indicated that suppliers should have the ability to file their own notices of commencement with the SCR.

The Committee discussed the Residence Lien Restriction and Lien Recovery Fund and the current law regarding the cap on attorneys' fees. The Committee received data on the claims made and payments awarded from the Fund, and discussed whether or not to cap attorneys' fees. The Committee also discussed the advantages of establishing

a standardized lien waiver form in statute, and the timing of when a person may file a lien.

Action

The Committee considered SCR issues in its May, June, and July 2005 meetings, and general lien issues in its July and November 2005 meetings and recommended draft legislation "Filing Liens."

OTHER STUDIES

Bankruptcy

Utah leads the nation in the number of personal bankruptcy filings. The Committee received current research results indicating several trends, chief among which was a pattern of Utahns living just within their means, so that when a significant economic life event occurred, they are not financially equipped to deal with it. The United Way of Salt Lake introduced a pilot program entitled "Utah Saves," which would give participants the incentive and support to maintain a savings account. The Committee considered this issue at its October 2005 meeting but did not recommend legislation.

Minimum Wage

The minimum wage in Utah is set at the federal minimum wage: \$5.15 per hour. It was last raised in 1997 from \$4.75 per hour. Sixteen states and the District of Columbia have enacted laws that set the state minimum wage higher than the federal. The Committee received a report from the Governor's Working Group on the Minimum Wage, which has been collecting data, but is not ready to recommend any proposals. In addition, the Committee heard testimony from advocacy groups in favor of increasing Utah's minimum wage. The Committee considered this issue at its October 2005 meeting but did not recommend legislation.

SUNSET REVIEWS

Assessment on Title Insurance Agencies or Title Insurers

The Insurance Commissioner may assess title insurers and title insurance agencies an annual assessment to pay

the Department of Insurance for administration, investigation, and enforcement costs related to the marketing of title insurance and audits of agencies. The Committee considered this issue at its May 2005 meeting and recommended reauthorization of the Act, with a repeal date of July 1, 2011.

Electronic Commerce Dedicated Fees

Utah Code, 31A-3-104 gives the Department of Insurance authority to charge a fee for certain requests for information retrieved electronically. The Committee considered this issue at its May 2005 meeting and recommended draft legislation "Insurance Department - Sunset Amendments and Revisions."

Motor Fuel Marketing Act

Utah's Motor Fuel Marketing Act prohibits certain below cost sales or discriminatory pricing. The Attorney General's Office recommended that the Act not be reauthorized. The Committee heard testimony from others in favor of reauthorizing the Act. The Committee considered this issue at its October 2005 meeting, and recommended reauthorization of the Act with a sunset date of July 1, 2011.

CHILD WELFARE LEGISLATIVE OVERSIGHT PANEL

CHILD WELFARE LEGISLATIVE OVERSIGHT PANEL

Membership

Sen. Dan R. Eastman, Senate Chair
Rep. Steven R. Mascaró, House Chair
Sen. Gene Davis
Rep. David Litvack
Rep. Paul Ray

Staff

Mark D. Andrews, Policy Analyst
Thomas R. Vaughn, Associate General Counsel
Wendy Bangerter, Legislative Secretary

OVERVIEW

The Child Welfare Legislative Oversight Panel was created in 1995 to study and recommend improvements to Utah's system for responding to allegations of child abuse and neglect. The Panel reports annually to the Health and Human Services Interim Committee, the Judiciary Interim Committee, the President of the Senate, and the Speaker of the House.

FEDERAL COURT OVERSIGHT

Background

Utah's child welfare system continues to operate under federal court oversight begun in 1994 as a result of the legal challenge brought by the National Center for Youth Law in *David C. v. Leavitt*. Oversight is scheduled to end when the state meets the operational objectives of the Performance Milestone Plan adopted by the court in 1999. Operational compliance is measured using two tools—the case process review, and the qualitative case review.

To date, the state has not successfully met the case process review standards. However, this year the first of five regions within the Division of Child and Family Services passed the qualitative case review. Based on progress documented by the two measurement tools, the state may petition the court next year to end its oversight.

Since 1994, the state has paid \$6.7 million in plaintiff attorneys fees and court monitoring costs related to the settlement agreement.

Action

The Panel considered this issue at its July and September 2005 meetings but did not recommend legislation.

GUARDIAN AD LITEM AUDIT

Background

Earlier this year the legislative auditor released an audit of the GAL (Office of the Guardian ad Litem). As a result of the audit, the Panel alerted the Executive Appropriations Committee and the Executive Offices and Criminal Justice Appropriations Subcommittee of the need to adequately fund the GAL. The Panel also recommended that the Executive Offices and Criminal Justice Appropriations Subcommittee allow the GAL, rather than the Judicial Council, to make presentations on the needs of the office at the Subcommittee's meetings and in other parts of the budget process.

Action

The Panel considered this issue at its July and August 2005 meetings but did not recommend legislation.

OTHER STUDIES

Child Abuse Licensing Information System

Over the past several years numerous changes have been made to the statutes governing the use of the Licensing Information System. The Panel considered draft legislation that would reorganize these statutes and make one policy change—require removal of a person's name from the system if an allegation of abuse or neglect found to be unsubstantiated or without merit is on appeal. The Panel considered this issue at its October 2005 meeting and recommended draft legislation "Child Welfare - Licensing and Management Information Systems."

Child Abuse Prevention

During the 2005 General Session the House of Representatives passed legislation that would transfer

CHILD WELFARE LEGISLATIVE OVERSIGHT PANEL

responsibility for the allocation of child abuse prevention funding from the Child Abuse Advisory Council and the Division of Child and Family Services to an independent Child Abuse Prevention Board. The Panel considered a modified version of this bill. The Panel considered this issue at its September and November 2005 meetings and recommended draft legislation "Utah Child Abuse Prevention Board."

2005 meeting and recommended draft legislation "Child Welfare Revisions."

Civil vs. Criminal Systems

The Panel received a report contrasting the civil and criminal systems used to respond to allegations of child abuse and neglect. The Panel considered this issue at its November 2005 meeting but did not recommend legislation.

Office of Child Welfare Parental Defense

During the 2005 General Session the Legislature reduced funding for the new Office of Child Welfare Parental Defense with the idea that its functions could be carried out by a privately contracted provider. The Panel considered draft legislation that would conform the statutory authority and duties of the office to this approach. The Panel considered this issue at its September 2005 meeting and recommended draft legislation "Office of Child Welfare Parental Defense Amendments."

Protective Custody

The Panel considered draft legislation that modifies the processes used to take a child into protective custody. The Panel considered this issue at its October 2005 meeting and recommended draft legislation "Child Protection Amendments."

Other Legislation

The Panel considered draft legislation that describes conduct that does not constitute abuse, defines the rights and responsibilities of parents, modifies provisions relating to the grounds under which a child may be retained in protective custody, and amends many other provisions related to child abuse and neglect. The draft is a subset of 2005 legislation supported by the Department of Human Services. The Panel considered this issue at its October

EDUCATION INTERIM COMMITTEE**Membership**

Sen. Howard A. Stephenson, Senate Chair
Rep. Margaret Dayton, House Chair
Sen. Patrice M. Arent
Sen. D. Chris Buttars
Sen. Karen Hale
Sen. Mark B. Madsen
Sen. David L. Thomas
Rep. Ron Bigelow
Rep. Duane E. Bourdeaux
Rep. LaVar Christensen
Rep. John Dougall
Rep. James A. Ferrin
Rep. James R. Gowans
Rep. David L. Hogue
Rep. Kory M. Holdaway
Rep. Gregory H. Hughes
Rep. Bradley T. Johnson
Rep. Carol Spackman Moss
Rep. Merlynn T. Newbold
Rep. LaWanna "Lou" Shurtliff
Rep. Stephen H. Urquhart

Staff

Phillip V. Dean, Policy Analyst
Constance C. Steffen, Policy Analyst
Dee S Larsen, Associate General Counsel
Glenda S. Whitney, Legislative Secretary

OVERVIEW

The Committee provides oversight of and recommends policy relating to the state systems of public and higher education.

EXEMPTION FROM NONRESIDENT TUITION**Background**

In the 2002 General Session, the Legislature enacted H.B. 144 "Exemption from Nonresident Tuition," which exempts certain students from the nonresident portion of total tuition at a state institution of higher education, if allowed by federal law. The exemption applies to a student, other

than a nonimmigrant alien, who attends a high school in the state for three or more years and graduates from a high school in the state or receives the equivalent of a high school diploma.

Following the enactment of H.B. 144, the University of Utah asked the Office of the Utah Attorney General whether the exemption from nonresident tuition was allowed by federal law. The Office of the Utah Attorney General concluded that the exemption, as provided by H.B. 144, was allowed by federal law. In accordance with the Office of the Utah Attorney General's findings, state institutions of higher education offered the exemption from nonresident tuition to students qualifying under H.B. 144. In the 2003-04 school year, 117 students received an exemption from nonresident tuition pursuant to H.B. 144.

Legislation similar to H.B. 144 was enacted in Kansas and has been challenged in court as a violation of federal law. Individuals challenging the Kansas law testified to the Committee that the Utah law, in their opinion, also violates federal law, and the state may be liable for significant monetary damages.

Action

The Committee considered this issue at its June 2005 meeting and recommended draft legislation "Repeal of Exemption from Nonresident Tuition."

NO CHILD LEFT BEHIND**Background**

Legislation introduced in the 2005 General Session directed the State Board of Education, the state superintendent, and other state and local school officials regarding the administration and implementation of federal education programs and provided specific directions for the state implementation of the federal No Child Left Behind Act. The bill required school officials to prioritize state programs over federal programs that do not simultaneously advance state goals. Although the bill unanimously passed in the House of Representatives and passed on Second Reading in the Senate, the governor requested that action on the bill be delayed to allow the state to negotiate with the federal Department of

EDUCATION INTERIM COMMITTEE

Education on obtaining flexibility in implementing the No Child Left Behind Act.

When the state failed to achieve the flexibility it was seeking, the governor scheduled a special session to reconsider the legislation addressing federal education programs, including the No Child Left Behind Act.

Action

The Committee considered this issue at its April, July, September 21, September 29, October, and November 2005 meetings and recommended draft legislation "Implementing Federal Educational Programs," which was enacted in the 2005 First Special Session.

UTAH BASIC SKILLS COMPETENCY TEST

Background

Beginning with the high school graduating class of 2006, a student must pass the UBSCT (Utah Basic Skills Competency Test), in addition to meeting all other graduation requirements, to obtain a regular high school diploma. Beginning in the sophomore year, a student has five opportunities to take the UBSCT. By the fall of 2005, a significant number of high school seniors had not yet passed all portions of the test. The State Board of Education recommended that the Legislature appropriate funds for programs to assist students in passing the UBSCT.

Under current Utah law, no student is exempt from the requirement of passing the UBSCT to obtain a regular high school diploma, except certain students with disabilities. Taking the UBSCT is inconvenient for adult education students who are seeking a high school diploma. The test is administered only twice a year and during school hours in high schools. Adult education administrators suggested offering the UBSCT at other times or allowing adult education students to take a different test, such as the GED (General Educational Development test) to obtain a regular high school diploma.

Action

The Committee considered this issue at its May, September, and November 2005 meetings but did not recommend legislation.

OTHER STUDIES

Acceptance of Credits Toward High School Graduation

Students potentially have many alternatives available to them to take courses which may fulfill high school graduation requirements. In addition to taking courses in their own high school, students may take college courses, online courses through the Electronic High School, or courses offered by other public or private schools. Alternatives for fulfilling high school course requirements allow gifted or motivated students to accelerate their education and provide options to students who are not successful in traditional high school classes. Many school districts and high schools, though, limit the number of credits that will be accepted for courses taken outside the school district or high school.

The Committee considered this issue at its September and November 2005 meetings but did not recommend legislation.

Care of Students with Diabetes in Schools

Diabetes in students needs to be actively managed while students are in school. Students with diabetes may need to test their blood sugar levels or self-administer insulin during school hours. Sometimes diabetic students experience dangerously low blood sugar levels. This condition can be remedied by administering glucagon to the student.

State laws prohibiting the possession of drugs and a severe lack of school nurses are impediments in the care of students with diabetes. An alternative to placing one or more school nurses in every school is to train volunteers to administer glucagon to students with diabetes in an emergency.

The Committee considered this issue at its September 2005 meeting and recommended draft legislation "Care of Students with Diabetes in School."

U-PASS (Utah Performance Assessment System for Students) Accountability Plan

Utah law requires the State Board of Education to identify schools not achieving state-established acceptable levels of student performance in order to assist those schools in raising their student performance levels. The Board has worked for more than a year to construct an accountability system which measures student performance and determines whether a school has met acceptable levels of student performance. The U-PASS accountability plan uses multiple measures to determine acceptable levels of student performance with the focus on individual student progress from year to year. The first reports of schools meeting or not meeting acceptable levels of student performance will be made available online in January 2006.

The Committee considered this issue at its April, May, and September 2005 meetings but did not recommend legislation.

GOVERNMENT OPERATIONS INTERIM COMMITTEE

GOVERNMENT OPERATIONS INTERIM COMMITTEE

Membership

Sen. Parley G. Hellewell, Senate Chair

Rep. Douglas C. Aagard, House Chair

Sen. Dan R. Eastman

Sen. Brent H. Goodfellow

Sen. Lyle W. Hillyard

Rep. Roger E. Barrus

Rep. DelMar "Bud" Bowman

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Rep. Eric K. Hutchings

Rep. John G. Mathis

Rep. Patrick Painter

Rep. Mark W. Walker

Rep. Mark A. Wheatley

Staff

Benjamin N. Christensen, Policy Analyst

Eric N. Weeks, Associate General Counsel

Brooke Ollerton, Legislative Secretary

OVERVIEW

The Government Operations Interim Committee considers a broad range of issues, including elections, campaign finance, ethics, government records access and management, appropriations and bonding, open and public meetings, personnel, boards and commissions, and administrative services. The Committee considers policy questions with statewide implications, receives testimony from concerned groups and state agencies, and makes recommendations to the Legislature.

The Committee has legislative responsibility for several departments and agencies of state government, including the offices of the Governor, Lieutenant Governor, Attorney General, Utah State Auditor, and Utah State Treasurer; Governor's Office of Planning and Budget; Department of Administrative Services; and Department of Human

Resource Management. The Committee also has primary responsibility for the following titles of the *Utah Code*: Title 20A, Election Code; Title 36, Legislature; Title 63, State Affairs in General; Title 63A, Administrative Services; Title 63B, Bonding; and Title 67, State Officers and Employees.

ELECTION CODE CHANGES

Background

In 2002, Congress passed HAVA (Help America Vote Act of 2002). Since the passage of HAVA, the Lieutenant Governor's Office has been working to ensure the state's compliance with the new federal requirements. HAVA requires that voting systems allow all voters, including those with disabilities, to independently and privately cast ballots and to verify their selections. The voting systems must notify voters of "overvotes" and allow voters to correct any errors before casting their ballots. On July 9, 2004, the Lieutenant Governor's Voting Equipment Selection Committee issued an RFP (request for proposal) for new voting equipment that will meet the needs of Utah voters and that complies with HAVA. Both vendors that responded to the RFP participated in a public mock election on March 30, 2005 to demonstrate their proposed voting equipment.

On Aug 11, 2005, the lieutenant governor signed a contract to retain Diebold Elections Systems as the state's vendor to supply:

- 7,463 touch screen devices, 1,474 of which are to be disability accessible devices; and
- 63 optical scanners.

Beginning with the 2006 General Election, the primary voting device throughout the state will be touch screens, with optical scanners used for provisional and other ballots as needed. All 29 counties have signed an agreement to participate in the state's program. The equipment has been purchased and will be distributed to the county clerks as state-monitored acceptance testing is completed. The distribution plan calls for one touch screen voting device for every 174 active registered voters with one disability accessible device for every voting location. The purchase price for the new system, including warranty and

GOVERNMENT OPERATIONS INTERIM COMMITTEE

maintenance through 2009, is \$24.5 million. Extended warranty and maintenance fees through 2015 total an additional \$3.5 million. Additional costs for HAVA mandates, including developing a statewide voter registration database, coordinating uniform election judge training, and providing voter education activities, will total another \$2.5 million. Available funding includes \$26.2 million in federal money (includes accrued interest) and \$0.8 million in state money previously appropriated to the Lieutenant Governor's Office. Upon receiving the equipment, counties will incur replacement, growth, and additional election administration costs. These ongoing costs have not been established. However, counties estimate increases to current clerk budgets of 20 to 30 percent. Legislation will be required to update the *Utah Code* with changes needed to implement the new voting equipment and to accommodate HAVA.

In an effort to postpone the need to purchase additional voting equipment due to population growth and to better manage expenses of administering elections, two additional proposals have been advanced by the Lieutenant Governor's Office and county clerks throughout the state:

- early voting, and
- consolidation of common polling places.

Utah and 35 other states already provide some form of early voting, allowing voters to cast their ballots from 7 to 30 days prior to election day. Early voting is used as a means to increase voter convenience and participation, reduce waiting for other voters on election day, and decrease the number of voting devices needed to handle the volume of voters on election day. During the 2004 presidential election, approximately 20 percent of ballots cast nationwide were cast during the early voting period. Utah's current early voting provisions are in the form of an absentee ballot which does not require an excuse to vote absentee.

Under *Utah Code*, 20A-5-303, a county legislative body may:

- establish a common voting place for two or more voting precincts, but the common polling place may not exceed 4,000 active voters; and
- divide voting precincts that contain more than 1,000 active voters. These existing provisions limit the amount of consolidation of common polling places.

Action

The Committee participated in a demonstration of the new voting equipment by the two vendors that responded to the RFP. Following a hands-on trial, the vendors were asked questions of committee members. After hearing a presentation and testimony on early voting, the Committee requested that staff prepare draft legislation for further consideration. With input from county clerks and the Lieutenant Governor's Office, draft legislation was prepared and presented to the Committee.

The Committee considered this issue at its April, May, June, September, and October 2005 meetings and recommended draft legislation "Common Polling Places Amendments," "Early Voting," "Provisional Ballot Amendments," and "Election Code Revisions."

OPEN AND PUBLIC MEETINGS ACT

Background

In 1955, the Legislature enacted an open meetings law and updated and expanded it in 1977 to essentially the current Utah law found in Title 52, Chapter 4, Open and Public Meetings. A June 2005 report by the Legislative Auditor General titled "School Boards' Closed Meetings Do Not Comply with Statute" highlighted the need for school boards to be better educated on and to have greater compliance with the state's "Open and Public Meetings" laws. Based on the findings and recommendations of the report, the Committee looked for ways to clarify provisions and facilitate education and compliance.

The Legislative Management Committee also asked the Committee to study the use of electronic meeting provisions in the Open and Public Meetings law and to recommend improvements. Current electronic meeting

GOVERNMENT OPERATIONS INTERIM COMMITTEE

provisions were thought to inadequately address the equipment and administrative preparation required to conduct an electronic meeting where one or more members of a policy making body made a request to participate electronically from a remote location.

Action

Under the direction of the Committee chairs, a recodification of "Open and Public Meetings" was prepared as a means to update language, clarify misunderstood provisions, and facilitate education and compliance. The chairs also had draft legislation prepared to require a public body to adopt rules governing the use of electronic meetings prior to allowing them. At the request of legislative sponsors, draft legislation was prepared to require all closed meetings to be recorded and to require both a recording and minutes for all open meetings, as well as to require reasonable specificity on a public body's meeting agenda. The Committee heard presentation and testimony on the proposed draft legislation.

The Committee considered this issue at its September and November 2005 meetings and recommended draft legislation "Open and Public Meetings Act Revisions," "Open Meetings Law Amendments," "Revisions to Open and Public Meetings Law," and "Electronic Meeting Amendment."

OTHER STUDIES

DFCM (Division of Facilities Construction and Management) Five Year Building Program

Under *Utah Code*, 63A-5-103, the State Building Board is required to prepare a master plan of structures in cooperation with state institutions, departments, commissions, and agencies and to keep current the five-year building program for the state. With some exceptions, DFCM supervises the design and construction of projects in the five-year program. Proposed projects are evaluated based on six scoring objectives and criteria for establishing how well each project will satisfy each objective. Each objective is then weighted for final scoring. This evaluation method is designed to provide an

objective score from which the board can prioritize each proposed project. DFCM reported on the building board five-year building program, the capital budget funding history, and construction status reports. They also reported that during the 2005 General Session, the Legislature approved \$155 million in state funded projects and \$146.5 million in projects from other funding sources.

The Committee considered this issue at its May 2005 meeting but did not recommend legislation.

