

MINUTES OF THE JOINT EXECUTIVE APPROPRIATIONS COMMITTEE

May 20, 2008 at 1:00 p.m.

Room C445, State Capitol, State Capitol Complex

Members Present:

Sen. Lyle W. Hillyard, Co-Chair
Rep. Ron Bigelow, Co-Chair
Sen. Peter C. Knudson, Vice Chair
Rep. Rebecca D. Lockhart, Vice Chair
Sen. Curtis S. Bramble
Rep. David Clark
Rep. Greg J. Curtis, Speaker
Sen. Gene Davis
Sen. Mike Dmitrich
Sen. Dan R. Eastman

Sen. Brent H. Goodfellow
Sen. Patricia W. Jones
Sen. Sheldon L. Killpack
Rep. Brad King
Rep. David Litvak
Rep. Carol Spackman Moss
Rep. Phil Riesen
Rep. Gordon E. Snow
Sen. John L. Valentine, President

Members Excused: Rep. Brad Dee

Staff Present:

Jonathan Ball, Director, LFA
Andrea Wilko, Chief Economist, LFA

Greta Rodebush, Legislative Secretary

Speakers Present:

Tenielle Young, Governor's Office of Planning and Budget
Todd Hauber, Utah State Office of Education
Cosette Mills, Utah Department of Human Services
Michael Hales, Utah Department of Health
Russell Frandsen, LFA
Nannette Rolfe, Utah Department of Public Safety
Thomas Young, LFA
Marc Johnson, Utah State Tax Commission

Danny Schoenfeld, LFA
Dan Anderson, Utah Retirement Systems
Jeff Jensen, Public Employees Health Program
Mark Bleazard, LFA
Doug Larsen, Wasatch Area Council of Governments

Chuck Chappell, Wasatch Front Regional Council

4. Refining Revenue Estimates: Impact of Tax Commission Interpretations

Dr. Thomas Young, LFA, presented findings in the report titled, "Revenue Impacts of Tax Commission Decisions," under Tab 4. The study examined whether Tax Commission rulings and interpretations should be specifically controlled-for in revenue estimating. The study was prompted by the Tax Commission's ruling that sales of textbooks by colleges and universities with tax exempt status are not subject to sales tax. The press reported that the fiscal impact of this ruling is \$4 million per year.

Dr. Young pointed out that bills carrying fiscal notes with similar goals have been introduced in the past legislative sessions, and have not passed.

Dr. Young explained the statistical sampling methodology used in the study. In summary, the Office of the Legislative Fiscal Analyst found that a sample of Commission interpretations showed slightly increased revenue overall, but the amount of the revenue change is not significant enough to warrant changes to the forecasting model.

The Analyst's recommendations include the following: (1) The Tax Commission determine which administrative decisions might have an impact greater than \$1 million, and report them to the Office of the Legislative Fiscal Analyst and the Governor's Office of Planning and Budget; (2) Analysts, in conjunction with the Commission, update the likely fiscal impact of final decisions by the start of each legislative session for both one-time and ongoing impacts; and (3) The Tax Commission inform legislative leadership of its decisions relative to issues that were once legislative bills.

President Valentine expressed his support for the Analyst's recommendations.

Co-Chair Bigelow questioned why initiatives that fail to pass the legislature find favor by the Tax Commission.

Marc Johnson, Commissioner, Utah State Tax Commission, explained that the Commission's recent decision was not an interpretation of statute but the transmission of information of existing practices. He commented further that prior bills dealt with exemptions for sales on all textbooks regardless of where they were purchased, ie. Internet, bookstore, or retail outlet. The Commission had informed the sponsor that these entities had 501-C3 exemptions. Mr. Johnson stated that the Commission should have informed the Office of the Legislative Fiscal Analyst of its actions.

Co-Chair Bigelow stressed the importance of informing staff who can disseminate information to all legislators. President Valentine stated that legislators need to have equal access to the same information.

Marc Johnson commented that in the past, the Commission has made an effort to report decisions that may have a significant impact on the budget. He stated that the Commissioners would strongly resist formally tracking every decision at a threshold and reporting this information. This may create a "mis-impression" with the taxpayers that the Tax Commission is having to keep a scorecard and may serve as a disincentive for filing appeals.

Mr. Johnson suggested that the Tax Commission would be willing to identify significant areas that may need to be incorporated into the revenue forecasting database, and inform the Fiscal Analyst before any decisions are made.

Pres. Valentine expressed his concern that future Commissions may not be as responsive as the current Commission in its willingness to communicate information on an as needed basis.

Marc Johnson suggested that an agenda item be added to the revenue forecasting meetings that would include significant Tax Commission decisions in the last quarter or half year.

Co-Chair Bigelow recommended that the Fiscal Analyst be directed to contact the Tax Commission on a monthly basis and request information that would allow them to report the impact of those decisions to the Legislature.

Marc Johnson said that he has no problem reporting this information but would prefer reporting at the revenue forecasting meeting.

Co-Chair Hillyard stated that LFA will continue to track these decisions, and if there is a problem, this issue can be put back on the agenda.