

STATE OF UTAH
SENATE JOURNAL
FOURTH SPECIAL SESSION
of the
FIFTY-FIFTH LEGISLATURE

Pursuant to the proclamation of Her Excellency, Governor Olene S. Walker, the Senate of the Fifty-Fifth Legislature of the State of Utah met in the Senate Chamber at the State Capitol Complex in a Special Session at 2:30 p.m., on Wednesday, September 15, 2004.

The Senate was called to order with President Mansell presiding.

Prayer - Senator Thomas Hatch

Pledge- Senator Mike Dmitirch

Roll call - All Senators present except Senator Gladwell, excused.

Annette B. Moore read the following Proclamation and Certification:

PROCLAMATION

WHEREAS, since the adjournment of the 2004 General Session of the Fifty-Fifth Legislature of the State of Utah, matters have arisen which require immediate legislative attention; and

WHEREAS, Article VII, Section 6 of the Constitution of the State of Utah provides that the Governor may, by proclamation, convene the Legislature into a Special Session;

NOW, THEREFORE, I, OLENE S. WALKER, Governor of the State of Utah, by virtue of the authority vested in me by the Constitution and the Laws of the State of Utah, do by this Proclamation call the Fifty-Fifth Legislature of the State of Utah into a Fourth Special Session at the State Capitol Complex in Salt Lake City, Utah, on the 15th day of September, 2004 at 2:00 p.m., for the following purposes:

1. To consider allocating funds to improve the state correctional facilities in Draper;

2. To consider allocating funds to care for, preserve, and provide for the security of state lands at Range Creek;
3. To consider amendments to Title 75 regarding out-of-state trustees;
4. To consider certain deductions from income tax for persons called to active service in the military;
5. For the Senate to consent to appointments made by the governor to positions within state government of the State of Utah since the close of the 2004 General Session; and
6. To consider such other measures as may be brought to the attention of the Legislature by supplemental communication from the governor before or during the Special Session hereby called.

IN TESTIMONY WHEREOF,
I have hereunto set my hand and
caused to be affixed the Great
Seal of the State of Utah. Done
at the Capitol Complex in Salt
Lake City, Utah, this 10th day
of September, 2004.

Olene S. Walker
Governor

Gayle F. McKeachnie
Lieutenant Governor

CERTIFICATION

I, GAYLE F. McKEACHNIE, LIEUTENANT GOVERNOR OF THE STATE OF UTAH, DO HEREBY CERTIFY THAT the attached copy of a Proclamation issued under date of September 10th, 2004, and signed by Governor Olene S. Walker, is a true and correct copy of the original Proclamation calling the Fifty-Fifth Legislature of the State of Utah into a Special Session at the State

Capitol Complex at Salt Lake City, Utah, on the 15th day of September, 2004, at 2:00 p.m., for the purposes named in the Proclamation.

IN TESTIMONY WHEREOF,
I have hereunto set my hand and
caused to be affixed the Great
Seal of the State of Utah. Done
at the Capitol Complex in Salt
Lake City, Utah, this 10th day
of Setptmber, 2004.

Gayle F. McKeachnie
Lieutenant Governor

* * *

On motion of Senator Hillyard, the Senate voted to adopt the Senate Rules of the 2004 General Session of the Fifty-Fifth Legislature as the rules for the Fourth Special Session.

President Mansell appointed a committee comprised of Senators Bill Hickman, James Evans, and Ron Allen to notify Governor Olene S. Walker that the Senate is convened in the Fourth Special Session in accordance with her proclamation and is organized and ready to receive any communications from her.

President Mansell appointed a committee comprised of Senators Carlene Walker, Scott Jenkins, and Karen Hale to notify the House of Representatives that the Senate is organized and ready to do business.

Senator Walker reported that the House has been notified.

Senator Hickman reported that the Governor has been notified.

* * *

On motion of Senator Hillyard, and as provided by the Utah State Constitution and the Joint Rules of the Legislature, the Senate voted to suspend the reading of the titles of bills and resolutions on the Senate calendar as they are read for the first time and introduced and considered on Second Reading, Third Reading and Consent Calendars. This suspension applies to all bills and resolutions introduced during this special legislative session, except that any senator may request the reading of the long title, short title, or both of any House or Senate bill or resolution.

The motion passed by the required constitutional two-thirds majority.

INTRODUCTION OF BILLS

S.B. 4001, Trust Business Amendments (L. Hillyard), read the first time by short title and referred to the Rules Committee.