Government Agency Overviews

Under the direction of the Committee chairs, several agencies for which the Committee has general oversight and study responsibilities were asked to appear before the Committee. Each agency was asked to explain its function and to highlight key issues, both new and ongoing, that the agency is working on. The agencies were also asked to explain their role, how many full-time employees are allocated to the agency, how the agency contributes to efficient and effective government, and how the Legislature could be of assistance to the agency. During the 2005 Interim, the following agencies appeared before the Committee:

- Department of Administrative Services,
- Division of Archives and Records Service,
- Division of Fleet Operations,
- Division of Purchasing and General Services,
- Division of Risk Management,
- Governor's Office of Planning and Budget,
- Office of State Debt Collection,
- Utah State Auditor, and
- Utah State Treasurer.

The Committee considered this issue at its May and June 2005 meetings but did not recommend legislation.

Government Efficiency

Doing "more with less," eliminating waste, streamlining operations, reducing services, increasing accountability, auditing performance, rewarding productivity, and establishing performance measures are components of former and current efforts to increase efficiency in

GOVERNMENT OPERATIONS INTERIM COMMITTEE

government. The Committee looked at ways the Legislature could promote more Utah government efficiency, what is being done now, and other approaches and options. The Legislative Auditor General reported that 70 percent of all the legislative audit findings and recommendations have the following common causes:

- lack of governance exercised over programs or agencies,
- inadequate policies and procedures,
- ineffective reporting standards, and
- insufficient data reporting.

The Legislative Auditor General suggested publishing a self-audit booklet to distribute to state agencies that would assist them in their efforts of achieving government efficiency and allow for follow-up audits.

The Committee voted unanimously to direct the Office of the Legislative Auditor General to create a self-audit and efficiency checklist booklet for distribution to government entities. The Committee also heard testimony from other agencies on their current efforts to increase efficiency. Some of these ideas included:

- developing sample human resource operational measures;
- implementing performance measures with reportable data, which includes asking agency heads "How are you going to measure the value of my investment"; and
- establishing balanced score cards in reviewing performance measures which have five categories including customer satisfaction, financial performance, employee satisfaction, and process excellence in efficiency and effectiveness.

The Committee considered this issue at its July 2005 meeting but did not recommend legislation.



Prayer in Government Meetings

The Utah Constitution Art. I, Sec. 4 states:

"The rights of conscience shall never be infringed. The State shall make no law respecting an establishment of religion or prohibiting the free exercise thereof."

The Committee heard a legal briefing on the current legal status of prayer in government meetings. The "establishment clause" and the difference between a government expression and a private expression in prayer and the constitutionality of each, both locally and federally were explained. The presenter stated that, in this context, government can control the time, place, and manner of the prayer but cannot control the content of the prayer.

The Committee considered this issue at its July 2005 meeting but did not recommend legislation.

Repeal of the Utah Digital Signatures Act

Under common law, a person authenticates a document if they mark it with the intent of identifying themselves with that document. In 1995, the Utah Legislature passed legislation enacting the "Utah Digital Signature Act" to provide a special legal effect to electronic signatures made in compliance with the technical processes for electronic signatures authentication under the Act. Under the Act, the Division of Corporations and Commercial Code issues a license to qualified persons to become a "licensed certification authority." In 2000, the Utah

GOVERNMENT OPERATIONS INTERIM COMMITTEE

Legislature enacted the "Uniform Electronic Transaction Act," which was based on a model act drafted by the National Conference of Commissioners on Uniform State Laws. The Act codified the common law rule of authentication and provided for enforceability of electronic signatures and contracts. Congress passed a law referred to as the federal "E-Sign Act," which became effective in 2001, preempting any state law that gives greater legal effect to electronic signatures from a specific technology. The Committee looked at how these laws are working, the potential preemption of the Utah Digital Signature Act by the federal "E-Sign Act," and whether there is a need for both state laws. At the request of the Committee and based on information and testimony received, draft legislation was prepared to repeal the Utah Digital Signature Act since it:

- has arguably been preempted by federal law,
- is covered under Title 46, Chapter 4, Uniform Electronic Transaction Act; and
- has not been used for several years.

The Committee considered this issue at its September and November 2005 meetings and recommended draft legislation "Repeal of Utah Digital Signature Act."

State "Risk Management Fund" Coverage to Nonstate Entities - Sunset Review

Utah Code, 63A-4-204 allows school district and school districts foundations to participate in the State Risk Management Fund, which is the state's self-insurance policy covering property, liability, fidelity, and other approved risks of the state. *Utah Code*, 63A-4-205 also allows local health departments to participate in the same fund. These sections were enacted in 1982 and 1989, respectively. Both sections are repealed July, 1, 2006 unless reauthorized by the Legislature (see *Utah Code*, 63-55-263(8)). The Committee heard testimony from a representative of the Division of Risk Management on this issue at its November 2005 meeting and recommended that:

- *Utah Code*, 63A-4-204, which allows school districts and school district foundations to participate in the State Risk Management Fund, be reauthorized for another ten years; and

- *Utah Code*, 63A-4-205, which allows local health departments to participate in the State Risk Management Fund, be allowed to sunset.

This recommended statutory change is expected to be included in the omnibus sunset legislation, "Sunset Reauthorizations."

GOVERNMENT RECORDS ACCESS AND MANAGEMENT TASK FORCE

GOVERNMENT RECORDS ACCESS AND MANAGEMENT TASK FORCE

Membership

Sen. David L. Thomas, Senate Chair
Rep. Douglas C. Aagard, House Chair
Sen. Fred J. Fife
Sen. Brent H. Goodfellow
Sen. Parley G. Hellewell
Sen. Mark B. Madsen
Rep. Glenn A. Donnelson
Rep. Carl W. Duckworth
Rep. Craig A. Frank
Rep. Neil A. Hansen
Rep. Ann W. Hardy
Rep. David L. Hogue
Rep. Fred R. Hunsaker
Rep. Carl Spackman Moss

Staff

Benjamin N. Christensen, Policy Analyst
Eric N. Weeks, Associate General Counsel
Brooke Ollerton, Legislative Secretary

OVERVIEW

Since the passage of GRAMA (the Government Records Access and Management Act) in 1991, information and technological advances, and numerous amendments (57 bills passed amending GRAMA) prompted the Legislature to create the GRAMA Task Force during the 2005 General Session. The Task Force discussed a number of issues including:

- Manipulation of electronic data - To what extent should the government format, compile, or summarize data to fill a request for information and what fees should it charge?
- Communication between a citizen and an elected official - Should this communication be protected from public disclosure unless one of the parties chooses to make it public, or the public interest in disclosing the communication outweighs the personal interest in keeping the communication confidential? What expectation does a citizen have toward privacy of this

communication and how does this affect public participation in government?

- Internal communication that is part of the deliberative process in connection with the preparation of legislation between a member of a legislative body or a member of its staff - Should this communication be protected from public disclosure and how does this affect the public policy-making processes?
- Personal communication not related to the conduct of the public's business - Should personal communication including notes, voice mail, e-mail, etc. be included or excluded as a record under GRAMA and what cost, data storage, and retrieval implications does this have?
- Notice to persons asked to provide information to government - What expectation of privacy should the public have as they provide information to government and should government give notice of to whom it may release the information?
- Harassment through multiple GRAMA requests - Should government be required to fill information requests that are primarily meant to harass or cause unwarranted expense to a government entity?
- Response to requests for information that may be the subject of a lawsuit - What procedural changes are needed when requests for information accompany notice of a lawsuit against the government?
- Consolidated procedure for administrative and judicial appeals - Should the appeals process for GRAMA issues be consolidated so that all appeals go through the State Records Committee prior to an appeal to the District Court or should the option to skip the Committee be retained?

Action

The Task Force held meetings throughout the interim and requested input and heard testimony from numerous interested parties. A final report was prepared and presented to the Government Operations Interim Committee and to the Public Utilities and Technology Interim Committee by the Task Force chairs.

The Task Force considered these issues at its May, June, July, September, October, and November 2005 meetings

GOVERNMENT RECORDS ACCESS AND MANAGEMENT TASK FORCE

and recommended draft legislation "Amendments to Government Records Access and Management Act," "GRAMA Appeals Process and Document Request Amendments," and "Access and Fee Amendments to Government Records Access and Management Act."

HEALTH AND HUMAN SERVICES INTERIM COMMITTEE

HEALTH AND HUMAN SERVICES INTERIM COMMITTEE

Membership

Sen. Allen M. Christensen, Senate Chair
Rep. Bradley G. Last, House Chair
Sen. Sheldon L. Killpack
Sen. Peter C. Knudson
Sen. Scott D. McCoy
Rep. D. Gregg Buxton
Rep. Wayne A. Harper
Rep. Patricia W. Jones
Rep. David Litvack
Rep. Rebecca D. Lockhart
Rep. Steven R. Mascaro
Rep. Ronda Rudd Menlove
Rep. Paul Ray

Staff

Mark D. Andrews, Policy Analyst
Catherine J. Dupont, Associate General Counsel
Thomas R. Vaughn, Associate General Counsel
Joy L. Miller, Legislative Secretary

OVERVIEW

The Health and Human Services Interim Committee considers a wide range of issues related to public health, health care providers, healthcare facility licensing, health insurance, access to health care, mental health, aging, child abuse, and substance abuse. The Committee provides oversight to many of the programs administered by the Department of Health and the Department of Human Services.

MEDICAID

Background

The post- 9/11 slowdown in the growth of state revenues and the most recent round of medical inflation led many states to reexamine their Medicaid programs for ways to contain costs. In Utah, numerous steps have been taken to reduce Medicaid spending growth. Still, the program continues to follow a long-term pattern of double-digit annual spending growth.

Medicaid growth rates are not only a concern for states. Congress has been considering proposals that would reduce Medicaid growth by \$10 billion over the next five years and next year a new Medicaid Commission is expected to make substantive recommendations for reforming the program to ensure its long term viability.

In response to several Master Study Resolution items this year, and in order to enhance its capacity to provide effective oversight of Utah's Medicaid program, the Committee reviewed:

- the impact of Medicaid on enrollees, the state budget, health care providers, and the Utah economy,
- the roles of the federal government, the Legislature, and the executive branch in setting Medicaid policy,
- options available to adjust the program, and
- the causes of recent spending growth, steps taken to reduce it, and other options for minimizing future growth.

The Committee looked specifically at ways to contain pharmaceutical spending increases, including the possibility of aggregating public program prescription drug purchases within the state and across states. The Committee also considered a proposal by the Department of Health to implement a prescription drug list limited to two classes of drugs and draft legislation prepared independently of the Department that would encourage the Department to move forward with its proposal. Recommended draft legislation "Resolution Supporting Medicaid Preferred Drug List for Acid Reflux and Statins" failed to pass in the Committee.

The Committee considered draft legislation "Medicaid Dental Reimbursement Amendments" that would appropriate \$2.7 million on an ongoing basis to reimburse dentists providing Medicaid dental services to children at 75 percent of the mountain region fee schedule.

Action

The Committee considered this issue at its June, September, October, and November 2005 meetings and recommended draft legislation "Medicaid Dental Reimbursement Amendments."

HEALTH AND HUMAN SERVICES INTERIM COMMITTEE

OTHER STUDIES

Child Care Provider Health Inspections

The Committee received a report from the Utah Private Child Care Association and state and local regulators on health inspections of child care providers. The Committee considered this issue at its July 2005 meeting but did not recommend legislation.

Childhood Obesity

The Committee reviewed efforts by public education and others during the past four years to address childhood obesity. The Committee considered this issue at its May 2005 meeting but did not recommend legislation.

Child Welfare

The Committee reviewed draft legislation affecting Utah's system for preventing, identifying, and responding to child abuse and neglect. The Committee considered this issue at its May, June, and November 2005 meetings and recommended draft legislation "Child Welfare—Licensing and Management Information Systems," "Child Welfare Revisions," "Office of Child Welfare Parental Defense Amendments," and "Utah Child Abuse Prevention Board." (See report of the Child Welfare Legislative Oversight Panel for a description of the bills.)

Department of Health Sunset Review

The Committee recommended removal of the Department of Health from the Legislative Oversight and Sunset Act. The Committee considered this issue at its April 2005 meeting and recommended draft legislation "Health and Human Services Sunset and Reporting Amendments."

Division of Services for People With Disabilities—Prioritization of Services

The Committee considered options for addressing the waiting list for services provided by the Division of Services for People With Disabilities. The Committee recommended legislation that would create a two-year pilot program funded with new, nonwaiting list state funds to provide supported employment services to particular individuals on the waiting list. The Committee considered this issue at its July and November 2005 meetings and

recommended draft legislation "Pilot Program for the Provision of Services for People with Disabilities."

FACT (Families, Agencies, and Communities Together for Children and Youth At Risk Act)

The Committee conducted a review of Title 63, Chapter 75, FACT, scheduled for repeal July 1, 2006. The Committee considered this issue at its June 2005 meeting but did not recommend legislation. The Judiciary Interim Committee also considered this issue at its November 2005 meeting and recommended that the statute be reauthorized for 10 years.

Group Exposures to Infectious Agents

For many years the Department of Health has been authorized to use isolation and quarantine as a means to reduce public health threats posed by infectious diseases. Existing statutes were developed primarily to address tuberculosis occurring in individuals and may be inadequate to deal with a case of group exposure to an infectious agent. To address this possibility, the department prepared and presented draft legislation "Public Health Amendments" to the Committee. The legislation attempts to balance individual liberty interests with the need to protect the public health. The Committee considered this issue at its May and November 2005 meeting but did not recommend legislation.

Nurse Workforce

The Committee received a report from the Utah Hospitals and Health Systems Association on its commitment to match state appropriations for nurse training. The Committee also received a report from the Medical Education Council on attributes of nonpracticing licensed nurses. The Committee considered this issue at its September 2005 meeting but did not recommend legislation.

Statutory Reports and Sunset Reviews

Utah statutes require 28 reports to the Legislature on various topics within the purview of the Committee. They also call for the sunset of 26 health or human services statutes and the repeal of two others. The Committee considered whether each of these 56 provisions should be

HEALTH AND HUMAN SERVICES INTERIM COMMITTEE

continued, modified, or repealed. The Committee recommended the discontinuation of five reporting provisions and five sunset provisions.

Tobacco

During the 2005 General Session the Legislature considered legislation that would have prohibited smoking in private clubs and taverns. The Committee considered similar legislation this interim that includes the same prohibition, but also extends it to buildings owned or operated by social or fraternal organizations and certain workplaces without public access. The Committee considered this issue at its June and November 2005 meetings and recommended draft legislation "Amendments to Indoor Clean Air Act."

HIGHWAY JURISDICTIONAL TRANSFER TASK FORCE

HIGHWAY JURISDICTIONAL TRANSFER TASK FORCE

Membership

Sen. Carlene M. Walker, Chair
Rep. James A. Ferrin, Chair
Sen. Sheldon L. Killpack
Sen. Scott D. McCoy
Rep. Craig W. Butters
Rep. Tim M. Cosgrove
Rep. Joseph G. Murray
Mr. Craig L. Dearden
Mr. Kenneth L. Bassett
Mayor Peter M. Corroon
Mr. Clyde R. Naylor
Mr. John Njord
Mayor Jerry C. Washburn
Mr. Ron Whitehead

Staff

Mark B. Steinagel, Policy Analyst
Shannon C. Halverson, Associate General Counsel
Tracey Fredman, Legislative Secretary

OVERVIEW

Public highways in the state may be owned and maintained by various government entities. State highways are used primarily for interstate or inter-region movement of goods and people, higher traffic volumes, and connection between major population centers. The official list of state highways is contained in *Utah Code*, 72-4-106 through 137. County and city highways are used primarily for access to homes, businesses, or property.

As the demographics of an area change, highway characteristics also change. In areas of rapid growth, a highway that was once local in nature can become a primary thoroughfare. In other instances, the state has jurisdiction of a road that serves a local purpose. In these instances, highway jurisdiction can shift from the state to a local government or from a local government to the state.

The Highway Jurisdictional Transfer Task Force was created by 2005 General Session S. B. 25 "Transportation Amendments and Highway Jurisdictional Transfer Task Force," and was charged to review and make recommendations on the jurisdictional transfer of highways from the state to counties and municipalities and from counties and municipalities to the state including:

- which highways should be transferred in accordance with the jurisdictional criteria outlined in *Utah Code* 72-4-102.5,
- the amount of funding or other resources that should be provided with the transfers, and
- the phase-in or timing of the transfers.

HIGHWAY TRANSFERS

Background

The Task Force considered potential highway transfers based on recommendations made by UDOT (Utah Department of Transportation) and local governments. UDOT and local government representatives met continually throughout the interim to study the possibility of transfers and reported their recommendations to the Task Force.

During the study it became apparent that each highway transfer is unique and may need to be studied and negotiated between highway authorities in a forum where each issue, from funding transfers to transfers of road title, can be fully discussed. The Task Force considered 1) a modified highway transfer process that will facilitate future highway transfers between the state and local governments and 2) modified provisions governing what qualifies as a state highway.

As part of the Task Force's analysis of potential highway transfers, UDOT and local governments developed a list of potential transfers that will be used as a starting point for the discussion of potential transfers in 2006.

Action

The Task Force considered this issue at its June 7, June 28, August, September, and October 2005 meetings and

HIGHWAY JURISDICTIONAL TRANSFER TASK FORCE

recommended draft legislation "Highway Transfer Process Amendments."

OTHER STUDIES

FUNDING: B&C ROAD FORMULA AND STATEWIDE IMPACT FEE

Once a decision is made to consider a highway transfer, various factors are taken into account when negotiating a transfer. Often the most important among these factors is the funding that will accompany the transfer.

Highway user revenue is made up primarily of fuel taxes and vehicle registration fees. Once revenues are decreased for collection and tracking costs, enforcement of traffic laws, and incentives for tourism development, the remaining funds, \$374 million in 2004, were divided between the state (75 percent) and local governments (25 percent). This formula is outlined in statute and does not change if highways are transferred between the state and local governments. Each jurisdiction faces the challenge of maintaining highways it has with less revenue than it needs.

The Task Force discussed two funding issues: changes to the B&C Road Fund allocation upon transfer of highways between jurisdictions and the possibility of a statewide impact fee to increase revenues for highways in areas of high growth and increased highway needs.

The Task Force considered this issue in its June and August 2005 meetings but did not recommend legislation.

JUDICIARY INTERIM COMMITTEE

Membership

Sen. David L. Thomas, Senate Chair
Rep. James A. Ferrin, House Chair
Sen. Patrice M. Arent
Sen. Gregory S. Bell
Sen. L. Alma Mansell
Sen. Scott D. McCoy
Sen. Darin G. Peterson
Rep. Douglas C. Aagard
Rep. Stephen D. Clark
Rep. Ben C. Ferry
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Rep. Ross I. Romero
Rep. LaWanna "Lou" Shurtliff
Rep. Scott L. Wyatt

Staff

Jerry D. Howe, Policy Analyst
Esther Chelsea-McCarty, Associate General Counsel
Brooke Ollerton, Legislative Secretary

OVERVIEW

The Judiciary Interim Committee was established to study issues related to the substantive rights of litigants and the administration of justice. The Committee oversees policy aspects of Utah's justice system.

The Committee's scope of policy oversight includes the jurisdictional powers associated with Utah's Justice Court, Juvenile Court, District Court, Court of Appeals, and Supreme Court. The Committee also has statutory oversight of certain programs delegated by the Legislature to the Judicial Council, including Mandatory Education Course for Divorcing Parents, Alternative Dispute Resolution, and the Judicial Nominating Commissions.

MARRIAGE, DIVORCE, AND CHILDREN

Background

Divorce is a difficult process that requires major life decisions to be made under extreme pressure. The consequences of the decisions made during a divorce impact not only the lives of those getting divorced, but the lives of their children and their extended families as well. The Committee has a history of recommending divorce statutes that take into account the needs of both those getting divorced and their children.

During the 2005 Interim the Committee considered several issues related to families and divorce, including:

- "Child Protection Amendments." This bill describes the circumstances and procedures under which a child may be taken into child protective custody and provides for an expedited hearing before a judge to determine whether or not a child should be taken into protective custody.
- Child Support Guidelines. The Committee considered testimony from the Child Support Advisory Committee, which indicated that although the Advisory Committee unanimously concluded that Utah's current child support tables are outdated, it is in disagreement with the method to update the child support tables. At issue is the use of Utah specific data upon which to base the costs of raising children in Utah. Since Utah data does not exist, and since obtaining it is either untimely or too expensive, the alternative is to base the child support tables on estimates, a proposition some members of the Advisory Committee reject because the results substantially increase the child support tables.
- "Divorce Education Amendments." This bill permits the court to require unmarried parents who are involved in a custody or parent-time proceeding to attend an educational course to sensitize both parents to the needs of their child or children.
- "Emancipation of a Minor." This bill allows children 16 years of age and older to apply to the court for emancipation which would permit them to enter into contracts to obtain housing and other services, such as car loans and health care.

JUDICIARY INTERIM COMMITTEE

- "Marriage Preparation Education." This bill provides for a \$20.00 reduction in the marriage license fee for couples who undergo eight hours of premarital education.
- Protective Orders. The Committee discussed whether mutual protective orders should be permitted by statute. Specifically, whether the court should be permitted to issue a protective order against both parties, so if either contacted, communicated, or were within a certain distance from the other, the penalties would equally apply to both.
- "Waiting Period for Divorce." This bill eliminates the 90-day exemption to the waiting period for divorce for couples who complete the mandatory course for divorcing parents.

Action

The Committee considered several proposals at its July, September, October, and November 2005 meetings and recommended draft legislation "Marriage Preparation Education," "Child Protection Amendments," "Emancipation of a Minor," and "Divorce Education Amendments."

SUNSET REVIEW

Background

In an attempt to make state government more productive and responsive to the people, the Legislature has determined that it is necessary to place many of the statutes and agencies of state government under a reauthorization schedule. As such, any statute or agency scheduled for reauthorization is repealed unless the Legislature, through affirmative action, reauthorizes its existence. This process of review is commonly known in the Legislature as a Sunset Review.

In accordance with Title 63, Chapter 55 – Legislative Oversight and Sunset Act, the Committee reviewed three statutes to determine whether or not each should be permitted to be repealed or whether the statutes should be extended for a specified period of time.

Dispute Resolution Program

The purpose of the Dispute Resolution Program is to provide an alternative to the formal court trial process and to promote the efficient and effective resolution of disputes in a just, timely, and inexpensive manner. The Committee understands that alternatives to litigation, such as mediation, are often resolved more quickly, the issues are not subject to legal procedures or court rules, and while litigation will maintain its place in society, some cases are simply better suited for alternative methods of resolution.

FACT (Families, Agencies, and Communities Together for Children and Youth at Risk) Coordinating Council

The FACT council was established to develop and implement a comprehensive system of services and support for children and youth at risk and their families. Since its creation, funding for the program no longer exists, and support for the reinstatement of the funding is not forthcoming. As a result, the statute establishing the program is not supportable. In determining whether or not the statute should be repealed, the Committee considered a proposal to rewrite the statute and to extend the sunset date. The proposed statute retains the focus of coordinating services between and among state agencies in a revised form.

Pleas in Abeyance

Restrictions to Pleas to DUI Violations is scheduled for repeal on June 1, 2006 unless reauthorized by the Legislature. In making its determination, the Committee considered a report from the Commission on Criminal and Juvenile Justice that indicated that use of pleas in abeyance as an incentive to complete drug or alcohol treatment can be successful under certain conditions, but an analysis of the data does not shed light on the question of whether or not a plea in abeyance is critical in accomplishing the goals of a drug court approach.

Action

The Committee considered each of these three issues at its July, October, and November 2005 meetings respectively, recommending that each of the sunset dates be extended.

TORT REFORM

Background

The Committee heard testimony criticizing America's contemporary tort system. Many professional organizations and scholars have argued that increased litigation costs have burdened families and businesses with more expensive auto insurance premiums and increased medical costs. Other professional organizations and scholars contend that increased insurance and medical expenses have less to do with litigation expenses, but are instead a result of capitalistic insurers and health maintenance organizations.

From a generalized discussion of these and related issues, the Committee considered several tort reform proposals, including:

- "Attorneys Fees Recovery Act." This bill allows for the recovery of attorneys fees by the prevailing party in civil actions.
- "Civil Anti Trust Amendments." This bill grants the Attorney General or any other person who is injured or threatened with injury in his business or property the right to obtain judicial relief for violations to the Utah Anti Trust Act, even if the injured party may not have dealt directly with the defendant.
- "Limits on Noneconomic damages." This bill limits noneconomic damages to \$500,000 which is to be annually adjusted to inflation. The proposal broadly defines noneconomic loss or injury to include: pain, suffering, impairment, disfigurement, loss of enjoyment, impairment of the quality of life, emotional distress, mental anguish, and loss of companionship, services and consortium. The \$500,000 limit does not apply to punitive damages.
- "Prohibition of Contingent Fees for Expert Witnesses." This bill prevents expert witnesses from being paid on a contingent fee basis in civil actions.
- "Restrictions on Use of Physician Disclosures." This bill makes inadmissible statements of health care providers in expressing regret, apology, or condolences regarding medical treatment outcomes.

Action

The Committee considered several tort reform proposals at its June, September, and November 2005 meetings, and recommended draft legislation "Civil Antitrust Amendments."

OTHER STUDIES

Advertising Illegal Activities

The Committee considered a bill that would restrict advertising activities that are illegal in the state, like prostitution and gambling.

The Committee considered this issue at its July 2005 meeting but did not recommend legislation.

Child Welfare Legislative Oversight Panel

The Committee received a report from the Child Welfare Legislative Oversight Panel regarding its recommendations concerning the child welfare system. The panel recommended several bills for consideration during the 2006 General Session, including "Child Protection Amendments," "Child Welfare - Licensing and Management Information Systems," "Child Welfare Revisions," "Office of Child Welfare Parental Defense Amendments," and "Utah Child Abuse Prevention Board." In addition to these bills, the Panel, following a careful review of the performance audit of the Guardian ad Litem's Office, recommended that the Legislature consider increasing the funding of that office, due to a 47 percent increase in caseloads since 2000, and that the Executive Offices and Criminal Justice Appropriations Subcommittee allow the Guardian ad Litem, rather than the Judicial Council, to make its own budget requests.

The Committee considered this issue at its November 2005 meeting but did not recommend legislation.

Co-Parenting Mediation Program

The Committee received information from the AOC (Administrative Office of the Courts) regarding the mediation pilot program to assist parents with visitation disputes. Based on the premise that children are best served when they can have healthy, meaningful contact

JUDICIARY INTERIM COMMITTEE

with both parents, the Legislature created the mediation pilot program in 1997. Since that time, the program has mediated nearly two thousand visitation and parent-time disputes. One significant concern raised by the AOC is that the services provided by the program are not available to the "never married" population. Without a visitation order, parents in this population are unable to seek mediation services from this program to create a cooperative, collaborative parenting plan that will establish a healthier environment for their children.

The Committee considered this issue at its July 2005 meeting but did not recommend legislation.

DUI Data Elements

The Committee received the Third Annual DUI Report to the Utah Legislature from the Commission on Criminal and Juvenile Justice. In addition to an update on DUI statistics, such as the total number of DUI arrests, total number of offenders ordered into substance abuse treatment, and the total number of offenders ordered to use ignition interlock devices, the Commission recommended extending the plea in abeyance sunset date, and increasing the use of ignition interlock devices.

The Committee considered this issue at its October 2005 meeting but did not recommend legislation.

Education Course for Divorcing Parents

The Committee received information from the Administrative Office of the Courts regarding the legislatively created divorce education course for divorcing parents. It was reported that nearly 9,000 people attended a two hour class designed to educate and sensitize the attendees to their children's needs during and after the process of divorce.

The Committee considered this report at its July 2005 meeting but did not recommend legislation.

Guardian ad Litem

The Office of the Legislative Auditor released a performance audit of the Office the Guardian ad Litem in February 2005. The results of that audit were reported to

the Committee. In addition to a remarkably high case load, the failure to maintain adequate records, and not completing some statutorily required duties, one issue of considerable concern is that the statute requires the Judicial Council to be the governing body over the Office of the Guardian ad Litem; yet because of ethical conflicts, the Judicial Council provides only limited supervision. As such, some committee members expressed concern that the Guardian ad Litem functions more independently than initially intended.

The Committee reviewed and discussed this issue at its April and May 2005 meetings but did not recommend legislation since the Child Welfare Legislative Oversight Panel also intended to review the audit.

Rape in Utah

The Committee received a report from the Commission on Criminal and Juvenile Justice on a survey of Utah women about their experiences with sexual violence. The purpose of the study was to understand the extent to which sexual violence occurs in Utah, to understand its impact on victims, and to examine the effectiveness of those who respond to victims.

The Committee considered this issue at its November 2005 meeting but did not recommend legislation.

Sex Offender Treatment Program

The Committee received information from the Department of Corrections regarding the 1,645 inmates classified as sex offenders in Utah. Of this total number of sex offenders, approximately 300 participate annually in a sex offender treatment program with an annual total cost of about \$900,000. Since January of 2005, 47 inmates successfully completed the treatment, 64 inmates were removed from treatment, and 12 inmates were paroled while in treatment. From 1991 through 2004, of the inmates who successfully completed treatment, only two have been returned to prison for a new sex offense. The last new money received for sex offender treatment was allocated in 1996.

The Committee considered this issue at its October 2005 meeting but did not recommend legislation.

Small Claims Court

Every other year the Judicial Council is required to make a recommendation to the Committee about the small claims limit. Because the small claims limit was increased from \$5,000 to \$7,000 in 2004, the Judicial Council recommended no additional adjustment.

LAW ENFORCEMENT AND CRIMINAL JUSTICE INTERIM COMMITTEE

LAW ENFORCEMENT AND CRIMINAL JUSTICE INTERIM COMMITTEE

Membership

Sen. D. Chris Butters, Senate Chair
Rep. DeMar "Bud" Bowman, House Chair
Sen. Allen M. Christensen
Sen. Fred J. Fife
Sen. Mark B. Madsen
Rep. Duane E. Bourdeaux
Rep. D. Gregg Buxton
Rep. LaVar Christensen
Rep. Patricia W. Jones
Rep. Todd E. Kiser
Rep. David Litvak
Rep. Michael T. Morley
Rep. Curtis Oda
Rep. Paul Ray

Staff

Stewart E. Smith, Policy Analyst
Susan Creager Allred, Associate General Counsel
Wendy L. Bangerter, Legislative Secretary

OVERVIEW

The Law Enforcement and Criminal Justice Interim Committee was established in 1997 to study issues related to law enforcement, criminal law, illegal drug activity, weapons, corrections, public safety, and the criminal justice system. In studying these issues, the Committee strives to maintain a balance between public safety, victim rights, and offender accountability and rehabilitation.

The Committee's statutory oversight includes the criminal code, law enforcement agencies, Department of Public Safety, Department of Corrections, Division of Youth Corrections, Utah Board of Pardons and Parole, Utah Commission on Criminal and Juvenile Justice, Utah Sentencing Commission, Utah Substance Abuse and Anti-Violence Coordinating Council, and Office of Crime Victim Reparations.

The Committee has in recent months focused on prevention, enforcement, and treatment issues and on programs designed to improve the efficiency and cost-effectiveness of the criminal justice system and increase communication and collaboration between programs and agencies.

CRIMINAL PENALTY ENHANCEMENT

Background

Criminal penalties and enhancements specified in Utah law have a direct effect on the need for prison beds and the costs of other corrections related programs. The full fiscal impact of the enhancement may not be felt for years. The Committee considered an overview of current criminal penalties prepared by staff and heard testimony from several agencies which made the following recommendations to the Committee:

- request the Utah Sentencing Commission to study this issue and make recommendations and
- look closely at criminal penalties that are based on locations, i.e., drug free zone enhancements.

In response to these suggestions, the Committee requested that the Utah Sentencing Commission review criminal law penalties and enhancements and requested that the Commission present its recommendations for changes in the statutes.

Action

The Committee considered this issue at its July 2005 meeting but did not recommend legislation.

DISPATCH SERVICES

Background

The Department of Public Safety Communications Bureau oversees the dispatching of the Utah Highway Patrol throughout the state. The Bureau currently operates six dispatch centers in the state and contracts for services with five county agencies to provide dispatch services in Weber, Morgan, Davis, Tooele, Summit, Wasatch, and Logan areas for the Utah Highway Patrol. For FY 2007 the contracted dispatch centers are asking the state for a 69

LAW ENFORCEMENT AND CRIMINAL JUSTICE INTERIM COMMITTEE

percent increase, or \$249,909, over the \$364,091 paid to them in FY 2005. Each county dispatch center uses a different method of calculating costs for billing the state. There is no uniform method of calculating appropriate state reimbursement to local governments that is equitable to the state and the local government providing the service. On average, these contracted services could be provided directly by the Communications Bureau for less than the amount billed by local governments. Cost effectiveness, service performance, and fairness were the criteria used by the Dispatch Services Subcommittee created by the Committee. It visited dispatch centers and considered methods of encouraging the formation of special districts to fund dispatch services. It also reviewed alternative methods of reimbursement, considered dispatcher qualifications and training, and reviewed the efficiencies of consolidated dispatch centers.

Action

The Committee created the Dispatch Services Subcommittee that met on October 7, November 10, and November 29, 2005 and recommended that: 1) state and local public safety dispatchers be part of the public safety retirement system and that legislation to accomplish this be introduced, 2) a statewide funding formula be established and funded for state-paid dispatch services, and 3) the Legislature study consolidation of dispatch services within geographic areas.

SEX OFFENDER REGISTRATION AND TREATMENT

Background

There are approximately 6,690 registered sex offenders in Utah. An offender is registered upon conviction, and registration continues for 10 years after the termination of the sentence. Lifetime registration is required for some violent predators. UDC (Utah Department of Corrections) is responsible for maintaining the statutorily established sex offender registry and keeping track of all the registered sex offenders in the state. However, some offenders do not provide the address change notification as required by law. Approximately half of these registered offenders are still under the jurisdiction of UDC. The balance have been discharged from supervision or

custody but are still required to comply with state law during the term of their registration.

Even though many sex offenders have limited success at rehabilitation, the offenders who complete a treatment program before they are released into the community have a lower rate of re-offending. The chair of the Utah Board of Pardons told committee members that decreasing the waiting list for sex offenders to receive treatment in prison would more than save the costs of treatment personnel and facilities by reducing the length of incarceration. Sex offenders generally have long prison stays and so funding is not needed to treat all sex offenders at the same time. Treatment is generally focused on offenders who are close to release and who are amenable to treatment.

The number of sex offenders in Utah continues to grow along with the need for additional staff and funding for treatment and supervision of these offenders.

Action

The Committee considered this issue at its June 2005 meeting but did not recommend legislation.

OTHER STUDIES

Domestic and Dating Violence

The Committee heard evidence that dating violence among young people has steadily increased in recent years. The Committee originally focused on youth in abusive dating relationships but saw the need to expand the study and draft legislation to include other domestic abuse. According to the Utah Substance Abuse and Anti-violence Coordinating Council, Utah's domestic violence hotline logged a total of 2,288 calls in 2004. Shelters served a total of 11,350 individuals and housed 5,471 victims. Another 1,592 were turned away because the shelters were full. In the same year twenty-three individuals were murdered in domestic violence related homicides.

The Committee considered this issue at its June and November 2005 meetings and recommended draft

LAW ENFORCEMENT AND CRIMINAL JUSTICE INTERIM COMMITTEE

legislation "Domestic Violence and Dating Violence Amendments."

Mortgage Fraud

Identity theft, kickbacks, and other buyer/lender fraud offenses have continued to increase in recent years. A working group with representation from the Legislature, the Attorney General's Office, Department of Commerce, Division of Real Estate, F.B.I., the banking industry, and others recommended that legislation be prepared.

The Committee considered this issue at its May and November 2005 meetings and recommended in concept legislation amending the "Utah Mortgage Fraud Act" to address this issue.

Weapons Amendments

The Committee received statements indicating that Utah law regarding weapons in a vehicle can be confusing to the public and complicated for law enforcement officials. This confusion can cause people to unknowingly violate the law. Amendments to clarify the law and specify the conditions under which an individual may have a loaded firearm were presented to the Committee.

The Committee considered this issue at its November 2005 meeting and recommended draft legislation "Weapons Amendments."

LEGISLATIVE MANAGEMENT COMMITTEE

LEGISLATIVE MANAGEMENT COMMITTEE

Membership

President John L. Valentine, Chair
Speaker Greg. J. Curtis, Vice Chair
Sen. Gene Davis
Sen. Mike Dmitrich
Sen. Dan R. Eastman
Sen. Beverly Ann Evans
Sen. Karen Hale
Sen. Peter C. Knudson
Sen. Ed Mayne
Rep. Jeff Alexander
Rep. Ralph Becker
Rep. Ben C. Ferry
Rep. Patricia W. Jones
Rep. Brad King
Rep. Rosalind J. McGee
Rep. Stephen H. Urquhart

Staff

Michael E. Christensen, Director
M. Gay Taylor, General Counsel
Beverlee LeCheminant, Administrative Assistant

OVERVIEW

The LMC (Legislative Management Committee) consists of the combined membership of the Senate Management Committee and the House Management Committee. LMC's main responsibility is to manage the administrative affairs of the Legislature and to provide direction to the legislative committees. For example, it assigns the study items from the Master Study Resolution to the various interim committees, it authorizes the study requests of the interim committees, it schedules interim committee meeting dates and times, and it approves site visits for the entire Legislature (this year the Legislature went to northern Utah for two days) and for interim committees and task forces.

LIVE BROADCASTING OF LEGISLATIVE COMMITTEE MEETINGS

Background

In 2002, LMC approved the live broadcasting of the floor debates via the Utah Legislature Website during legislative sessions. This decision proved to be very popular, with hits on the site increasing each year. As a result, interest in expanding the broadcasting of legislative work has grown. At its May 2005 meeting, LMC received a report concerning the options available and the costs involved in extending the live broadcasting of the Legislature to interim committees, task forces, standing committees, and appropriation committees.

Action

LMC voted unanimously to expand the Internet broadcasting of legislative meetings to include interim committees, task forces, standing committees, and appropriation subcommittees.

PURCHASE OF BLACKBERRY DEVICES FOR LEGISLATORS AND LEGISLATIVE STAFF

Background

LMC received a report from Representative David Clark, representing both the LAC (Legislative Automation Committee) and the UTC (Utah Technology Commission), recommending that the Legislature buy BlackBerry devices and contract with Cingular Wireless to provide wireless service to the Legislature. Representative Clark emphasized that this purchase was part of a long-range plan to implement an effective and efficient communications system between legislators and their staff.

Action

LMC considered this at its November 2005 meeting and approved the recommendation from the LAC and the Utah Technology Commission to purchase BlackBerry electronic devices and related equipment and software for the Legislature and legislative staff with service being effective in December of 2005.

LEGISLATIVE MANAGEMENT COMMITTEE

REAPPOINTMENT OF MICHAEL E. CHRISTENSEN AS DIRECTOR OF THE OFFICE OF LEGISLATIVE RESEARCH AND GENERAL COUNSEL

their November 2005 meetings. LMC also voted to extend the Utah Commission for Women and Families for another five years.

Background

The directors of the three legislative staff offices and legislative general counsel are appointed for a term of six years with the option of reappointment by the Legislature. Michael E. Christensen, Director of the Office of Legislative Research and General Counsel will complete his initial term of service December 1, 2006. The Legislative Oversight Subcommittee, a subcommittee of LMC, recommended that Mr. Christensen be reappointed for another term.

Action

LMC considered this at its July 2005 meeting and recommended draft legislation "Resolution Approving Reappointment of Director of Legislative Research and General Counsel," which reappoints Michael E. Christensen as Director of the Office of Legislative Research and General Counsel for a six-year term beginning December 1, 2006.

SUNSET REAUTHORIZATIONS

Background

Each interim LMC assigns sunset reviews to various interim committees. These committees conduct their reviews and then make recommendations to LMC as to whether the department, division, or program should be renewed for a period of years or be repealed by the statutory sunset date. LMC votes to accept, reject, or modify the various recommendations of the interim committees and then prepares a committee bill for the legislative session.

Action

LMC considered the recommendations of the interim committees at its November 2005 meeting and recommended draft legislation "Sunset Review and Reauthorization," which includes the recommendations of the interim committees as presented to LMC and any further recommendations made by interim committees at

LEGISLATIVE PROCESS COMMITTEE

LEGISLATIVE PROCESS COMMITTEE

Membership

Sen. Lyle W. Hillyard, Senate Chair
Rep. Ron Bigelow, House Chair
Sen. Brent H. Goodfellow
Sen. Peter Knudson
Rep. David Clark
Rep. Ben C. Ferry
Rep. Rosalind J. McGee
Rep. Karen Morgan

Staff

John Q. Cannon, Managing Policy Analyst
John L. Fellows, Deputy General Counsel
Cassandra N. Bauman, Legislative Secretary

OVERVIEW

The Legislative Process Committee was created in 1991 and given responsibility for reviewing all legislative procedures, including: 1) preparing the budget; 2) requesting, preparing, prefilling, and prioritizing legislation; 3) examining the roles of standing and interim committees; 4) improving the rules governing floor actions; and 5) recommending alternative measures to meet the constitutional requirements for Utah's legislative process. The Committee recommends changes in these procedures to the Legislative Management Committee.