S.B. 4002, Individual Income Tax - Treatment of Certain Military Income (C. Bramble), read the first time by short title and referred to the Rules Committee.

S.B. 4003, Supplemental Appropriations Act II Amendments - Redirection of Certain Federal Funds to Inmate Housing (L. Blackham), read the first time by short title and referred to the Rules Committee.

* * *

On motion of Senator Waddoups, under suspension of the rules, **S.B. 4001, S.B. 4002, and S.B. 4003** were placed on the Second Reading Calendar for immediate consideration.

SECOND READING CALENDAR

S.B. 4001, TRUST BUSINESS AMENDMENTS, was read the second time.

On motion of Senator Hillyard, the following substitute bill replaced the original bill.

1st Sub. S.B. 4001, Trust Business Amendments (L. Hillyard)

On motion of Senator Hillyard, under suspension of the rules, **1st Sub. S.B. 4001, TRUST BUSINESS AMENDMENTS**, was considered read the second and third times. Senator Hillyard explained the bill. The bill passed on the following roll call:

Yeas, 26; Nays, 0; Absent, 3.

Voting in the affirmative were: Senators

Allen	Arent	Bell	Blackham
Bramble	Buttars	Davis	Dmitrich
Eastman	B. Evans	J. Evens	Hale
Hatch	Hellewell	Hickman	Hillyard
Jenkins	Julander	Knudson	Stephenson
Thomas	Valentine	Waddoups	Walker
Wright	Mansell		

Absent or not voting were: Senators

Gladwell Killpack Mayne

1st Sub. S.B. 4001, as amended, was transmitted to the House.

* * *

S.B. 4002, INDIVIDUAL INCOME TAX - TREATMENT OF CERTAIN MILITARY INCOME, was read the second time.

On motion of Senator Bramble, the bill was circled.

* * *

S.B. 4003, SUPPLEMENTAL APPROPRIATIONS ACT II AMENDMENTS - REDIRECTION OF CERTAIN FEDERAL FUNDS TO INMATE HOUSING, was read the second time.

On motion of Senator Blackham, the bill was circled.

ADVISE AND CONSENT

Sandy D. Tenney read the following communications:

COMMUNICATION FROM THE GOVERNOR

Dear President Mansell and Members of the Senate: August 31, 2004

In accordance with Sections 67-1-1 and 2, Utah Code Annotated 1953, I propose and transmit the following appointments:

Air Quality Board

Marcelle Shoop appointed to fill the unexpired term of Jonathan Cherry as a member of the Air Quality Board, a term to expire March 1, 2007. Section 19-2-103 Utah Code Annotated 1953, as amended. Ms. Shoop is non-partisan.

Board of Travel Development

Georgianna Knudson appointed to fill the unexpired term of Vickie L. McCall as a member of the Board of Travel Development, a term to expire July 1, 2005. Section 9-3-202 Utah Code Annotated 1953, as amended. Ms. Knudson is a republican.

Permanent Community Impact Fund

Ralph Okerlund reappointed as a member of the Permanent Community Impact Fund, a term to expire July 1, 2008. Section 9-4-304, Utah Code Annotated 1953, as amended.

Securities Advisory Board

Henry R. Autry reappointed as a member of the Securities Advisory Board, a term to expire July 1, 2008. Section 61-1-18.5 Utah Code Annotated 1953, as amended.

Laura Polacheck appointed to replace Richard Smiley as a member of the Securities Advisory Board, a term to expire July 1, 2008. Section 61-1-18.5 Utah Code Annotated 1953, as amended.

Edward L. McCartney appointed to replace W. Rex Thornton as a member of the Securities Advisory Board, a term to expire July 1, 2008. Section 61-1-18.5 Utah Code Annotated 1953, as amended.

State Records Committee

Scott Whitaker appointed to replace Brian Winterowd as a member of the State Records Committee, for a term to expire July 1, 2008. Section 63-2-501 Utah Code Annotated 1953, as amended.

Carl Albrecht appointed to replace Cherie Nash Willis as a member of the State Records Committee, for a term to expire July 1, 2008. Section 63-2-501 Utah Code Annotated 1953, as amended.

Utah 911 Committee

Dave White appointed as a member of the Utah 911 Committee, for a term to expire June 30, 2008. Section 53-10-601 Utah Code Annotated 1953, as amended.

Chuck McCown appointed as a member of the Utah 911 Committee, for a term to expire June 30, 2008. Section 53-10-601 Utah Code Annotated 1953, as amended.