BUDGET PROCESS ISSUES

Background

The Legislative Process Committee discussed several issues related to the budgeting and appropriations process. The Committee focused on several budget issues including: the schedule and timing of preparing and passing the budget; the structure and scheduling of appropriations subcommittees; making fiscal note bills self-appropriating; requiring fiscal note bills to be heard in both a standing committee and an appropriations subcommittee; increasing legislator understanding of the budget process; and maintaining legislators' input in the budget process.

Action

The Committee considered these issues at its June, September, and October 2005 meetings and made the following recommendations:

- a recommendation to the Legislative Management Committee to approve one day prior to the Annual General Session for appropriations subcommittees to meet and consider the budget,
- a recommendation that fiscal note bills be heard by both a standing committee and an appropriations subcommittee for funding approval and prioritization, and
- a recommendation that all fiscal note bills be self-appropriating.

OTHER STUDIES

Access to Legislators

The Committee discussed access to legislators by the public, lobbyists, media, and others. Some of the issues discussed by the Committee included: physical access to legislators given the configuration of the House Building; availability and ability to respond to requests while legislators are on the floor; the process of notifying legislators about votes, phone calls, or visitors; the ability of legislators to filter e-mail during the legislative session; visibility through video or audio access to floor proceedings; the possibility of replacing "green notes" with instant messaging; the possibility of designating a room where legislators could meet with constituents; the possibility of wearing name badges to assist people in identifying legislators; and public transit options for people to access the capitol. The Committee considered these issues at its June and July 2005 meetings but did not recommend legislation.

Bill Process Issues

The Legislative Process Committee discussed issues affecting the drafting, introduction, review, and approval of legislation. Some of the issues discussed by the Committee included: a review of constitutional, statutory, and rules provisions governing bills processes; efficient use of staff time in drafting legislation by reviewing deadlines for opening bill files; processes for requesting

LEGISLATIVE PROCESS COMMITTEE

research rather than opening a bill file; and confidentiality processes in drafting legislation. The Committee considered this issue at its June 2005 meeting but did not recommend legislation.

E-mail Management Tools for Legislators

The Committee discussed methods for legislators to deal with the heavy volume of e-mail. Some of these methods included: spam filtering; classifying e-mail into different folders or different types; an auto-response system that would require the e-mail sender to provide an address, thus allowing legislators to identify constituents; a web-based form that would also identify senders by address; and other resources to assist legislators in managing e-mail. The Committee discussed this issue at its July 2005 meeting but did not recommend legislation.

Standing Committee Process Amendments

Rep. Ralph Becker proposed to the Committee certain procedures for standing committees to follow in hearing and discussing bills. These proposed guidelines would establish a process for dealing with bills, substitutes, amendments, hearing witness and public testimony, and administering oaths to persons testifying before the committee. The Committee considered this issue at its October 2005 meeting but did not recommend legislation.

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENT INTERIM COMMITTEE

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENT INTERIM COMMITTEE

Membership

Sen. Thomas V. Hatch, Senate Chair
Rep. Roger E. Barrus, House Chair
Sen. Gene Davis
Sen. Beverly Ann Evans
Sen. Parley G. Hellewell
Sen. Michael G. Waddoups
Rep. Jackie Biskupski
Rep. Craig W. Butters
Rep. Margaret Dayton
Rep. Carl W. Duckworth
Rep. James R. Gowans
Rep. Kory M. Holdaway
Rep. Bradley T. Johnson
Rep. John G. Mathis
Rep. Ronda Rudd Menlove
Rep. Michael E. Noel
Rep. David Ure
Rep. Mark A. Wheatley
Rep. Richard W. Wheeler

Staff

J Brian Allred, Policy Analyst
Emily Brown, Associate General Counsel
John L. Fellows, Deputy General Counsel
Joy L. Miller, Legislative Secretary

OVERVIEW

Under the broad subject of natural resources, the Committee deals with water rights, water development, wildlife, parks and recreation, mining, and forestry. Within the field of agriculture, the Committee is concerned with promoting agricultural production, preventing disease among domesticated animals, and insuring a wholesome food supply. Environmental issues include air quality, water quality, solid and hazardous waste disposal, and radioactive waste.

Much of the Committee's efforts involve coping with rapid growth and urbanization of the state's population. A top priority has been to assure that Utah has ample water

supplies. Maintaining and improving the quality of Utah's water is as critical as developing adequate water supplies.

Wildlife is another natural resource affected by growth. Land development has diminished wildlife habitat and increased competition for the use of the remaining habitat. Wildlife interests and agricultural interests are frequently vying for use of the same land. Accommodating these competing interests and addressing the growing population's increased demand for recreational opportunities present significant challenges to the Committee.

The Committee oversees three state departments: the Department of Natural Resources, the Department of Agriculture and Food, and the Department of Environmental Quality.

ARCHEOLOGICAL RESOURCES AMENDMENTS

Background

2005 General Session H.B. 308 "Archeological Resources Amendments" directed the Committee to "... *study and make recommendations regarding the most appropriate location for the analysis of proposed undertakings on lands owned or controlled by the state or its subdivisions.*" The Committee considered legislation which would require the Division of State History and certain state and local governmental entities to report annually to specific legislative committees regarding the impact of Division of State History operations on state and local governmental entities. The Committee heard extensive public comment and discussed the proposal at length. The sponsor was asked to address areas of concern and bring the issue back to the Committee for further consideration. However, no further proposals were presented to the Committee.

Action

The Committee considered this issue at its June 2005 meeting but did not recommend legislation.

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENT INTERIM COMMITTEE

Petroleum Storage Tank Trust Fund

Background

The Utah Underground Petroleum Storage Tank Trust Fund was established to protect human health and the environment from leaking underground storage tanks. In FY 2004, revenue generated for the Fund totaled over \$6.6 million, 91 percent of which came from a half cent per gallon surcharge. Currently the Fund is solvent. However, an actuarial analysis indicates that the Fund is projected to have a negative cash balance in 2008. The Division of Environmental Response and Remediation reviewed possible options to keep the Fund solvent. Some tank owners cover some of their tanks through the Fund and other tanks through private insurance or self insurance.

Action

The Committee considered this issue at its July 2005 meeting and recommended that legislation be prepared that would require a tank owner to provide financial assurance for all of their tanks through the Fund or, alternatively, through another approved financial assurance mechanism such as private insurance or self-insurance. A tank owner would not be allowed to cover some tanks through the Fund and other tanks through another mechanism. This was recommended to avoid the problem of a tank owner covering only their high risk tanks through the Fund.

The legislation was prepared but not considered by the Committee. The Committee also asked the State Privatization Policy Board to review the possibility of privatizing the Fund.

WATER DEVELOPMENT FINANCING

Background

Future water needs, driven by population growth, will require additional conservation and large long-term water development projects. In October 2004, former Governor Olene Walker created the Water Development Financing Task Force. The Task Force was created to evaluate options and make recommendations for financing the proposed Lake Powell pipeline and Bear River system

projects. The two projects are expected to cost more than \$814 million in today's dollars. The Task Force recommended that preliminary planning, environmental assessment, right-of-way acquisition, and engineering of the Lake Powell Pipeline and Bear River Development begin now. The Task Force further recommended legislation that would provide funding sources and establish plans for preconstruction costs.

Action

The Committee considered this issue at its September and November 2005 meetings. The Committee:

- 1) accepted the report and recommendations of the Task Force report; and
- 2) recommended draft legislation "Lake Powell Pipeline Development Act," "General Fund Surplus Appropriation for Water Development Projects," and "Bear River Development Act."

OTHER STUDIES

County Option Sales and Use Tax for Agricultural Land and Open Land

The Committee discussed legislation enacting a county option sales and use tax that would allow the county legislative body of a qualifying county to impose a sales and use tax. Revenues would be used to protect agricultural land and open land. The Committee considered this issue at its October 2005 meeting but did not recommend legislation.

Energy Policy

An energy policy working group, co-chaired by members of the Committee and members of the Public Utilities and Technology Interim Committee, was organized to advise the Committee on state energy policy. Meeting jointly, the two interim committees discussed legislative options for implementing the recommendations of the working group. The Committee considered this issue at its July, September, October, and November meetings and recommended draft legislation "Energy Policy Amendments."

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENT INTERIM COMMITTEE

Funds Expended for Species Protection

2005 General Session H.B. 1 "Annual Appropriations Act" required the Department of Natural Resources to report to the Committee, providing detailed information on how funds are expended for the Colorado River Endangered Fish Recovery, June Sucker, and Virgin River plans. The Committee considered this issue at its October 2005 meeting but did not recommend legislation. The Committee requested a legislative audit of the Endangered Species Mitigation Fund.

discussed how healthy watersheds provide water, forage, and habitat for wildlife and livestock, cleaner air, recreation, solitude, timber, energy and mineral resources, and a productive food supply. The Committee considered this issue at its September 2005 meeting but did not recommend legislation.

Potential Energy Resource Development in Utah

The Utah Geological Survey and the Division of Oil Gas and Mining reported on Utah's energy and mineral production trends and highlighted recent production increases in certain areas of the state. The Committee also discussed the potential for tar sands and oil shale development. The Committee considered this issue at its May 2005 meeting but did not recommend legislation.

Sunset Review - Title 19, Chapter 6, Part 6, Lead Acid Battery Disposal

The Committee considered whether to reauthorize the Lead Acid Battery Disposal statute. The purpose of the law is to protect surface and ground waters from contamination due to disposal of lead acid batteries in a solid waste treatment or landfill facility. The Department of Environmental Quality testified that the law is being utilized by the industry and has a clear economic benefit. The Committee considered this issue at its April 2005 meeting and recommended that the program be reauthorized for 10 years.

Water Issues Task Force Report

The Committee received the final report and recommendations of the Water Issues Task Force. The Committee received the report at its November 2005 meeting and recommended draft legislation "Water Reuse Requirements." The Committee also recommended that the Task Force be reauthorized for an additional year.

Watershed Improvement

The Department of Natural Resources reported on Utah's Watershed Restoration Initiative. The Committee

OCCUPATIONAL AND PROFESSIONAL LICENSURE REVIEW COMMITTEE

OCCUPATIONAL AND PROFESSIONAL LICENSURE REVIEW COMMITTEE

Membership

Sen. Gregory S. Bell, Senate Chair
Rep. Gregory H. Hughes, House Chair
Sen. Gene Davis
Sen. Peter C. Knudson
Rep. Carl W. Duckworth
Rep. Michael T. Morley
Mr. Brian Allen
Mr. Dee Bangerter
Mr. Phil Hancock
Mr. Reed Mackley
Mr. Bert Smith
Mr. Brent L. White

Staff

Allison Morgan, Policy Analyst
James L. Wilson, Associate General Counsel
Tracey Fredman, Legislative Secretary

OVERVIEW

During the 1999 General Session, the Legislature created the Occupational and Professional Licensure Review Committee to review applications from occupational groups seeking statutory regulation through formal licensure. The Committee meets on an as-needed basis to review applications as they are submitted to the Legislature. After holding a public hearing and receiving public testimony the Committee votes to recommend or not recommend licensure for the occupation or profession under consideration.

REGULATION OF GENERAL BUILDING CONTRACTORS

Background

The licensing of a contractor by the (DOPL) Division of Occupational and Professional Licensing does not necessarily ensure that contractor to be a fully competent and honest businessperson. Some legislators believe that consumers place too much confidence in a license and do not thoroughly investigate the qualifications of the contractors they hire.

As proposed during the 2005 General Session, H.B. 193 "Deregulation of General Building Contractors," would have required the Committee to conduct a review of general building contractors and consider the following options:

- total deregulation,
- modification of licensing requirements and elimination of the licensing board for general building contractors,
- transfer of the regulatory responsibility from the Division of Occupational and Professional Licensing to another entity, and
- maintain the current licensing and regulatory program.

Instead of recommending the legislation, the House Business and Labor Standing Committee requested that the Committee study the regulation of general building contractors and report to the Business and Labor Interim Committee during the 2005 interim.

Industry representatives and DOPL reported that they are working to address issues in the trade. The Committee decided to give the parties additional time to work out solutions discussed at the meeting

Action

The Committee considered this issue at its October 2005 meeting and made a determination to delay any action on the regulation of general building contractors for one year and to revisit the issue at that time.

SUNSET REVIEW: NATUROPATHIC PHYSICIAN PRACTICE ACT

Background

The Legislative Management Committee assigned to the Occupational and Professional Licensure Review Committee a sunset review of the Naturopathic Physician Practice Act. This act was passed in 1996, with a sunset date of July 1, 2006.

Utah law regulating and licensing Naturopathic Physicians is more stringent than in other states, as Naturopathic Physicians in Utah must complete a 12-month residency

OCCUPATIONAL AND PROFESSIONAL LICENSURE REVIEW COMMITTEE

with an accredited program. Committee members determined that the unregulated practice of Naturopathic Physicians in the state would not be beneficial to consumers.

Action

The Committee considered this issue at its October 2005 meeting and recommended the Naturopathic Physician Practice Act be reauthorized with no sunset date.

POLITICAL SUBDIVISIONS INTERIM COMMITTEE

POLITICAL SUBDIVISIONS INTERIM COMMITTEE

Membership

Sen. Carlene M. Walker, Senate Chair
Rep. Brad L. Dee, House Chair
Sen. Fred J. Fife
Sen. L. Alma Mansell
Pres. John L. Valentine
Rep. David N. Cox
Rep. Julie Fisher
Rep. Kerry W. Gibson
Rep. Ann W. Hardy
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Rep. M. Susan Lawrence
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Rep. Joseph G. Murray
Rep. Peggy Wallace
Rep. Larry B. Wiley

Staff

Joseph T. Wade, Policy Analyst
Robert H. Rees, Associate General Counsel
Wendy Bangerter, Legislative Secretary

OVERVIEW

The Political Subdivisions Interim Committee has primary jurisdiction over political subdivisions of the state which include: counties, cities, towns, special districts, and entities created by interlocal agreements. Although school districts are technically political subdivisions of the state, the Education Interim Committee has primary jurisdiction over school districts. The Political Subdivisions Interim Committee has statutory responsibility in the *Utah Code* for: Title 10, Utah Municipal Code; parts of Title 11, Cities, Counties, and Local Taxing Units; Title 17, Counties; Title 17A, Special Districts; and Title 17B, Limited Purpose Local Government Entities.

SPECIAL DISTRICTS SUBCOMMITTEE

Membership

Rep. Brad L. Dee, Chair
Sen. Fred J. Fife
Rep. Ann W. Hardy
Rep. Joseph G. Murray

Staff

Joseph T. Wade, Policy Analyst
Robert H. Rees, Associate General Counsel
Wendy Bangerter, Legislative Secretary

Background

Special district statutes in Utah are complex. The Legislature has been taking steps to simplify statutes relating to special districts in order to make them easier to understand. In 1990, at the recommendation of a two-year legislative study committee on special districts, relevant statutory provisions which were scattered throughout the *Utah Code* were moved into a new Title 17A, Special Districts. However, no substantive changes were made.

In 1997, a Special Districts Subcommittee of the Political Subdivisions Interim Committee was created to begin rewriting Title 17A in an effort to make the statute more understandable and uniform. That year the Subcommittee developed uniform special district creation procedures as the first step in recodifying the code. In 1999, the Subcommittee continued its rewrite by updating and standardizing statutes relating to the special districts' governing bodies. In 2000, the Subcommittee developed uniform provisions relating to annexation and dissolution for certain independent special districts. In 2001, the Subcommittee standardized provisions relating to withdrawal. In 2002, the Subcommittee dealt with several miscellaneous topics and cleanup of some statutory provisions.

During the 2005 Interim, the Special Districts Subcommittee focused its efforts on standardizing bonding provisions and making them more uniform. The Subcommittee discussed these issues at its July, September, October, and November 2005 meetings.

POLITICAL SUBDIVISIONS INTERIM COMMITTEE

Action

The Political Subdivisions Interim Committee recreated the Special Districts Subcommittee and considered special district issues at its April, May, September, and November 2005 meetings and recommended draft legislation "Local Government Amendments."

OTHER STUDIES

Asbestos Removal Requirements and Building Inspection

In an effort to protect public health from airborne asbestos, the Air Quality Board staffed by the Utah Department of Environmental Quality established rules requiring that before an existing structure is demolished or renovated a permit be obtained from the Division of Air Quality and an asbestos identification inspection be performed. Municipal and county building departments also require that a permit be obtained before a structure is demolished or renovated.

In order to increase compliance with Air Quality Board requirements, a proposal was made that would prohibit a local building department from issuing its demolition permit until the applicant had also met the air quality permit requirements.

The Committee considered this issue at its May 2005 meeting but did not recommend legislation.

Associations of Governments

In August 2001, the Legislative Auditor General released an audit of Utah's seven AOGs (Associations of Governments). One of the audit recommendations was to amend the *Utah Code* to formalize the AOGs' role as government service providers. Being created in statute would allow some data sharing needs with state agencies. Also, AOGs desire a more stable funding source, potentially from state funds.

In October 2001 after receiving the legislative audit, the Committee requested that Utah's seven AOGs report annually to the Committee in order to maintain a continuing dialogue.

The Committee received the annual report in its September 2005 meeting and considered the audit recommendation at its October 2005 meeting but did not recommend legislation.

Background Checks for Local Government

The Bureau of Criminal Identification within the Utah Department of Public Safety briefed the Committee on the Bureau's duties and responsibilities, and provided other information relating to background checks.

The Committee considered this issue at its June and November 2005 meetings but did not recommend legislation.

Building Standards and Enforcement

Two different building standards are used to enforce building construction in Utah. Municipal and county building officials use one standard for all construction while the Utah Department of Health uses a different standard for the construction of health care facilities. These two standards contain some conflicting requirements. Meetings of affected groups were held outside of the legislative process in an effort to resolve the problems nonlegislatively.

The Division of Occupational and Professional Licensing enforces violations of the Construction Trades and Licensing Act which licenses building contractors. Municipal and county building inspectors enforce building codes. While performing building code inspections, local building inspectors sometimes see violations of the Construction Trades and Licensing Act. The Committee heard a proposal that would give local building inspectors authority to issue citations if the violation is a civil violation.

The Committee considered this issue at its May 2005 meeting but did not recommend legislation.

Compensation for Property Acquired by Eminent Domain

In accordance with state statute, government entities are allowed to take private real property by eminent domain for a public purpose if just compensation is provided to the

POLITICAL SUBDIVISIONS INTERIM COMMITTEE

property owner. If the property owner believes he or she did not receive just compensation, the property owner may have the issue resolved in court. However, even if the property owner wins the court case the property owner must pay his or her own court costs and attorney's fees. The Committee heard a proposal that would require a court to award court costs and reasonable attorney's fees to a property owner if the court award of compensation and damages exceeds the plaintiff's highest offer by more than 10 percent.

The Committee considered this issue at its May, October, and November 2005 meetings but did not recommend legislation.

Density Credit Incentive for Land Donation to School Districts

State statute gives municipalities and counties authority to create land use zones and to establish requirements and restrictions for those zones including limiting density. (County authority is only for areas in the unincorporated part of the county.) The Committee considered draft legislation "Density Credit for Land Donated to School District" that would prohibit municipalities and counties from failing to approve a subdivision plat for failure to comply with density requirements if the plat includes land that is being donated to a school district for future school building construction and the plat otherwise complies with all applicable requirements.

The Committee considered this issue at its July and November 2005 meetings but did not recommend legislation.

Eminent Domain Relating to Water Rights

H.B. 256 "Local Government Authority," passed in the 2005 General Session, states "It is the intent of the Legislature that the Water Issues Task Force study the issue of a governmental entity's acquisition by eminent domain of water rights outside the entity's boundaries and provide a recommendation or make a report to the Natural Resources, Agriculture, and Environment Interim Committee and the Political Subdivisions Interim Committee." A representative of the Water Issues Task

Force reported that its recommendation is for no action at this time.

The Committee considered this issue at its November 2005 meeting but did not recommend legislation.

Highway Jurisdictional Transfer Task Force Report

The Highway Jurisdictional Transfer Task Force was created to review and make recommendations on the jurisdictional transfer of highways from the state to counties and municipalities and from counties and municipalities to the state. A representative of the Task Force reviewed proposed legislation "Highway Transfer Process Amendments" which amends the process for the addition or deletion of highways from the state highway system.

The Committee considered this issue at its November 2005 meeting but did not recommend legislation.

Implementation of GIS (Geographic Information System) Related Bills

GIS is used to facilitate information sharing, decision-making, and policy formulation by many users. Having accurate and up-to-date GIS data is critical to effectively using the GIS tools. During the 2005 General Session, the Legislature passed H.B. 216 "Global Positioning Reference Network" and H.B. 113 "Government Boundary Changes" which improve the accuracy and currency of GIS data in the SGID (State Geographic Information Database). GIS experts briefed the Committee on the implementation of these and other GIS related bills.

The Committee considered this issue at its October 2005 meeting but did not recommend legislation.

Land Use Buffer Around Camp Williams

The Utah National Guard's Camp Williams is located near the boundary of Utah and Salt Lake Counties. Representatives of Camp Williams expressed concerns about urban growth getting closer to Camp Williams and the need for a land use buffer.

POLITICAL SUBDIVISIONS INTERIM COMMITTEE

The Committee considered this issue at its June 2005 meeting but did not recommend legislation.

Placement of Juvenile Offenders in Group Homes

Federal law and state statute both limit a municipality's and county's ability to restrict group homes for handicapped individuals in residential zones. As part of the rehabilitation process, the Department of Human Services places youth offenders in group homes. Residents near a proposed group home expressed concerns about personal safety. The study sponsor formed an ad hoc workgroup of affected parties to share perspectives and find a solution.

The Committee considered this issue at its July 2005 meeting but did not recommend legislation.

Prescriptive Easements

An easement on property is not ownership of the property, rather an interest in land owned by another that entitles its holder to a specific limited use or enjoyment. Some kinds of easements are consensual while others kinds are nonconsensual. Common law provides that if a property owner does not stop someone else from using the owner's property in some way for a continuous period of twenty years then that other person has a claim for a prescriptive easement on the property for that same use. The necessary criteria for a prescriptive easement claim are that the use: 1) must be continuous for 20 years, 2) is open and obvious, and 3) is done without the permission of the property owner.

Unlike other easements that are noted on a recorded plat or title document, a prescriptive easement is not documented in any public records, such as the county recorder or court documents, until there is a dispute and the claimant of the prescriptive easement takes the property owner to court. The problem is that a potential buyer of the property may not be aware of a use qualifying as a prescriptive easement and has no way of performing due diligence in researching and checking out the property in public records.

The Committee considered this issue at its June 2005 meeting but did not recommend legislation.

Quality Growth Commission

In 1999, the Legislature created the Quality Growth Commission. Representatives of the Quality Growth Commission discussed the relationship between land conservation and economic development, discussed the proposal for use of the LeRay McAllister Critical Land Conservation Fund, and reported on the state of quality growth in Utah.

The Committee considered this issue at its September and November 2005 meetings but did not recommend legislation.

Redevelopment Agencies

A working group of the Tax Reform Task Force studied issues regarding redevelopment agencies. A representative of the Tax Reform Task Force updated the Committee regarding proposals.

The Committee considered this issue at its September and November 2005 meetings but did not recommend legislation.

Removing Restrictions Against Factory Built Housing

State statute already prohibits municipalities and counties from excluding manufactured homes from land use zones or areas in which a single-family residence would be permitted, provided the manufactured home complies with all local land use ordinances, building codes, and any restrictive covenants, applicable to a single-family residence within that zone or area. Sometimes a developer will establish CC&Rs (Conditions, Covenants, and Restrictions) that prohibit a future homeowner from installing a manufactured home in the development.

Representatives of the factory-built home industry proposed state statute be amended to also prohibit CC&Rs from including restrictions against manufactured housing.

POLITICAL SUBDIVISIONS INTERIM COMMITTEE

The Committee considered this issue at its July 2005 meeting but did not recommend legislation.

Townships Created from Census Designated Places

Current state statute allows a county legislative body to establish a township if the proposed township meets certain population, land value, or land area requirements. Townships enjoy the benefits of greater land use control through a planning commission and a shield against annexation from neighboring municipalities under certain circumstances.

CDPs (census designated places), as designated by the U.S. Census Bureau, are communities that lack separate governments but otherwise resemble incorporated places of cities and towns. CDPs are settled population centers with a definite residential core, a relatively high population density, and a degree of local identity.

Many CDPs do not meet the population, land value, or land area requirements currently in the statute for a township. Proposed legislation would allow a township to be approved if the proposed township has been designated by the U.S. Census Bureau as a CDP even though population, land value, or land area requirements are not met.

The Committee considered this issue at its November 2005 meeting and recommended draft legislation "Township Amendments."

PRIVATELY OWNED HEALTH CARE ORGANIZATION TASK FORCE

PRIVATELY OWNED HEALTH CARE ORGANIZATION TASK FORCE

Membership

Sen. Michael G. Waddoups, Senate Chair

Rep. David Clark, House Chair

Sen. Gene Davis

Sen. John W. Hickman

Sen. Peter C. Knudson

Sen. Mark B. Madsen

Sen. Ed Mayne

Rep. Jackie Biskupski

Rep. Stephen D. Clark

Rep. Greg J. Curtis

Rep. Brad L. Dee

Rep. James A. Dunnigan

Rep. Patricia W. Jones

Rep. Bradley G. Last

Rep. Rebecca D. Lockhart

Staff

Allison Morgan, Policy Analyst

Constance C. Steffen, Policy Analyst

Catherine J. Dupont, Associate General Counsel

Patricia Owen, Associate General Counsel

Joy L. Miller, Legislative Secretary

OVERVIEW

S.B. 61 "Privately Owned Health Care Organization Task Force," enacted in the 2005 General Session, created a two-year legislative task force known as the Privately Owned Health Care Organization Task Force. The Task Force was directed to review and make recommendations on:

- the market penetration, geographic distribution, and contracting arrangements of integrated health care systems, and the impact of divestiture of integrated health care systems;
- state policies that promote competition in the health care market, including the adequacy and application of antitrust provisions to health care organizations;
- business, contracting, and financial practices of health care organizations and how they impact competition and consumers;

- the tax exempt status of nonprofit health care organizations;
- the definition of charitable care;
- health care provider conflicts of interest;
- the impact of proliferation of medical technology and facilities;
- any willing provider laws;
- medical noncompete provisions; and
- the impact of the issues listed above on government health programs.

To assist in accomplishing the work of the Task Force, \$300,000 was appropriated to the Office of Legislative Research and General Counsel to acquire economic, financial, and actuarial services.

An initial report of the Task Force was made to the Business and Labor Interim Committee and the Revenue and Taxation Interim Committee in November 2005.

TAXATION OF HEALTH CARE ENTITIES

Background

Competing within Utah's health insurance and hospitals markets are both for-profit and nonprofit companies. The Task Force sought to determine: 1) how for-profit hospitals and health insurance companies are taxed differently from nonprofit hospitals and health insurance companies and 2) whether the different tax treatments are justified.

The Task Force received information on the tax exemptions available to nonprofit hospitals and health insurance companies and the requirements to receive those exemptions. A member of the TRC (Utah Tax Review Commission) discussed the TRC's study of tax exemptions for nonprofit hospitals conducted in 2003. The TRC found that while there may be concerns with competition among entities, it was not primarily a tax issue, and the TRC could not see any changes in tax policy that would address the concerns.

Task force members expressed additional questions regarding the tax issues, such as: 1) should tax exemptions be extended to for-profit hospitals and health

PRIVATELY OWNED HEALTH CARE ORGANIZATION TASK FORCE

insurance companies for the purpose of lowering health care costs, and 2) how does uncompensated care provided by for-profit hospitals compare to charity care provided by nonprofit hospitals? The Task Force may further explore these issues in the future.

Action

The Task Force considered this issue at its May, June, September, October 10, and October 24, 2005 meetings but did not recommend legislation.

UTAH HEALTH CARE MARKETS

Background

To study health insurance and hospital markets, a panel composed of health insurance, hospital, and health clinic representatives was assembled to address particular questions. Panel participants expressed concerns about various business and contracting practices, including: 1) a lack of transparency in identifying the factors used to set hospital discounts to health insurers, 2) whether the hospital division of a vertically integrated health care company shares with its health insurance division proprietary information about other health insurers with whom it contracts, 3) whether the hospital division of a vertically integrated health care company subsidizes the health insurance division, and 4) the lack of access to the health plans of a vertically integrated health care company by competing hospitals and clinics.

The panel discussions also revealed that exclusionary contracts, whereby hospitals give the best discounts to health insurers that direct the insured exclusively to themselves, and not competing hospitals, are customary in the industry and are used by vertically integrated health care systems and other hospitals and health insurers.

A panel of physicians was invited to express their issues and concerns to the Task Force. Issues discussed by the physicians include the following:

- Availability of physician services - To meet the demand of Utah's growing and aging population, physicians need to be recruited from a nationwide

market. Physician reimbursements in Utah are relatively low compared to the surrounding states.

- Viability of practices - To maintain a viable practice, an independent physician needs to have access to patients. If the physician is excluded from a health panel, it can be difficult to build and maintain a practice. High malpractice insurance costs are resulting in some doctors quitting their practices or retiring early.
- Closed versus Open Panels - In areas of the state where a large portion of the market is covered by an insurer with a closed physician panel, it can be difficult for physicians not on the panel to maintain viable practices. Closed panels are also a problem when an employer makes health plan changes and an employee's doctor is no longer covered under the new plan. Besides disrupting continuity of care, changing doctors imposes costs, because medical records have to be transferred, and may impact care if important medical records are excluded.

Health insurers claim that closed panels can control health plan costs by limiting the number and type of physicians on the panels. Opening a panel to more physicians, especially physicians in certain specialties, may increase costs because the plan may attract sicker patients resulting in higher medical expenses. Health insurers assert that closed panels provide employers and individuals a lower cost health insurance option.

Physicians disagree with health insurers on whether open panels necessarily increase costs, because physician reimbursement rates for open panels can be set to limit costs.

Action

The Task Force considered this issue at its May, June 9, June 22, July 7, July 21, August, September, October, and November 2005 meetings.

The Task Force issued an RFP (Request for Proposals) to:

- examine the performance of health care markets in Utah to determine how the performance of those

PRIVATELY OWNED HEALTH CARE ORGANIZATION TASK FORCE

markets impacts consumers in terms of the quality of, access to, and cost of health care and competition;

- evaluate how the presence and business practices of a vertically integrated health care system in Utah's health care markets impact consumers and competition in those markets; and
- make specific recommendations on how to improve Utah's health care markets.

Five proposals were submitted in response to the RFP, and on November 3, 2005, the Task Force authorized the chairs to negotiate a contract with a Washington, D.C. based economic consulting firm. The study is expected to take approximately six months to complete.

PUBLIC UTILITIES AND TECHNOLOGY INTERIM COMMITTEE

PUBLIC UTILITIES AND TECHNOLOGY INTERIM COMMITTEE

Membership

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Rep. Sheryl L. Allen, House Chair
Sen. Curtis S. Bramble
Sen. Mike Dmitrich
Sen. Beverly Ann Evans
Sen. Darin G. Peterson
Rep. Ralph Becker
Rep. Bradley M. Daw
Rep. Ben C. Ferry
Rep. Lorie D. Fowlke
Rep. Fred R. Hunsaker
Rep. Rosalind J. McGee
Rep. Michael E. Noel
Rep. Ross I. Romero
Rep. Aaron Tilton
Rep. David Ure
Rep. Richard W. Wheeler

Staff

Richard C. North, Policy Analyst
Christopher R. Parker, Associate General Counsel
Phalin L. Flowers, Legislative Secretary

OVERVIEW

Since the early 1990s, the deregulation of public utilities has been studied across the United States to determine whether lower costs, more choices, and greater efficiencies would result. After extensive reviews of the regulatory environment, policymakers on federal and state levels have established standing committees to provide ongoing review and monitoring of the regulatory environment.

In January 1997, the Utah House of Representatives created the Public Utilities and Technology Standing Committee to review legislation related to utilities such as telecommunications and energy. The Legislature then created the Public Utilities and Technology Interim Committee to provide additional research and review of

utility issues. With the creation of the Interim Committee, issues involving utilities now receive year-round review.

GENERAL AGREEMENT ON TRADE IN SERVICES

Background

GATS (General Agreement on Trade in Services) is a World Trade Organization treaty signed in 1995 that is designed to regulate international trade in services such as education, energy, gambling, and water. In the United States, the GATS agreement is essentially a legal commitment by the federal government that domestic markets in all the states will be subject to the treaty's trade rules. Under the U.S. Constitution and the fifty state constitutions, the regulation of domestic or state services is traditionally reserved to the states. However, the U.S. Supreme Court has ruled that treaties have the same force as the U.S. Constitution. The result being that the GATS agreement treaty via the Supremacy Clause may overrule state constitutions and state legislators may lose their legal right to regulate certain services.

The Committee received reports and heard testimony regarding the need for ongoing legislative study of this issue and the likely effects of the GATS treaty on the Legislature's right to regulate utilities and certain related services.

Action

The Committee considered this issue at its May, June, July, September, and October 2005 meetings and recommended draft legislation "Utah International Trade Commission."

MUNICIPAL UTILITY FUND TRANSFERS

Background

Utah municipalities are authorized by the state constitution and the Legislature to operate public utilities including power generation facilities. The revenues derived from those municipal public utilities are required by statute to be publicly disclosed. How those revenues are disclosed and whether the public has adequate notice of utility revenue transfers is the subject of this study. The

PUBLIC UTILITIES AND TECHNOLOGY INTERIM COMMITTEE

Committee received testimony and reports on the current municipal utility revenue disclosure practices.

Action

The Committee considered this issue at its July and September 2005 meetings and recommended draft legislation "Notice Requirements For Budget Transfers From Utility Funds."

STATE ENERGY POLICY

Background

State and national demands for reliable, cost-effective energy resources are growing rapidly due to increasing populations, manufacturing needs, and new businesses. Current energy resource demands and natural climatic phenomena, such as hurricanes, have resulted in energy resource shortages and higher costs across the nation. Recent developments in energy technology involving tar sands and oil shale, as well as new discoveries of oil fields in Utah have highlighted the need for a uniform state energy policy.

The Committee created an energy policy working group to study and make recommendations regarding a state energy policy. The working group studied four main topics: energy development; efficiency, consumption, and consumers; transmission and transportation; and governmental organizations. Multiple recommendations were made, including the creation of a state energy office which would be directed to implement a state energy policy as authorized by the Legislature.

The Committee heard testimony and received reports and recommendations regarding the need for a state energy office and policy. Legislation based upon the working group's recommendations is being prepared for consideration in an authorized joint meeting of the Public Utilities and Technology Interim Committee and the Natural Resources, Agricultural, and Environment Interim Committee.

Action

The Committee considered this issue at its April, May, June, July, September, October, and November 2005 meetings. A joint committee meeting on November 29, 2005 recommended draft legislation "Energy Policy Amendments."

UTILITY LINE CONVERSION

Background

Existing state law governing improvement districts does not allow for their use or funding of the conversion of overhead utility lines to underground.

The Committee received reports and heard testimony regarding the need for statutory authorization to create utility conversion improvement districts.

Action

The Committee considered this issue at its November 2005 meeting and recommended draft legislation "Utility Improvement Districts Revisions."

RETIREMENT AND INDEPENDENT ENTITIES INTERIM COMMITTEE

RETIREMENT AND INDEPENDENT ENTITIES INTERIM COMMITTEE

Membership

Sen. Beverly Ann Evans, Senate Chair
Rep. Mike Morley, House Chair
Sen. D. Chris Butters
Sen. Gene Davis
Sen. Karen Hale
Sen. Carlene Walker
Rep. Ron Bigelow
Rep. David Clark
Rep. Neil A. Hansen
Rep. Ann W. Hardy
Rep. Rebecca D. Lockhart
Rep. Karen W. Morgan
Rep. Merlynn T. Newbold

Staff

Benjamin N. Christensen, Policy Analyst
Dee S Larsen, Associate General Counsel
Glenda S. Whitney, Legislative Secretary

OVERVIEW

The Retirement and Independent Entities Committee is a statutorily created interim committee of the Legislature. The Committee is composed of five senators and nine representatives. By legislative rule, Senate members constitute the Retirement and Independent Entities Senate Standing Committee and House members constitute the Retirement and Independent Entities House Standing Committee (see Rules of the Fifty-Fifth Legislature, SR-24.05 and HR-24.05). Members of the Committee are also the members of the Retirement and Independent Entities Subcommittee of the Joint Appropriations Committee (see Rules of the Fifty-Fifth Legislature, JR.3.02). The Committee is required to comply with the rules of legislative interim committees.

In addition to legislative oversight of the Utah State Retirement Systems, the Committee has responsibility to:

- 1) determine which entities should be treated as independent entities;
- 2) determine the extent to which consistency in the statutes for each independent entity

should be provided; 3) determine from which provisions of the *Utah Code*, if any, each independent entity should be exempt; 4) determine whether or not the State should receive services from or provide services to each independent entity; 5) request and hear reports from each independent entity; 6) review the annual audits of each independent entity; 7) follow statutory guidelines in reviewing a proposal to create a new independent entity; 8) recommend the appropriate method of changing the organizational status of any entity; 9) study entities created by interlocal agreement to determine if they should be subject to the Independent Entities Act; and 10) report annually to the Legislative Management Committee.

The independent entities that are statutorily created include:

Independent State Agencies:

- Heber Valley Historic Railroad Authority
- School and Institutional Trust Lands Administration
- Utah Communications Agency Network
- Utah Dairy Commission
- Utah Science Center Authority
- Utah State Retirement Office

Independent Corporations:

- Utah Housing Corporation
- Utah State Fair Corporation

Nonprofit Quasi-public Corporations:

- Utah Capitol Investment Corporation
- Workers' Compensation Fund

RETIREMENT SYSTEM DIFFERENCES/CONSOLIDATION

Background

The Utah State Retirement Systems consists of six different systems that include a total membership of 158,597 as of December 31, 2004. The systems and percent of total membership of each system are as follows:

- Non-contributory 83.6%
- Contributory 7.2%
- Public Safety 7.2%

RETIREMENT AND INDEPENDENT ENTITIES COMMITTEE

- Firefighters 1.6%
- Governors and Legislators 0.3%
- Judges 0.1%

An often asked question is why there are six different systems and why do differences exist between the systems. To address these questions note that:

- each system was developed independently over time;
- each system is separate and self-contained;
- each system has different benefits although many benefits are similar;
- benefit costs may be different from one system to the other based on a variety of actuarial risk factors including wage levels, mortality rates, job risk, and average age at retirement – the retirement cost per employee for FY 2006 defined benefit is \$4,725 for state and school employees, \$9,454 for public safety employees, \$10,357 for firefighters, and \$29,436 for judges; and
- some systems have unique funding sources (i.e. more than half of the firefighters retirement is funded by a fire insurance premium tax and more than half of the judges retirement is funded by court fees).

Continuous pressure by interest groups to increase certain retirement benefits in the name of "fairness" for one or more of the state's retirement systems and the opposing pressure to control retirement costs has led some to inquire about the consolidation of two or more of the six retirement systems currently offered by the state. Under a consolidated system some benefits would have to be changed, which presents both cost and legal issues. Some of these issues can be avoided if a new consolidated system were created prospectively for new employees. However, according to the retirement system's actuary, this would add costs and complexity (primarily administrative) for the next 10 to 20 years and the long term savings may be more than 30 years away. The current systems would have to be maintained for some 50 to 70 years until all members of the system retire and die.

The Committee heard presentations from staff and representatives of the Utah State Retirement Office including their actuary.

Action

The Committee considered this issue at its May 2005 meeting but did not recommend legislation.

OTHER STUDIES

Consumer Information on Health Care Provider Cost and Quality

In response to rising healthcare costs and concerns about quality of healthcare, the concept of providing cost and quality data from Utah hospitals and healthcare providers was discussed by the Committee. This data would be available to Utah consumers including individuals, employers, and payers to:

- help consumers of healthcare make informed decisions, and
- enhance competitive forces.

The Committee heard presentations on the issues which include:

- Should Utah health care consumers be provided more consumer information on the cost and quality of Utah health care providers?
- What data would be included?
- How will it be published?
- How often would it be updated?
- How would fairness, accuracy, and comparability be ensured?
- How would the information affect competition, efficiency, effectiveness, and costs of Utah health care?
- How would it be implemented?
- What entities would be involved?
- What legislation would be needed?

The Committee considered this issue at its May and June 2005 meetings but did not recommend legislation.

Model Government Health Care Benefit Package and Funding

Public employers at all levels of government are struggling to find ways to reduce the cost of providing healthcare benefits to their employees. Often government entities will hire a consultant to assist them

RETIREMENT AND INDEPENDENT ENTITIES INTERIM COMMITTEE

in the procurement of a healthcare benefits package. The Committee discussed the concept of having public employers work more closely together to procure healthcare in order to take advantage of current best practices, reduce costs for consultants, and identify benefits packages that are outside the normal range of expenses for governmental entities. Suggestions were heard to create a standardized benefit structure with input from employee constituencies. This model health care benefit package would be updated annually.