Lance Checketts appointed as a member of the Utah 911 Committee, for a term to expire June 30, 2008. Section 53-10-601 Utah Code Annotated 1953, as amended.

Eric Varney appointed as a member of the Utah 911 Committee, for a term to expire June 30, 2008. Section 53-10-601 Utah Code Annotated 1953, as amended.

Water Quality Board

Paula Doughty appointed to fill the unexpired term of William R. Williams as a member of the Water Quality Board for a term to expire March 1, 2005. Section 19-5-103 Utah Code Annotated 1952, as amended. Mr. Doughty is an independent.

Board of Child and Family Services

David Lewis Corwin reappointed as a member of the Board of Child and Family Services for a term to expire July 1, 2008. Sections 62A-1-107 and 62A-4a-102 Utah Code Annotated 1953, as amended. Mr. Corwin is an independent.

Barbara Ann Feaster reappointed as a member of the Board of Child and Family Services for a term to expire July 1, 2008. Sections 62A-1-107 and 62A-4a-102 Utah Code Annotated 1953, as amended. Ms. Feaster is an independent.

Bridgette Borsch appointed to replace Geri Braegger as a member of the Board of Child and Family Services for a term to expire July 1, 2008. Sections 62A-1-107 and 62A-4a-102 Utah Code Annotated 1953, as amended. Ms. Borsch is an independent.

Paulette Gareen appointed to replace Martin N. Olsen as a member of the Board of Child and Family Services for a term to expire July 1, 2008. Sections 62A-1-107 and 62A-4a-102 Utah Code Annotated 1953, as amended. Ms. Gareen is a republican.

Alan N. Garfield appointed to replace Gladys Hale as a member of the Board of Child and Family Services for a term to expire July 1, 2008. Sections 62A-1-107 and 62A-4a-102 Utah Code Annotated 1953, as amended. Mr. Garfield is a republican.

Jan D. Watts appointed to replace Shelia Deputy as a member of the Board of Child and Family Services for a term to expire July 1, 2008. Sections 62A-1-107 and 62A-4a-102 Utah Code Annotated 1953, as amended. Ms. Watts is an independent.

Thank you for your timely consideration and confirmation of the above appointments.

Olene S. Walker
Governor

On motion of Senator Hillyard, the Senate voted to consent to the governor's appointments on the following roll call:

Yeas, 26; Nays, 0; Absent, 3.

Voting in the affirmative were: Senators

Allen	Arent	Bell	Blackham
Bramble	Buttars	Davis	Dmitrich

Eastman	B. Evans	J. Evens	Hale
Hatch	Hellewell	Hickman	Hillyard
Jenkins	Killpack	Knudson	Stephenson
Thomas	Valentine	Waddoups	Walker
Wright	Mansell		

Absent or not voting were: Senators

Gladwell	Julander	Mayne
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SECOND READING CALENDAR

On motion of Senator Bramble, the circle was removed from **S.B. 4002**

Senator Bramble proposed the following amendment:

1. Page 1, Lines 9 through 10,

9 This bill amends the Individual Income Tax Act to provide for a
new subtraction from

10 federal taxable income for a one taxable year period .

2. Page 1, Lines 14 through 15:

14 ► provides for a one taxable year period a subtraction from
federal taxable income for certain income a resident or

15 nonresident individual receives for qualifying military service;

3. Page 1, Lines 21 through 22:

21 This bill has retrospective operation for the taxable
{-years-} year beginning on or after January 1,

22 2004 but beginning on or before December 31, 2004 .

4. Page 12, Lines 347 through 355:

347 (n) (i) except as provided in Subsection (2)(n)(ii), for
the taxable {-years} year beginning on or

348 after January 1, 2004, but beginning on or before December 31,
2004, income a resident or nonresident individual receives:

349 (A) for qualifying military service; and

350 (B) to the extent that income is included in adjusted gross income
on that resident or

- 351 nonresident individual's federal individual income tax return for
 {-the } that taxable year;
- 352 (ii) notwithstanding Subsection (2)(n)(i), a subtraction from
 federal taxable income is
- 353 not allowed under Subsection (2)(n)(i) for income included in
 adjusted gross income on a
- 354 resident or nonresident individual's federal individual income tax
 return for {-the } that taxable year if
- 355 that income is received from a source that constitutes a:

5. Page 16, Lines 467 through 468:

- 467 This bill has retrospective operation for the taxable
 {-years } year beginning on or after January 1,
- 468 2004 , but beginning on or before December 31, 2004 .

Senator Bramble's motion to amend passed on a voice vote.