The Committee heard presentations on the issues, which include:

- What would constitute the elements of the model health care benefit?
- Could the model be used by the state, higher education, and school districts to reduce costs for developing their own health care benefits package each year?
- Could the model be used as a basis for determining health care funding for state-funded entities?
- How would funding be changed? What adjustments would be needed to accommodate differences in experience between insured groups?

The Committee considered this issue at its May and June 2005 meetings but did not recommend legislation.

Recurring Retirement Issues

Because of fiscal constraints, many retirement issues are not addressed and proponents attempt to gather support for their proposals each year. The Committee sent a letter to retirement interest groups asking that they present to the Committee prioritized proposals of any retirement-related legislation that they plan to pursue during the 2006 General Session. The Committee heard presentations on the following issues in response to the letter:

- **Deferred Retirement Option Plan (DROP)**
The bill would allow a firefighter with 27 years or more service credit to retire and continue to work for 12 to 61 months while the retirement allowance is placed into an account. The normal contributions toward the

firefighter retirement are paid but forfeited into the system and the firefighter has the lump sum of his deferred allowance available upon final termination.

- **Partial Lump Sum Payment Option Plan**
The bill would allow a member, at the time of application for retirement, to elect to receive a lump sum of their retirement benefit equal to 12 or 24 months of the member's allowance. The member's allowance would then be reduced to reflect the actuarial value of the lump sum received.
- **Public Safety Retirement System COLA**
The bill would increase the maximum cost-of-living adjustment from 2.5 percent to 4 percent for members of the Public Safety Retirement System.
- **Two Percent Retirement Allowance**
The retirement benefit for all years of service in the public employees system is two percent per year except that for years of service rendered prior to July 1, 1967, the retirement benefit is 1.25 percent per year.
- **Utah Retirement Office Technical Amendments Bill**
Annually the Utah Retirement Office recommends technical amendments to the statute based on the previous years implementation experiences.
- **Workers' Compensation for Occupational Diseases of Firefighters and Law Enforcement**
The bill would provide a presumption that certain specified occupational diseases are employment-related if contracted by a firefighter or drug task force officer. The bill includes a provision for exposure to meth lab chemicals.

The Committee heard the presentations at its September 2005 meeting and recommended draft legislation "Retirement Office Amendments" and "Workers' Compensation Coverage of Firefighters and Drug Task Force Officers."

Retirement Contribution Rates

In addition to the salary paid to public employees, a percentage of the salary is required to be placed in the Retirement Fund for each eligible employee. This percentage of salary, called the contribution rate, is set based on actuarial projections and must be approved by

RETIREMENT AND INDEPENDENT ENTITIES COMMITTEE

the Retirement Board each year. These funds are required to keep retirement systems funded on an actuarially sound basis. The historical contribution rate in the Public Employees Noncontributory System (expressed as percentage of salary) is shown on the chart below. For FY 2007, the Retirement Board has recommended a contribution rate of 14.22 percent of salary. This is up from the contribution rate paid for FY 2005 and FY 2006 of 13.38 percent of salary, a difference of .84 percent. The 14.22 percent of salary rate is also the highest contribution rate since the creation of the noncontributory system in 1987.

The Committee considered this issue at its May 2005 meeting but did not recommend legislation.

Noncontributory Retirement Contribution Rates	
Fiscal Year	Percent of Salary
1998	14.16%
1999	14.16%
2000	14.16%
2001	13.68%
2002	10.40%
2003	10.40%
2004	11.70%
2005	13.38%
2006	13.38%
*2007	14.22%
Average	12.96%
*Proposed	

REVENUE AND TAXATION INTERIM COMMITTEE

REVENUE AND TAXATION INTERIM COMMITTEE

Membership

Sen. Curtis S. Bramble, Senate Chair
Rep. Wayne A. Harper, House Chair
Sen. Mike Dmitrich
Sen. Brent H. Goodfellow
Sen. Lyle W. Hillyard
Sen. Howard A. Stephenson
Pres. John L. Valentine
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Rep. Ralph Becker
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Rebecca L. Rockwell, Associate General Counsel
Phalin L. Flowers, Legislative Secretary

OVERVIEW

The Revenue and Taxation Interim Committee studies a wide range of policy issues and reviews potential legislation affecting the structure and administration of Utah's state and local tax systems. These studies range from establishing new policy to implementing existing policy.

In addition to its regular policymaking emphasis, the Committee makes a special effort to focus on its revenue responsibility and regularly receives detailed updates from

the Utah State Tax Commission on current state tax revenue collection trends.

The Committee also receives recommendations from the Utah Tax Review Commission, which is an independent study group. It consists of legislators, tax practitioners, academics, and citizen representatives, and annually reports to the Committee.

APPORTIONMENT OF CORPORATE TAXABLE INCOME UNDER THE UTAH CORPORATE FRANCHISE AND INCOME TAXES

Background

Utah imposes a five percent tax on state taxable corporate income derived from sources within Utah. Because some corporations have income from business activity that is taxable both in and outside Utah, the corporation's taxable income is apportioned based on its sales, income, and property.

During the 2005 General Session, the Legislature enacted H.B. 78 "Corporate Franchise and Income Tax Amendments." This legislation provided that for taxable years beginning on or after January 1, 2006, a taxpayer may elect to calculate the apportionment of business income on the basis of a fraction that increases the weighting of the sales factor. However, the legislation also provided that a taxpayer making such an election may not revoke the election for a period of five taxable years.

The Committee reviewed a recommendation from the Tax Reform Task Force that would allow a taxpayer to include only its sales when calculating its apportionment of business income to Utah. Proponents told the Task Force and the Committee that this change would encourage additional investment and employment in the state. Several other states have recently adopted a similar change to their state income tax laws.

Action

The Committee considered this issue at its October 2005 meeting and recommended draft legislation "Apportionment of Business Income to Utah."

REVENUE AND TAXATION INTERIM COMMITTEE

CIRCUIT BREAKER PROPERTY TAX RELIEF PROGRAM

Background

The Utah Constitution provides that the Legislature may provide for the "remission or abatement of the taxes of the poor." State law provides that a county governing body may abate, reduce, or defer the property taxes of the poor. Low income homeowners and renters who are over 65 years of age, or their unmarried surviving spouses, may also receive a property tax credit under the circuit breaker program. Under this program, an eligible taxpayer receives a credit equal to all or a portion of that taxpayer's property tax liability. Eligibility and the amount of the credit is based on income and family size. The foregone property tax revenue is replaced by an allocation from the General Fund.

The Committee considered a recommendation from the Tax Reform Task Force to increase the credit amounts and income eligibility amounts under the circuit breaker program. The Task Force reported that due to rapidly increasing home values in some areas of the state, the credit should be increased to more fully provide effective property tax relief.

Action

The Committee considered this issue at its November 2005 meeting and recommended draft legislation "Property Tax - Circuit Breaker Qualifying Limits."

DISTRIBUTION OF THE LOCAL OPTION SALES AND USE TAX

Background

Every municipality and county in Utah imposes a one percent local option sales and use tax. Revenues from this tax are collected by the Utah State Tax Commission and then distributed back to municipalities and counties based on a statutory formula. The formula provides that one-half of the revenues are distributed based on where the sale occurred and one-half are distributed based on population.

This so-called "50-50" distribution formula was enacted by the Legislature in 1982. Prior to this change, the tax rate

was .75 percent and all revenues were distributed based solely on the point of sale. At the time this change was adopted, the Legislature also enacted a "hold harmless" requirement that provided that no municipality or county would receive less in sales and use tax revenue than it would have received from a tax rate of .75 percent on its gross taxable sales.

The Committee considered a recommendation from the Tax Reform Task Force that this "hold harmless" provision should be phased out over the next five years. The Task Force reported that this provision was adopted by the Legislature to protect the sales and use tax revenue of municipalities that have historically hosted large retail and commercial centers. These cities argue that the influx of shoppers and traffic imposes certain costs that need to be funded. However, the Task Force found that because of shifting population and retail sales patterns over the last twenty years, some cities that now benefit from this provision were not intended to benefit when it was originally adopted. The Committee also received testimony from representatives of municipalities who encouraged the Committee to proceed cautiously with any changes.

Action

The Committee considered this issue at its November 2005 meeting and recommended draft legislation "Local Option Sales and Use Tax Distribution Amendments."

GROSS RECEIPT TAXES

Background

Utah imposes a tax on the gross receipts of certain corporations not required to pay corporate franchise and income taxes and on electrical corporations. Revenues from these taxes are deposited into the Uniform School Fund.

The Committee considered a recommendation from the Tax Reform Task Force that the gross receipt tax on electrical corporations be repealed and that the tax rates imposed on corporations not required to pay corporate franchise and income taxes be reduced. The Task Force

REVENUE AND TAXATION INTERIM COMMITTEE

reported that it had received testimony from taxpayers who view these tax rates as being punitive and unfairly applied.

Action

The Committee considered this issue at its November 2005 meeting and recommended draft legislation "Gross Receipts Tax Amendments, Repeal and Public Utility Tariffs."

PROPERTY TAX ISSUES

Background

The Utah Constitution provides that "all tangible property in the state that is not exempt... shall be taxed at a uniform and equal rate." The constitution further provides that the Legislature may exempt from the property tax "household furnishings, furniture, and equipment used exclusively by the owner of that property in maintaining the owner's home." Because it is not specifically exempted, personal property owned by a business is subject to the property tax. A business is subject to a property tax on all equipment, machines, furnishings, office supplies, tools, furniture, and other personal property that it owns. This applies to all businesses – even those that are based in a residence.

The Committee considered a recommendation from the Tax Reform Task Force that the constitution be amended to allow the Legislature to exempt from the property tax certain personal property owned by a business. The Task Force reported that many aspects of the administration of the property tax on personal property are burdensome on small businesses. The Task Force also reported that while most revenue from property taxes on personal property comes from a small percentage of taxpayers, that all business taxpayers must comply with complex filing and audit requirements, even though they may pay very little in property taxes on personal property.

The Task Force also submitted a recommendation to amend Utah's truth in taxation law. This law governs the requirements that a taxing entity must meet to budget property tax revenue that exceeds a certain amount. The

Task Force recommended certain modifications to the requirements that a school district must meet when imposing a voter approved property tax levy.

Action

The Committee considered this issue at its November 2005 meeting and recommended draft legislation "Resolution Regarding Property Tax on Personal Property" and "School Districts - Limited Amendments to Truth in Taxation."

SALES AND USE TAX EXEMPTIONS

Background

Under the Utah sales and use tax, a tax is imposed on the retail sale of all tangible personal property. The tax is imposed on the purchaser and usually collected by the seller. The seller then remits the tax to the Utah State Tax Commission. Since its inception in the 1930s, certain purchasers and commodities have been exempt from the sales and use tax. These exemptions generally fall into three categories: 1) economic and administrative simplicity, 2) to promote a specific social policy, and 3) economic development.

The Committee received recommendations from the TRC (Utah Tax Review Commission) and Tax Reform Task Force regarding several existing exemptions to the sales and use tax. The TRC recommended that all intrastate transportation of goods and people be exempt from the sales and use tax. The TRC also recommended that certain clarifications be adopted to the exemption for isolated and occasional sales.

The Tax Reform Task Force recommended that the exemption for sales of equipment used to manufacture and process semiconductors be reauthorized and amended to conform with current administrative practices. It also recommended that purchases of certain machinery and equipment used by the telecommunications industry be exempt from the sales and use tax. The Task Force also recommended that several clarifications be enacted regarding the exemption for exclusive seasonal sales of agricultural products by a producer.

REVENUE AND TAXATION INTERIM COMMITTEE

Action

The Committee considered this issue at its October and November 2005 meetings and recommended draft legislation "Sales and Use Tax - Exemption for Isolated or Occasional Sales," "Sales and Use Tax Exemption for Transportation," "Sales and Use Tax Exemption for Semiconductor Fabricating, Processing, Research, or Development Materials," "Sales and Use Tax Exemption for Sales of Certain Agricultural Products," and "Sales and Use Tax Exemption - Telecommunications."

OTHER STUDIES

Recent Changes to Federal Income Tax Laws

During the 2004 General Session, the Legislature enacted H.B. 27 "Tax Commission Report - Federal Income Tax Laws." This legislation directed the Utah State Tax Commission to annually report to the Committee on any modification to the United States Internal Revenue Code that is likely to affect state revenues.

The Tax Commission reported on Congressional action taken in 2005 that will affect state revenues. It reported that The American Jobs Creation Act, The Highway Reauthorization and Excise Tax Simplification Act, and the Energy Tax Incentives Act of 2005 may each have a small effect on state tax revenues.

The Committee considered this issue at its October 2005 meeting but did not recommend legislation.

RURAL DEVELOPMENT LEGISLATIVE LIAISON COMMITTEE

RURAL DEVELOPMENT LEGISLATIVE LIAISON COMMITTEE

Membership

Sen. Thomas V. Hatch, Senate Chair
Rep. DeMar "Bud" Bowman, House Chair
Sen. Mike Dmitrich
Sen. Scott K. Jenkins
Sen. Ed Mayne
Rep. Douglas C. Aagard
Rep. James R. Gowans
Rep. Eric K. Hutchings
Rep. Brad King
Rep. Patrick Painter
Rep. Mark A. Wheatley

Staff

Stewart E. Smith, Policy Analyst
Susan Creager Allred, Associate General Counsel
Joy L. Miller, Legislative Secretary

OVERVIEW

S.B. 50 "Rural Planning and Development," passed in the 2004 General Session, created the following four entities to address rural planning and development issues on a statewide, coordinated basis:

- Rural Development Legislative Liaison Committee to serve as liaison between rural economic development and planning groups and state entities and to recommend legislation, when appropriate, on the economic and planning interests of rural Utah;
- Governor's Rural Partnership Board to develop and prepare an annual strategic plan to address rural economic development, planning, and leadership training challenges, opportunities, priorities, and objectives;
- Office of Rural Development to help foster and support economic development for the benefit of rural counties and communities; and
- Rural Coordinating Committee to coordinate efforts and resources and help implement the strategic plan on rural economic development, planning, and leadership training.

The duties of the Rural Development Legislative Liaison Committee are to:

- serve as a liaison between the Governor's Rural Partnership Board, the Utah Rural Development Council, rural economic development and planning groups, and the Legislature;
- recommend legislation for the general session of the Legislature if the Committee determines that modifications to current law are in the best interest of the state and the economic and planning interests of rural Utah;
- review the operations of the Office of Rural Development and other state agencies involved in rural economic development and planning; and
- help sponsor meetings and other opportunities for discussion with and among rural economic development and planning interests.

GOVERNOR'S RURAL PARTNERSHIP BOARD REPORT

Background

S.B. 50 requires the Governor's Rural Partnership Board to make recommendations on economic planning and development in the state's rural areas and related issues to the Legislature through the Committee.

The Committee received the following requests from the Governor's Rural Partnership Board:

- encourage a thorough review of regulations affecting rural utility infrastructure development to assure that state regulation supports, not hinders, public utility infrastructure and broadband development in underserved rural areas;
- provide the Disadvantaged Rural Community Business Development Fund with \$250,000 of ongoing funds;
- provide a one-time appropriation of \$2 million to create a rural Utah small business development fund;
- provide ongoing funding to support travel and meeting costs for the Governor's Rural Partnership Board;
- support legislation to remove barriers that prevent rural colleges and universities from participating in the Centers of Excellence Program;

RURAL DEVELOPMENT LEGISLATIVE LIAISON COMMITTEE

- support legislation to allow industry associations to pool their memberships for the purpose of jointly pursuing lower cost group healthcare plans;
- review tax policy regarding the imposition of sales tax on materials used at the various levels of producing a product; and
- provide \$100,000 in ongoing funding to support the Utah Smart Site Program.

Action

In the September 2005 meeting the Committee recommended that the community of Beaver in Beaver County be selected as a pilot project to focus rural development efforts and recommended that guidelines be developed to measure the success of the program. The Committee also recommended that the Governor's Rural Partnership Board consider the issue of utilities infrastructure and to respond to the Committee with any recommended incentives for newer technologies or other action that may be needed to address the needs in the state. The Committee reviewed the recommendations of the Board and invited board members to work with the committee members on the details of legislation and plans to implement the board's recommendations.

The Committee considered these issues at its July, September, and November 2005 meetings but did not recommend legislation.

TAX REFORM TASK FORCE

Membership

Sen. Curtis S. Bramble, Chair
Rep. Wayne A. Harper, Chair
Sen. Mike Dmitrich
Sen. Howard A. Stephenson
Pres. John L. Valentine
Rep. Ralph Becker
Rep. John Dougall
Rep. Gregory H. Hughes
Rep. Todd E. Kiser
Rep. Rosalind J. McGee
Rep. Merlynn T. Newbold
Rep. Gordon E. Snow
Rep. Stephen H. Urquhart
Comm. Pam R. Hendrickson
Mr. Neil H. Ashdown

Staff

Phillip V. Dean, Policy Analyst
Bryant R. Howe, Assistant Director
Angela D. Oakes, Associate General Counsel
Rebecca L. Rockwell, Associate General Counsel
Leif G. Elder, Research Assistant
Phalin L. Flowers, Legislative Secretary

OVERVIEW

Following the economic fluctuations of the past ten years and the impact of those fluctuations on state revenues, Utah's legislative and executive branches undertook a comprehensive study of the state's tax system. Topics examined include the income tax, sales and use tax, property tax, local government taxes, and other taxes.

Background

The remarkable economic upsurge in the late 20th century followed by the dramatic economic downturn of the early 21st century caused major fiscal impacts for the states and the federal government. After many years of increasing revenue gains, slower revenue growth and even revenue decreases forced state governments nationwide to grapple with difficult spending and tax decisions. These difficult decisions caused some to examine in more detail tax and

budget policies and their outcomes over the economic cycle.

Although Utah fared well compared to many states, its elected officials were still required to make many difficult fiscal decisions when revenues did not meet expectations. As the state started to emerge from the economic downturn, many began closely examining the state's tax policies and the extent to which adjustments to those policies could better help the state meet its goals and challenges in the 21st century. In 2004, the Legislature established a task force to study the individual income tax and the corporate franchise and income taxes. In November 2004, former Governor Olene Walker issued a report highlighting problems with the state's existing revenue portfolio and made 16 recommendations to address what the report called a declining tax base.

In the 2005 General Session, the Legislature enacted S.B. 153 "Tax Reform Task Force." This legislation established the Task Force, provided for its membership, and directed it to make its final recommendations to the Revenue and Taxation Interim Committee on or before November 30, 2005.

The Task Force began its work by adopting a set of guiding principles, which included treating taxpayers in similar situations similarly; establishing the amount of revenue to be generated by taxes; and creating a simple, stable, broad-based, and responsive tax system for the state.

To facilitate a more in-depth review of the tax system, the Task Force divided itself into the following four working groups: income tax, sales and use tax, property tax, and RDA/other taxes. These working groups studied issues with existing tax policies in their respective areas and made recommendations to the full Task Force. After initial deliberations, the Task Force held public hearings in Logan, Salt Lake City, Provo, Vernal, Price, Cedar City, and St. George to receive citizen feedback. Including the public hearings and working group meetings, the Task Force held over 50 meetings in its comprehensive review of the state's tax system.

TAX REFORM TASK FORCE

Income Tax

Major proposals considered concerning individual income tax include a flat tax, low-income exemptions, family size exemptions, retirement exemptions, deductions or credits for mortgage interest and charitable contributions, sales tax refund credits, expanding tax brackets, and adjusting tax rates.

Major proposals considered concerning corporate franchise and income and gross receipts taxes include elimination of the corporate franchise and income tax, apportionment formula adjustments such as a single sales factor, repeal and reduction of a gross receipts tax on electrical utilities, a minimum filing threshold, and adjusting tax rates.

Sales and Use Tax

Major sales and use tax issues considered include the sales and use tax on food; expansion of the base to include consumer services; exempting business inputs from the sales and use tax; a uniform statewide sales and use tax rate; local government sales and use taxes; existing tax exemptions, including the motor fuel exemption; and various confusing and inconsistent tax issues.

Property Tax

Major property tax issues considered include taxation of personal property; expanding the existing property tax credit program for the elderly with low incomes; changes to laws governing the truth in taxation processes, including advertisements and property tax inflation adjustments; and property tax exemptions, including the 45 percent primary residential exemption.

Local Government and Other Taxes

Major local government and other taxes issues considered include redevelopment agency reform; local government sales and use taxes, including distribution methods and a shift from sales and use taxes to property tax; insurance premium taxes; and taxes on cable companies and airlines.

Action

The Task Force considered these issues at its multiple meetings from May to November 2005 and adopted 16 draft bills and 6 conceptual proposals. The short title and

brief summary of each bill recommended by the Task Force can be found in the "Summary of Recommended Legislation" section of this report.

The following is a summary of the final recommendations:

- Individual income tax – establish a tax based on federal adjusted gross income with a rate of five percent or less and nonrefundable credits based on filing status, family size, charitable contributions, and mortgage interest.
- Corporate franchise and income tax – allow electable single sales factor.
- Gross receipts tax on electrical corporations – repeal, reduce, and reduce rates commensurately.
- Sales and use tax on food – eliminate the sales and use tax on unprepared food (i.e., groceries).
- Business input exemptions from the sales and use tax – expand the existing manufacturing exemption; revise the existing semiconductor industry exemption; exempt certain telecommunication inputs with a one-year economic life or longer; and exempt certain mining, computer system design, and biotech inputs with a three-year economic life or longer.
- One percent local option sales and use tax – phase out "hold harmless" provision.
- Uniform statewide rate – adopt a uniform statewide sales and use tax rate of 6.4 percent.
- Confusing and inconsistent sales and use tax issues – address various confusing and inconsistent issues, including a) isolated and occasional sales; b) car washes, laundry facilities, and amusement devices; c) transportation exemptions; and d) certain agricultural product sales.
- Circuit breaker – increase eligibility and benefit amounts for property tax credits for low-income elderly.
- Personal property taxation – propose constitutional amendment providing legislative discretion on how to impose the property tax on personal property.
- Truth in taxation – clarify truth in taxation newspaper advertisements and provide a four-year newspaper advertisement exemption for certain school district levies approved by citizen vote.

- Commercial aviation – replace current ad valorem property tax with uniform fee for certain commercial airlines with headquarters in the state.
- Redevelopment agencies—restructure redevelopment agency processes into three tracks with separate conditions and requirements.
- Insurance premium tax – reduce the tax on certain insurance premiums.
- Cable tax credit – provide a credit for cable providers against a state tax to offset local franchise fees imposed on cable providers.

The Task Force also recommended that various local government tax issues be studied further in 2006.

TOURISM TASK FORCE

Membership

Sen. Scott K. Jenkins, Senate Chair
Rep. J. Stuart Adams, House Chair
Sen. Patrice M. Arent
Sen. D. Chris Buttars
Sen. Beverly Ann Evans
Sen. Karen Hale
Rep. Sheryl L. Allen
Rep. DeMar "Bud" Bowman
Rep. Bradley T. Johnson
Rep. Steven R. Mascaró
Rep. Karen W. Morgan
Rep. Ross I. Romero
Rep. LaWanna "Lou" Shurtliff
Rep. Peggy Wallace

Staff

Arthur L. Hunsaker, Policy Analyst
James L. Wilson, Associate General Counsel
Glenda S. Whitney, Legislative Secretary

OVERVIEW

The Tourism Task Force was created by the Legislature in the 2005 General Session. Its duties included review and recommendations regarding:

- the progress towards a unified process for bringing the state and counties together for a cohesive tourism plan;
- how to expand the tourism plan to a three-year, five-year, and seven-year plan, if necessary;
- the appropriate process for developing under any tourism: funding projections, return revenue projections, state, county, and municipality branding, and the vision and goals for the state related to tourism using techniques that account for the future;
- tourism related business development and infrastructure to: eliminate duplication and facilitate joint ventures involving the state, counties, municipalities, other government entities, visitor bureaus, and private entities;
- establishing marketing plans for encouraging people and businesses from out of state to: return for multiple

visits to the state, stay longer, and expend monies while in the state;

- how to encourage state and local government cooperation in developing tourism initiatives;
- how to remove impediments, if any, to attracting tourism to the state; and
- funding sources for tourism related programs including whether state or local taxes should be earmarked.

In a special session held April 19, 2005, the Legislature turned its attention again to tourism when it appropriated \$14 million to fund the state's tourism programs. Specifically, the money was appropriated to fund the statewide advertising, marketing, and branding campaign for the promotion of tourism.

Administered by the newly created Governor's Office of Economic Development, these funds were to be augmented by up to an additional \$4 million depending on the amount of surplus General Fund money available at the conclusion of the 2005-06 fiscal year.

The Task Force invited input from several tourism stakeholders, including the Utah Association of Counties, The Utah Travel Industry Coalition, the Utah League of Cities and Towns, and state and federal agencies including the newly-created Office of Tourism, the Division of State Parks, and the National Park Service.

The Task Force also examined the manner in which counties finance their tourism efforts. *Utah Code*, 59-12-301 authorizes counties to impose a transient room tax (TRT) not to exceed three percent on charges for tourist home, hotel, motel, or trailer court accommodations for, among other purposes, "establishing and promoting recreation, tourism, film production, and conventions" (*Utah Code*, 17-31-2(1)(a)).

Counties may also impose a tourism, recreation, cultural, and convention facilities tax (TRCC) not to exceed seven percent on all short-term leases and rentals of motor vehicles and one percent of all sales of prepared foods and beverages sold by restaurants. Counties of the first class (Salt Lake County only) may also impose a .5 percent tax

TOURISM TASK FORCE

for short-term tourist home, hotel, motel, or trailer court accommodations and services.

The impact of travel and tourism in Utah is nearly \$5 billion annually. Ten percent of Utah's workforce is employed specifically in tourism or tourism-related businesses. The state hosted 17.5 million visitors in 2004.

The spending of visitors to the state in 2004 provided \$444 in tax relief per household. The Tourism Task Force worked to ensure the success of future tourism efforts for the benefit of the citizens of the state.

EXPENDITURES FOR TOURISM, RECREATION, CULTURAL, AND CONVENTION FACILITIES AND ACTIVITIES

Background

To help the Task Force assess the impact of TRT and TRCC tax collections on county tourism spending, the chairs requested that the Utah Association of Counties provide summary data of county use of TRT and TRCC monies. Twenty-three of the state's twenty-nine counties were included in the data presented to the Task Force.

During review of the data, it was pointed out that *Utah Code*, 17-31-5.5 requires each county imposing the TRT to annually engage an independent auditor to perform an audit to verify that TRT funds are used only as authorized and to report the findings of the audit to the county legislative body. However, there is no similar provision for auditing or reporting the use of tax revenues by a county imposing the TRCC tax under Section 59-12-603.

The Task Force recommended clarifying the breakdown of expenditures that should be included in the report, requiring an audit of county use of TRCC revenues to parallel the current requirement for an audit of the TRT, and directing that copies of the audit report on the use of TRT and the TRCC tax revenues (depending on the taxes imposed by a particular county) be provided to the Governor's Office of Economic Development, the county's Tourism Tax Advisory Board, and the Office of the Legislative Fiscal Analyst.

Another concern the Task Force discussed was the need to provide guidance on what expenditures qualify as "financing tourism promotion." In a performance audit of tourism promotion funding in Utah conducted in 2000, the Office of the Legislative Auditor General recommended that the Legislature consider whether the term "financing tourism promotion" needed to be defined.

The Task Force recommended amending *Utah Code*, 17-31-5.5 to define tourism promotion as "an activity to develop, encourage, solicit, or market tourism that attracts transient guests to the county, including planning, product development, and advertising."

Action

The Task Force discussed these issues at its May, September, October 17, and October 31, 2005 meetings and recommended draft legislation "Expenditures for Tourism, Recreation, Cultural, and Convention Facilities and Activities."

OTHER STUDIES

Motion Picture Incentives and Funding

The Task Force reviewed the current incentives offered by the state to motion picture production companies to film in Utah and incentives offered by other states. The Office of Tourism reported that funds for incentives provided in the 2005 General Session were quickly depleted.

The Task Force voted to send a letter to the chairs of the Economic Development Appropriations Subcommittee requesting that they provide a separate line item for the Motion Picture Incentive Fund in the budget for economic development and a \$3,000,000 appropriation for fiscal year 2006-07. The Task Force also voted unanimously to send a letter to the Governor's Office of Economic Development urging that the Industrial Assistance Fund bridge monies to be used as a supplement to incentivize motion picture productions for fiscal year 2005-06.

The Task Force discussed this issue at its October 17 and October 31, 2005 meetings but did not recommend legislation.

Tourism Performance Marketing Fund

The Task Force expressed concern with the funding of future tourism efforts in the state and discussed the level for future funding needed to maintain successful tourism performance.

The Task Force unanimously voted to send a letter to the chairs of the Economic Development Appropriations Subcommittee and to the members of the Executive Appropriations Committee requesting that in fiscal year 2006-07 the Tourism Performance Marketing Fund be funded at a total of at least \$9 million.

The Task Force discussed this issue at its October 31, 2005 meeting but did not recommend legislation.

Travel Regions

The Task Force met with representatives of many of the state's several travel regions. Travel regions were originally formed to localize tourism promotion efforts and, in some cases, pool resources among travel region members to accomplish mutual goals. These travel regions are formed along county lines and consist of anywhere from one to five counties. Travel region representatives expressed appreciation for the Legislature's increased funding of tourism promotion and stated that the existing structure provides the flexibility travel regions need to develop tourism approaches appropriate to their respective areas.

The Task Force discussed this issue at its June 2005 meeting but did not recommend legislation.

TRANSPORTATION INTERIM COMMITTEE

TRANSPORTATION INTERIM COMMITTEE

Membership

Sen. Sheldon L. Killpack, Senate Chair
Rep. Joseph G. Murray, House Chair
Sen. Scott K. Jenkins
Sen. Ed Mayne
Sen. Carlene M. Walker
Rep. J. Stuart Adams
Rep. Jeff Alexander
Rep. David Clark
Rep. Bradley M. Daw
Rep. Brad L. Dee
Rep. John Dougall
Rep. James A. Dunnigan
Rep. Julie Fisher
Rep. Kerry W. Gibson
Rep. Neil A. Hansen
Rep. Brad King
Rep. Aaron Tilton
Rep. Larry B. Wiley

Staff

Mark B. Steinagel, Policy Analyst
Shannon C. Halverson, Associate General Counsel
Tracey Fredman, Legislative Secretary

OVERVIEW

The Transportation Interim Committee has responsibility for issues relating to the safe and efficient movement of people and property within Utah. Issues considered by the Committee include highway construction and maintenance, highway safety, traffic laws, motor vehicle insurance, driver licensing and personal identification, vehicle licensing and registration, transportation-related taxation, and public transportation.

The Committee has oversight responsibility for UDOT (Utah Department of Transportation), the Driver License Division of the Department of Public Safety, and the Motor Vehicle and Motor Vehicle Enforcement Divisions of the Utah State Tax Commission. In addition, the Committee hears periodic reports by the Utah Transit Authority relating to public transit issues.

DUI (DRIVING UNDER THE INFLUENCE) AMENDMENTS

Background

Alcohol-impaired drivers kill or injure many people on Utah's roadways each year. To aid the Committee in assessing the effectiveness of Utah's laws in deterring drunk driving, the Commission on Criminal and Juvenile Justice reported to the Committee: 1) data being collected and maintained by the courts to allow sentencing and penalty enhancement decisions for repeat DUI offenders and 2) the use of pleas in abeyance involving driving under the influence violations.

The Commission's report included recommendations that the Legislature renew the plea in abeyance program for persons guilty of driving under the influence and amend ignition interlock provisions to increase the use of ignition interlock devices.

Action

The Committee considered this issue at its October and November 2005 meetings and recommended draft legislation "Driving Under the Influence Amendments."

HIGHWAY TRANSFER PROCESS AMENDMENTS

Background

The Highway Jurisdictional Transfer Task Force was created by 2005 General Session S.B. 25 "Transportation Amendments and Highway Jurisdictional Transfer Task Force" and was charged to review and make recommendations on the jurisdictional transfer of highways from the state to counties and municipalities and from counties and municipalities to the state including:

- which highways should be transferred in accordance with *Utah Code*, 72-4-102.5,
- the amount of funding or other resources that should be provided with the transfers, and
- the phase-in or timing of the transfers.

The Task Force considered potential highway transfers based on recommendations made by UDOT and local governments. The Task Force decided against recommending large scale transfers. Instead, it

TRANSPORTATION INTERIM COMMITTEE

recommended a modified highway transfer process in order to facilitate future highway transfers between the state and local governments. In addition, as part of the Task Force's analysis of potential highway transfers, UDOT and local governments developed a list of potential transfers that will be used as a starting point for the discussion of potential transfers in 2006.

Action

The Committee received the Task Force's report at its November 2005 meeting and recommended draft legislation "Highway Transfer Process Amendments."

MASKING OF CONVICTIONS FOR COMMERCIAL DRIVER LICENSEES

Background

Federal law requires that states not "mask" or defer imposition of judgment on commercial drivers who have violated state and local traffic laws. Utah's current "plea in abeyance" law allows courts and prosecutors to defer entering a judgment of conviction or imposing a sentence against a defendant on condition that the defendant comply with specific conditions as set forth in a plea in abeyance agreement. Pleas held in abeyance have proven to be an effective law enforcement tool.

If the state continues to operate pleas in abeyance for commercial drivers, its action will result in 1) a loss of federal transportation funds of approximately \$8 million in the first year and \$16 million in the second and subsequent years, and 2) possible decertification of Utah's commercial driver license program. States had until September 2005 to resolve the problem, but penalties will not be imposed until one year after a state is found in substantial noncompliance; therefore, the state has the 2006 General Session to fix the problem.

The Committee discussed methods to keep the state's current plea in abeyance program and comply with federal law.

Action

The Committee considered this issue at its July and October 2005 meetings and recommended draft legislation "Commercial Driver License Amendments."

TRANSPORTATION FUNDING STRATEGIES

Background

Transportation needs exceed revenue available through traditional funding mechanisms, such as the gas tax and registration fees. Utah's metropolitan planning organizations have identified \$23 billion in highway capacity needs that will be required over the next 30 years. Projected revenues at current funding levels only cover \$6.5 billion.

Because transportation needs outstrip current funding for transportation, states are looking for innovative methods to finance the needs. One recent method is to acquire financing from private investors to pay for all or a portion of a highway, and then allow the investors to recover their investment with interest through the use of tolls.

Action

The Committee considered highway funding issues at its April, June, September, and November 2005 meetings and voted to encourage legislation enabling public-private partnerships for financing transportation projects.

UNINSURED DRIVERS

Background

Under state law, insurance and registration are required to operate a motor vehicle on a highway. When an uninsured vehicle is involved in an accident, significant financial burden can occur to those affected by the accident. Utah law already assesses penalties and fines to those who are caught operating a motor vehicle without insurance, but many still choose to do so. The Committee discussed methods to reduce the number of uninsured motorists on Utah's highways.

Action

The Committee considered this issue at its July and September 2005 meetings and recommended draft legislation "Uninsured Motorist Identification Database Program Amendments."

OTHER STUDIES

Commercial Driver Training School Act Amendments

Commercial driver training schools are required to renew their certification with the Driver License Division each year by December 31. Even if a school initially certifies in September, they still have to re-certify by December 31. The Driver License Division recommended allowing the schools to renew their certification by the anniversary of their certification, rather than by December 31.

The Committee considered this issue at its July and October 2005 meetings and recommended draft legislation "Commercial Driver Training School Act Amendments."

Guidelines for Local Match Rules Review

The Committee reviewed proposed rules of the Transportation Commission for guidelines for partnering with counties and municipalities to help finance state highway improvement projects through local matching dollars.

The Committee considered this issue at its September and October 2005 meetings but did not recommend legislation.

Identification Card Expiration Amendments

During 2005, Congress passed the REAL ID Act. It is a response to complaints by the 9-11 Commission that terrorists were able to easily obtain state identification. Utah has three years to implement the changes required by the Act. The first change recommended by the Driver License Division was to decrease the length of time an identification card is valid so the expiration period complies with the REAL ID Act and matches the five year expiration for driver licenses.

The Committee considered this issue at its July and October 2005 meetings and recommended draft legislation "Identification Card Expiration Amendments."

State Highways Amendments

As required by *Utah Code*, 72-4-102, UDOT annually submits to the Transportation Interim Committee a list of highways that the Transportation Commission recommends for addition to or deletion from the state highway system. This year the Commission recommended only technical changes to the descriptions of selected state highways.

The Committee considered this issue at its November 2005 meeting and recommended draft legislation "State Highways Amendments."

Street Racing

Utah law prohibits speed contests or speed exhibitions on Utah's highways. Individuals who participate in speed contests, or "street racing," place other drivers in danger. The Committee discussed whether penalties for street racers need to be increased.

The Committee considered this issue at its May 2005 meeting but did not recommend legislation.

Written Prioritization Process Rules Review

As required by S.B. 25 the Committee reviewed proposed rules of the Transportation Commission for a written prioritization process for new transportation capacity projects.

The Committee considered this issue at its September and October 2005 meetings but did not recommend legislation.

UTAH TAX REVIEW COMMISSION**Membership**

Mr. M. Keith Prescott, Chair
Mr. David J. Crapo, Vice Chair
Sen. Brent H. Goodfellow
Sen. Lyle W. Hillyard
Rep. Wayne A. Harper
Rep. Rosalind J. McGee
Mr. Lawrence R. Barusch
Mr. Mark K. Buchi
Dr. Gary Cornia
Ms. Janis Dubno
Ms. Kathleen Howell
Comm. Bruce Johnson
Mr. Bruce Jones
Mr. Dixie Leavitt

Staff

Phillip V. Dean, Policy Analyst
Bryant R. Howe, Assistant Director
Angela D. Oakes, Associate General Counsel
Rebecca L. Rockwell, Associate General Counsel
Phalin L. Flowers, Legislative Secretary

OVERVIEW

The TRC (Utah Tax Review Commission) was created by statute to "establish an ongoing and comprehensive review of... the tax laws of this state and the political subdivisions of this state... and... all issues related to revenue and taxation." The TRC is required to "make recommendations to the governor and the Legislature... on specific tax issues... and... tax policy of the state and the political subdivisions." Members of the TRC are appointed by the governor, the Speaker of the House of Representatives, the President of the Senate, and by the Commission itself.

INCOME TAX - TAXATION OF INDIVIDUALS, ESTATES, AND TRUSTS**Background**

Under Utah's individual income tax system, a tax is imposed on the taxable income of a resident estate or

trust, except for trusts taxed as corporations. The state taxable income of a resident estate or trust is its federal taxable income, with certain additions and subtractions. For the 2003 tax year, there were just over 15,000 fiduciary income tax returns filed with the Utah State Tax Commission.

The TRC was asked by the Utah State Tax Commission to examine several issues with regards to the application of income tax laws to trusts and estates. The Tax Commission reported that it had become difficult to interpret the statutes governing this tax with any degree of clarity. For example, as various additions and subtractions to taxable income had been enacted by the Legislature to the state income tax for individuals, it has not been clear whether or not these provisions also applied to the incomes of trusts and estates. Further, the Legislature has enacted several individual income tax credits. Clarification was also needed on whether these credits applied to estates and trusts. The Tax Commission was unsure how to address these questions and asked the TRC to develop a recommendation to submit to the Legislature.

The TRC asked a group of practitioner and academic experts to advise it on how these issues should be resolved. This group of experts met several times to craft recommendations to submit to the TRC. In addition to several technical revisions that harmonize the laws, practice, forms, and instructions for trusts and estates, this group made recommendations on what additions to federal taxable income, subtractions from federal taxable income, and what credits should apply to the income of trusts and estates.

Action

The TRC considered this issue at its October and November 2005 meetings and recommended draft legislation "Income Tax - Taxation of Individuals, Estates, and Trusts" and "Individual Income Taxation of Certain Trust Distributions."

UTAH TAX REVIEW COMMISSION

ISOLATED AND OCCASIONAL SALES - SALES AND USE TAX EXEMPTION

Background

In addition to the transportation related exemptions discussed above, the TRC also reviewed the exemption to the sales and use tax for isolated and occasional sales by persons not regularly engaged in business.

As part of its review, the TRC reviewed how similar exemptions are administered in other states and whether or not the statute clearly informed taxpayers with regards to their sales and use tax liability.

Action

The TRC studied this issue at its June, August, and September 2005 meetings and recommended draft legislation "Sales and Use Tax - Exemption for Isolated or Occasional Sales."

LAND VALUE TAX

Background

During its 2005 General Session, the Legislature enacted S.B. 53 "Land Value Tax Study," directing the TRC to study the feasibility and desirability of establishing a land value property tax system. As proposed, this property tax would not replace the existing property tax system. New revenues would be earmarked for transportation infrastructure improvements.

The TRC was assisted in this study with support from the Lincoln Institute of Land Policy, a private, nonprofit organization that studies a wide variety of property tax and land use policy issues.

As part of its review, the TRC reviewed land value tax systems in other U.S. cities and in other countries. It also considered reasons why a land value tax has not been more widely used. Reasons include the challenge of accurately valuing land as if it were vacant, possible and unknown property tax shifts, and political opposition by large land owners.