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Senator Bramble proposed the following amendment:

1. Page 5, Lines 124 through 140:

- 124 (q) "Qualifying military service" means:
- 125 (i) in the case of a member of {-the Army, Navy, Air Force,
 Marine Corps, or Coast
- 126 Guard } The Army Reserve, The Naval Reserve, The Air
 Force Reserve, The Marine Corps Reserve, or The Coast Guard
 Reserve , active duty in accordance with an order received
 under:
- 127 (A) 10 U.S.C. Sec. 12301;
- 128 (B) 10 U.S.C. Sec. 12302;
- 129 (C) 10 U.S.C. Sec. 12303; or
- 130 (D) 10 U.S.C. Sec. 12304; or
- 131 (ii) in the case of a member of {-the } The Army
 National Guard {- } of the United States or The Air
 National Guard of the United States:

(A) active duty in accordance with an order received under:

(I) 10 U.S.C. Sec. 12301;

(II) 10 U.S.C. Sec. 12302;

(III) 10 U.S.C. Sec. 12303; or

(IV) 10 U.S.C. Sec 12304; or

(B) service under a call to active

132 service:

133 ~~{(A)}~~ (I) authorized by the:

134 ~~{(A)}~~ (Aa) President of the United States; or

135 ~~{(A)}~~ (Bb) Secretary of Defense of the United States;

136 ~~{(B)}~~ (II) for a period of more than 30 consecutive days;

137 ~~{(C)}~~ (III) in accordance with an order received under 32 U.S.C. Sec. 502(f); and

138 ~~{(D)}~~ (IV) for purposes of responding to a national emergency;

139 ~~{(A)}~~ (Aa) declared by the President of the United States; and

140 ~~{(A)}~~ (Bb) supported by federal funds.

Senator Bramble's motion to amend passed on a voice vote. Senators Valentine and Mayne commented.

On motion of Senator Bramble, under suspension of the rules, **S.B. 4002**, INDIVIDUAL INCOME TAX - TREATMENT OF CERTAIN MILITARY INCOME, was considered read the second and third times. The bill passed on the following roll call:

Yeas, 27; Nays, 0; Absent, 2.

Voting in the affirmative were: Senators

Allen	Arent	Bell	Blackham
Bramble	Buttars	Davis	Dmitrich
B. Evans	J. Evens	Hale	Hatch
Hellewell	Hickman	Hillyard	Jenkins
Julander	Killpack	Knudson	Mayne
Stephenson	Thomas	Valentine	Waddoups
Walker	Wright	Mansell	

Absent or not voting were: Senators
Eastman Gladwell

S.B. 4002, as amended, was transmitted to the House.

COMMUNICATIONS FROM THE HOUSE

Mr. President: September 15, 2004

The House passed, as substituted and amended, **1st Sub. H.B. 4001**, SUPPLEMENTAL APROPRIATIONS ACT - III - RANGE CREEK, by Representative R. Bigelow as follows:

1. Page 2, Line 44 and 46:
Insert after the work "use" the figure "\$150,000"

It is transmitted for consideration.

Carole E. Peterson, Chief Clerk
Communications filed. **1st Sub. H.B. 4001** was read the first time.

On motion of Senator Waddoups, the Senate voted consider the bill read for the first time and to place **1st Sub. H.B. 4001** on the Second Reading Calendar.

SECOND READING CALENDAR

On motion of Senator Blackham, under suspension of the rules, **1st Sub. H.B. 4001**, SUPPLEMENTAL APPROPRIATIONS ACT III - RANGE CREEK, was considered read the second and third times and passed on the following roll call:

Yeas, 25; Nays, 2; Absent, 2.

Voting in the affirmative were: Senators

Allen	Arent	Bell	Blackham
Bramble	Buttars	Davis	Dmitrich
Eastman	B. Evans	J. Evens	Hale
Hellewell	Hickman	Hillyard	Jenkins
Julander	Killpack	Knudson	Mayne
Thomas	Valentine	Waddoups	Walker
Mansell			

Voting in the negative were: Senators

Hatch Wright

Absent or not voting were: Senators

Gladwell Stephenson

1st Sub. H.B. 4001 was signed by the President of the Senate in open session and returned to the House.

On motion of Senator Bev Evans the Senate voted to allow her to change her vote from nay to aye.

* * *

On motion of Senator Waddoups, and at 3:15 p.m., the Senate sauntered.

The Senate was called to order at 3:55 p.m., with President Mansell presiding.