The TRC also reviewed the administrative issues surrounding a land value tax for county assessors and the Property Tax Division of the Utah State Tax Commission. This review found that county assessors do conduct separate appraisals for both land and for improvements. However, comparable sales data, especially for raw land sales, is difficult to obtain. Counties rely heavily on survey data collected by the Utah State Tax Commission, real estate multiple listing services, and survey and other data collection efforts. Despite these challenges, the TRC found that land was being accurately appraised separately from improvements by county assessors.

Testimony from the Property Tax Division regarding challenges to accurately value only land owned by centrally assesses firms was also presented to the TRC. The current methodology of the Property Tax Division with regards to these firms is to value the firm as a unit, allocate the appropriate portion of the unit value to Utah, and then apportion that value to the appropriate taxing entity. A land value tax system would require the Property Tax Division to adopt new valuation methodologies.

Action

The TRC did not take a formal position with regards to whether Utah should establish a land value tax, and plans to revisit this issue during the 2006 interim.

The TRC considered this issue at its June, August, September, and October 2005 meetings but did not recommend legislation.

OIL AND GAS SEVERANCE TAX

Background

Utah imposes a tax on the value of oil, natural gas, and natural gas liquids. The tax rate is three or five percent, depending on the value of the oil or gas. The TRC considered several issues with regards to this tax including a selected comparison of the state and local tax burden on the oil and gas exploration and production industry in Utah and other producing states, the extent to which oil and gas severance tax rates affect the level of exploration and production, and whether all or a portion of

the revenues from this tax should be deposited into a permanent trust fund. The TRC also considered, but did not adopt, a proposal to increase the oil and gas severance tax rates.

Action

The TRC considered this issue at its April, May, June, July, August, September, October, and November meetings and recommended draft legislation "Resolution Enlarging Revenues and Assets in the State Trust Fund."

TRANSPORTATION RELATED SALES AND USE TAX EXEMPTIONS**Background**

State law directs the TRC to review each exemption to the sales and use tax and to determine whether or not the exemption should be continued, repealed, or modified.

The TRC spent considerable time during the 2004 and 2005 interims studying the following sales and use tax exemptions related to the transportation sector:

- intrastate movement of freight common carriers;
- intrastate movement of passengers by taxicabs, certain shuttle companies, and horse-drawn carriages; and
- fares charged to persons by a public transit district.

As part of this review, the TRC reviewed the cost and effectiveness of these exemptions and received public testimony from representatives of the transportation sector and the Utah Transit Authority.

Action

The TRC considered this issue at its May, July, August, and September 2005 meetings and recommended draft legislation "Sales and Use Tax Exemption for Transportation." The TRC also recommended that if the Legislature does not adopt "Sales and Use Tax Exemption for Transportation" that the Legislature adopt as an alternative draft legislation "Sales and Use Tax Exemption for Certain Transportation of Passengers."

UTAH TECHNOLOGY COMMISSION**Membership**

Sen. Beverly Ann Evans, Chair
Rep. John Dougall, Chair
Sen. Karen Hale
Sen. David L. Thomas
Rep. David Clark
Rep. Brad L. Dee
Rep. Neal B. Hendrickson
Rep. David Litvack
Mr. Daniel J. Becker
Mr. J. Stephen Fletcher
Mr. Martin Frey
Mr. Richard Siddoway
Dr. Gary S. Wixom

Staff

Richard C. North, Policy Analyst
Christopher R. Parker, Associate General Counsel
Phalin L. Flowers, Legislative Secretary

OVERVIEW

The Utah Technology Commission was established in 2003 by the Utah Legislature to study, promote, and coordinate the development of technology policy and budgets. The Utah Technology Commission replaces the Utah Information Technology Commission which was created in 1994 with a sunset date of 2004. The Commission has authority to study any technology issues and practices in all areas of state government including the legislative, executive, and judicial branches, as well as the education community.

A Utah Technology Industry Council was also created to jointly meet with the Commission and present assessments and recommendations regarding Utah's private sector technology industries. Together, the Commission and Council review and study technology issues that affect the public and private sectors in Utah.

BIOTECHNOLOGY FOUR-YEAR DEGREE PROGRAMS**Background**

Utah biotechnology companies are a growing state industry that require highly educated and trained employees. Because of a shortage of these types of workers in Utah, existing biotechnology companies are forced to search out of the state for employees. This has resulted in biotechnology work being outsourced to other states.

Currently, only one state higher education institution, Salt Lake Community College, offers a two-year degree program for training biotechnology workers. That program, InnoBio, has received nationwide awards and recognition for its effectiveness in biotechnology training.

Both the biotechnology industry and potential career employees have identified the need for additional training that a four-year degree would provide. As a result, the Commission directed Salt Lake Community College, the University of Utah, Utah State University, and Utah Valley State College to develop memorandums of agreement for creating four-year biotechnology degree programs

The Commission heard testimony and received reports, a memorandum of agreement, and related budgets for developing a four-year biotechnology degree program.

Action

The Commission considered this issue at its May, July, August, October, and November 2005 meetings but did not recommend legislation. The Commission moved to approve the memorandum of agreement between Salt Lake Community College and Utah Valley State College and recommended the proposed biotechnology budget be sent to the Executive Appropriation Committee for possible inclusion in the 2006-2007 state budget.

INFORMATION TECHNOLOGY GOVERNANCE**Background**

H.B. 109 "Information Technology Governance Amendments" was enacted during the 2005 General

UTAH TECHNOLOGY COMMISSION

Session. That law reorganized existing state information technology governance by creating a new Department of Technology Services and transferring all information technology assets and personnel to that agency. The statutory transition consists of a two-stage process to be completed by July 1, 2006. During the transition, the state chief information officer and executive director of the new Department of Technology services is charged with providing reports to the Commission and making recommendations for legislation needed to complete the transition.

The Commission received progress reports and heard testimony regarding the transition from a decentralized information technology governance structure to a centralized enterprise governance model.

Action

The Commission considered this issue at its May, July, September, October, and November 2005 meetings and recommended draft legislation "Department of Technology Services Personnel Transfer-Supplemental Appropriation."

LEGISLATIVE COMMUNICATION TECHNOLOGY

Background

The Utah State Capitol Complex is undergoing a major remodeling which includes all communication technology. When the project is completed in the fall of 2007, the complex will consist of four buildings, three of which will house legislative offices. Because legislators and staff will be regularly attending meetings in all three buildings, the issue of having online access to voice mail, email, and scheduling calendars at all times is critical. This immediate access will allow legislators and staff to transition from one meeting to the next without having to return to their respective offices to check voice mail, email, and their scheduling calendars.

Online access also addresses the communication needs for both legislators and staff when attending meetings around the state.

A study of the BlackBerry technology was conducted by an internal legislative committee, the Legislative Automation Committee, and by a public legislative committee, the Utah Technology Commission. Both Committees recommended that the Legislative Management Committee adopt BlackBerry device technology to provide online access.

The Commission received a report, heard testimony, and recommended the adoption of BlackBerry communication technology for the legislature.

Action

The Commission considered this issue at its September and October 2005 meetings but did not recommend legislation.

LIFE SCIENCES TASK FORCE

Background

The life sciences, which include biotechnology, genetics, pharmaceuticals, and medicine and medical devices, is a growing industry in Utah. As part of the Legislature's and the governor's commitment to economic development, it is critical to develop an understanding of what role the state may play in lowering statutory barriers or providing incentives, if appropriate, to the life sciences industry.

The Commission reviewed audio and visual information about the Hinschu Science Park in Taiwan for the purpose of understanding how cooperative relationships between industry, education, and government could lead to the successful development of life science technology industries.

The Commission received a report and heard testimony regarding the need for a state entity to study and make recommendations regarding the development of Utah's life sciences industry.

Action

The Commission considered these issues at its May, July, August, October, and November 2005 meetings but did not recommend legislation.

UTAH TECHNOLOGY INDUSTRY COUNCIL**Background**

The UTIC (Utah Technology Industry Council) was created in 2003 as part of the Utah Technology Commission. UTIC is the private sector's technology advisory body to the Legislature via the Commission. Its members represent all aspects of technology in Utah and are dedicated to enhancing state support for Utah's technology industries.

The Commission and the Council meet jointly to hear reports and discuss how the State could assist Utah's technology industry clusters.

The Commission heard reports and received testimony regarding industry technology concerns and how the Council may address those issues.

Action

The Commission considered these issues at its May, July, October, and November 2005 meetings and recommended legislation "Utah Technology Industry Council Revisions."

UTAH TELEHEALTH COMMISSION**Background**

The Utah Telehealth Commission was created by the Legislature in 2000 for the purpose of improving the healthcare delivery services to rural Utah. The Commission provides an interactive network for the electronic transfer or exchange of medically related data.

The Commission heard testimony from telehealth providers regarding the need for expanding the interactive network.

Action

The Commission considered this issue at its November 2005 meeting but did not recommend legislation. The Commission approved a motion to send the proposed telehealth budget to the Executive Appropriations Committee for possible inclusion in the 2006-07 state budget.

OTHER STUDIES**Centers of Excellence**

The Commission reviewed the state's role in fostering sustainable economic clusters. The purpose of the Centers of Excellence program is to identify high-value technologies that will benefit from accelerated commercialization. The Commission considered this issue at its September 2005 meeting but did not recommend legislation.

Economic Cluster Development Program

The Commission reviewed how the cluster program is designed to identify and rank specific technologies for enhanced funding. Once identified, metrics would be developed to measure progress in achieving long-term goals. As part of the cluster review, USTAR (Utah Science, Technology and Research program) was studied. The Commission considered this issue at its May, August, and October 2005 meetings but did not recommend legislation.

Open Source / Novell

The Commission reviewed open source technology developed by Novell for the purpose of understanding how it might be used in delivering government services. The Commission considered this issue at its June 2005 meeting but did not recommend legislation.

Public Meetings - Remote Electronic Access / Attendance

The Commission reviewed a report and received a demonstration of how existing state UEN (Utah Education Network) resources could be used to provide remote access and attendance at public meetings across the state. UEN was requested to develop a plan and budget for implementing remote attendance and to present that plan and budget at the April 2006 Commission meeting. The Commission considered this issue at its November 2005 meeting but did not recommend legislation.

WATER ISSUES TASK FORCE

Membership

Sen. Peter C. Knudson, Senate Chair
Rep. David Ure, House Chair
Sen. Patrice M. Arent
Sen. Mike Dmitrich
Sen. Beverly Ann Evans
Sen. Thomas V. Hatch
Rep. Roger E. Barrus
Rep. David N. Cox
Rep. Margaret Dayton
Rep. Ben C. Ferry
Rep. James R. Gowans
Rep. Brad King
Rep. Michael T. Morley

Staff

J Brian Allred, Policy Analyst
Mark B. Steinagel, Policy Analyst
Christopher R. Parker, Associate General Counsel
Emily Brown, Associate General Counsel
Joy L. Miller, Legislative Secretary

OVERVIEW

Water issues have become more important to the state due to a rapid population growth rate, increased water use per capita, and a prolonged statewide drought cycle. Historical water use practices are no longer sustainable because water resources are becoming more scarce - reservoirs are dropping, groundwater tables are sinking, and population is increasing. In many areas of the state, more water rights have been allocated than can be supported within the local water system.

The Water Issues Task Force is a two-year task force created in the 2004 General Session to address the following six water issues: 1) groundwater management; 2) water right enforcement and penalties; 3) title for water rights; 4) administration of groundwater and surface water; 5) instream flow; and 6) water conservation and reuse, including the recycling of treated municipal effluent. In addition, 2005 General Session H.B. 256 "Local Government Acquisition of Real Property," directed the

Task Force to study governmental entities' acquisition by eminent domain of water rights outside the entity's boundaries. The Task Force is repealed November 30, 2005. The Task Force met eight times in 2005 and met in many more informal working group meetings to discuss proposed legislation.

GROUNDWATER MANAGEMENT

Background

If more water is withdrawn from underground water aquifers than is recharged into the system, water basins decline, water resources are depleted, pumping costs can increase, and in some cases, the ground subsides, potentially damaging surface infrastructure. In some areas of the state, groundwater rights have been granted in excess of the safe annual yield in the basin, leading to the "mining" of some underground aquifers. The Task Force considered how to address this problem, acknowledging the negative effects on local economies of restricting the amount of water junior water rights holders could withdraw. The state engineer discussed the development of groundwater management which would provide flexibility and allow for local conditions while managing for safe yield and protecting the prior appropriation doctrine.

Action

The Task Force considered this issue at its May, June, July, August, September, October, and November 2005 meetings but did not recommend legislation. In its last meeting, the Task Force recommended in concept that draft legislation "Groundwater Management Plan" be prepared.

WATER REUSE

Background

Recycled and reused wastewater is a valuable resource to help satisfy future water demands in the state. In order for reclaimed water to be properly developed, a cooperative framework is needed for the implementation of water reuse projects. The Task Force discussed legislation that would establish rules, procedures, and guidelines for starting and operating a water treatment facility. The Task Force

WATER ISSUES TASK FORCE

considered water quality issues, the impact of water reuse requirements on existing water rights, and the application of the proposed legislation to publicly owned facilities.

Action

The Task Force considered this issue at its May, June, July, August, September, and October 2005 meetings and recommended draft legislation "Water Reuse Requirements."

Water Issues Task Force Reauthorization

The Task Force discussed additional water issues that the Task Force could consider if it had additional time. The Task Force considered this issue at its November 2005 meeting and recommended that the Task Force be extended for another year.

OTHER STUDIES

Governmental Entities Acquisition of Water Rights

The Task Force discussed the use of eminent domain in the acquisition of the water rights outside of a governmental entities' boundaries. The Task Force considered this issue at its October 2005 meeting but did not recommend legislation.

Sales Tax Diversion for Water Projects and Water Financing

The Task Force discussed legislation which would allocate a portion of sales and use tax revenues to the Division of Water Resources for preconstruction costs of the proposed Lake Powell pipeline and Bear River system projects. Preconstruction costs would include preliminary planning, environmental assessment, right-of-way acquisition, and engineering. The Task Force considered this issue at its August, October, and November 2005 meetings and recommended draft legislation "Sales Tax Diversion for Water Projects and Water Financing."

Water Company Amendments

The Task Force discussed legislation that would allow a water company shareholder who is requesting a change to a water right to recover damages in an action against the water company. The Task Force considered this issue at its October and November 2005 meetings and recommended draft legislation "Water Company Amendments."

WORKFORCE SERVICES AND COMMUNITY AND ECONOMIC DEVELOPMENT INTERIM COMMITTEE

WORKFORCE SERVICES AND COMMUNITY AND ECONOMIC DEVELOPMENT INTERIM COMMITTEE

DEPARTMENT OF COMMUNITY AND CULTURE MODIFICATIONS

Membership

Sen. John W. Hickman, Senate Chair
Rep. David N. Cox, House Chair
Sen. Dan R. Eastman
Sen. Karen Hale
Sen. Peter C. Knudson
Rep. Janice M. Fisher
Rep. Steven R. Mascaró
Rep. Karen W. Morgan
Rep. Mark W. Walker
Rep. Peggy Wallace

Staff

Arthur L. Hunsaker, Policy Analyst
James L. Wilson, Associate General Counsel
Glenda S. Whitney, Legislative Secretary

OVERVIEW

The Legislature created the Department of Workforce Services in 1997 to make the welfare and job training programs of Utah more efficient. The following programs were consolidated into the new department: Quality Control and the Office of Family Support from the Department of Human Services, the Department of Employment Security, Job Training and the Office of Child Care from the Department of Community and Economic Development, and the Turning Point Program from the State Office of Education.

During the 2001 Interim, the Committee's area of responsibility was expanded to include the Department of Community and Economic Development. And in 2005, the Legislature approved legislation moving the economic development and tourism components from the department to a newly created Governor's Office of Economic Development. The Department of Community and Economic Development was then renamed the Department of Community and Culture.

Background

The director of the Department of Community and Culture was concerned that current law requires the director to serve as an ex officio member of the Utah Housing Corporation's board of trustees. The director explained that her attendance may be ideal, but that she may not always be able to attend. She recommended that the department director be granted the discretion to designate someone on her staff to attend in her place, similar to other ex officio members. The department also recommended that the percentage of Community Services Block Grant funds earmarked to reimburse the State Community Services Office for administering the funds be increased.

Action

The Committee considered this issue at its September and November 2005 meetings and recommended draft legislation "Department of Community and Culture Amendments."

EMPLOYMENT SECURITY MODIFICATIONS

Background

The Department of Workforce Services requested the legislation clarify in law that the Division of Unemployment Insurance may file a lien against contributions or benefit overpayments directly with the clerk of a district court to make the lien valid against other lien creditors.

The Department also recommended the following statutory modifications: that a determination regarding a nonprofit reimbursable employer by the Division of Unemployment Insurance be appealed to the Division of Adjudication; that unemployment insurance exemptions be granted for student nurses and election officials; and that changes be made to comply with federal statutes that require Indian Tribes to be included in the definition of "employment."

WORKFORCE SERVICES AND COMMUNITY AND ECONOMIC DEVELOPMENT INTERIM COMMITTEE

Action

The Committee discussed this issue at its July and October 2005 meetings and recommended draft legislation "Employment Security Amendments."

OFFICE OF MUSEUM AMENDMENTS

Background

With the restructuring of the Department of Community and Economic Development, the department was renamed the Department of Community and Culture. During the transition, the restructured department determined that additional modifications to its statutes were appropriate.

The department recommended moving the Office of Museum Services from the Division of Housing and Community Development to the Division of Fine Arts. The department also recommended changing the name of the Division of Fine Arts to the Division of Arts and Museums.

Action

The Committee considered this issue at its September and November 2005 meetings and recommended draft legislation "Office of Museum Services."

PRESERVATION OF AND ACCESS TO STATE PUBLICATIONS

Background

The Department of Community and Culture recommended that the State Library Division become a repository of digital versions of not only state but also local government publications. It also recommended that state agencies not be allowed to remove state publications from public access unless digital copies of the publications have been deposited with the division, and that distinctions between complete and selective depository libraries be eliminated.

Action

The Committee considered this issue at its November 2005 meeting and recommended draft legislation "Preservation of and Access to State Publications."

PUBLIC ASSISTANCE MODIFICATIONS

Background

The Department of Workforce Services reported that 45 states have implemented a simplified reporting system, approved by Congress in 2002, that no longer requires those states to count certain food stamp quality control errors against themselves. Implementing the program would allow the department to remain competitive in program accuracy with other states.

Utah Code, 76-8-1203 requires that persons who apply for or receive public assistance must report changes in marital status, household composition, employment income, and receipt of monetary and in-kind gifts.

Implementing simplified reporting would require the law to be amended to require a recipient to report these changes which would affect the person's eligibility at the time of a review or recertification, whichever comes first, and that a client who knowingly fails to disclose a change in the information is guilty of public assistance fraud. The Department recommended these changes be made to *Utah Code*, 76-8-1203.

Action

The Committee considered this issue at its November 2005 meeting and recommended draft legislation "Public Assistance Amendments."

UNEMPLOYMENT COMPENSATION - SOCIAL SECURITY OFFSET

Background

In 2004, the Legislature provided that persons collecting Social Security who still work, but then become unemployed, could collect unemployment benefits offset by 50 percent of their Social Security benefit. Representatives of the Department of Workforce Services recommended that the 50 percent offset be extended for four years.

WORKFORCE SERVICES AND COMMUNITY AND ECONOMIC DEVELOPMENT INTERIM COMMITTEE

Action

The Committee considered this issue at its July and October 2005 meetings and recommended draft legislation "Unemployment Compensation - Social Security Offset."

Representatives of the Office expressed a willingness to expedite its efforts in order for legislation to be prepared for the 2006 General Session. The Committee considered this issue at its October and November 2005 meetings but did not recommend legislation.

OTHER STUDIES

Transition Study of the Governor's Office of Economic Development and the Department of Community and Culture

The Workforce Services and Community and Economic Development Interim Committee was required by statute to monitor and study the implementation and consequences of the restructuring of the Department of Community and Economic Development into the Governor's Office of Economic Development and the Department of Community and Culture and to determine what modifications, if any, were needed, and present its findings to the Legislative Management Committee.

The Committee met with representatives of both the Governor's Office of Economic Development and the Department of Community and Culture in its April, June, September, October, and November meetings. These meetings frequently included discussions with the agencies of the progress being made in carrying out their programs and policies.

By the September meeting, the Department of Community and Culture identified some statutory adjustments that were needed and presented them to the Committee in concept. In the November meeting, these concepts were presented in bill form and approved by the Committee (see Office of Museum Amendments, Department of Community and Culture Amendments, and Preservation of and Access to State Publications).

The Governor's Office of Economic Development identified statutes needing to be changed during the 2006 General Session and began to discuss these with the Committee at its October meeting. These concepts were discussed in more detail in the November meeting, but no draft legislation was presented for Committee action.