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On motion of Senator Blackham, the circle was removed from **S.B. 4003, SUPPLEMENTAL APPROPRIATIONS ACT II AMENDMENTS - REDIRECTION OF CERTAIN FEDERAL FUNDS TO INMATE HOUSING**, and it was before the Senate.

On motion of Senator Blackham, the following substitute bill replaced the original bill.

1st Sub.S.B. 4003, Supplemental Appropriations Act II Amendments - Redirection of Certain Federal Funds to Inmate Housing (L. Blackham)

Senator Blackham explained the bill. Senator Bev Evans commented.

On motion of Senator Blackham, under suspension of the rules, **1st Sub. S.B. 4003, SUPPLEMENTAL APPROPRIATIONS ACT II AMENDMENTS - REDIRECTION OF CERTAIN FEDERAL FUNDS TO INMATE HOUSING**, was considered read the second and third times. The bill passed on the following roll call:

Yeas, 23; Nays, 1; Absent, 5.

Voting in the affirmative were: Senators

Allen	Arent	Bell	Blackham
Bramble	Buttars	Davis	Eastman
J. Evens	Hale	Hatch	Hellewell
Jenkins	Killpack	Knudson	Mayne
Stephenson	Thomas	Valentine	Waddoups
Walker	Wright	Mansell	

Voting in the negative was: Senator
B. Evans

Absent or not voting were: Senators

Dmitrich

Gladwell

Hickman

Hillyard

Julander

1st Sub. S.B. 4003 was transmitted to the House.

COMMUNICATIONS FROM THE HOUSE

Mr. President:

September 15, 2004

The House passed **1st Sub. S.B. 4001**, TRUST BUSINESS AMENDMENTS, by Senator L. Hillyard, which has been signed by the Speaker and it is transmitted for the signature of the President.

Carole E. Peterson, Chief Clerk

1st Sub. S.B. 4001 was signed by the President of the Senate in open session. The bill will be enrolled and transmitted to the Governor.

* * *

On motion of Senator Bramble the Senate voted to include the following intent language in the Senate Journal.

INTENT LANGUAGE FOR S.B. 4002

In passing S.B. 4002, INDIVIDUAL INCOME TAX - TREATMENT OF CERTAIN MILITARY INCOME, the Legislature intends the following:

The Legislature finds that the National Guard and other reserve components of the armed forces are separate and distinct from the active components of the armed forces. The Legislature also finds that members of the active components of the armed forces have a greater expectation of being ordered to leave their homes and serve their county than do members of the National Guard or other reserve components of the armed forces. The deployment of members of the National Guard or other reserve components of the armed forces is particularly disruptive to regular civilian employment and activities. Therefore, it is the intent of the Legislature to apply the benefits allowed by this bill only to members of the National Guard or other reserve components of the armed forces.

* * *

On motion of Senator Waddoups, and at 4:05 p.m., the Senate sauntered.

The Senate was called to order at 4:40 p.m., with President Mansell presiding.

COMMUNICATIONS FROM THE HOUSE

Mr. President: September 15, 2004

The House passed, **S.B. 4002**, INDIVIDUAL INCOME TAX - TREATMENT OF CERTAIN MILITARY INCOME, by Senator C. Bramble, which has been signed by the Speaker and it is transmitted for the signature of the President; and

The House passed **1st Sub. S.B. 4003**, SUPPLEMENTAL APPROPRIATIONS ACT II AMENDMENTS - REDIRECTION OF CERTAIN FEDERAL FUNDS TO INMATE HOUSING, by Senator L. Blackham, which has been signed by the Speaker and it is transmitted for the signature of the President.

Carole E. Peterson, Chief Clerk

S.B. 4002 and **1st Sub. S.B. 4003** were signed by the President of the Senate in open session. The bills will be enrolled and transmitted to the Governor.

* * *

President Mansell appointed Senators James Evans, Parley Hellewell, and Ed Mayne to wait upon the Governor and ask if she has any further business to bring before the Senate.

President Mansell appointed Senators Carlene Walker, Scott Jenkins, and Karen Hale to notify the House of Representatives that the Senate has concluded its business and is ready to adjourn sine die.

Senator Evans reported that his committee, with a like committee from the House, have notified the Governor that the Legislature has concluded its business and is ready to adjourn sine die.

Senator Walker reported that the House has been notified that the Senate has concluded its business and is ready to adjourn sine die.

On motion of Senator Waddoups, and at 4: 50 p.m., the Fourth Special Session of the Fifty-Fifth Legislature adjourned sine die.

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