

# 2003 LEGISLATIVE INTERIM REPORT

A report to the 55<sup>th</sup> Legislature  
on recommended legislation and studies  
from the 2003 Legislative Interim Committees



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**OFFICE OF LEGISLATIVE RESEARCH AND GENERAL COUNSEL**



Utah State Legislature

# 2003 LEGISLATIVE INTERIM REPORT

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on recommended legislation and studies  
from the 2003 Legislative Interim Committees

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## INTRODUCTION AND ACKNOWLEDGMENTS

### INTRODUCTION

The *Legislative Interim Report*, formerly the *General Session Preview*, 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

#### Legislative Management Committee

Generally, 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

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*The following is a summary of recommended legislation, listed alphabetically by committee. These summaries highlight key aspects of the legislation. Further information on the legislation can be found on the page number provided after certain summaries or on the Legislature's website.*

### ADMINISTRATIVE RULES REVIEW COMMITTEE

**Administrative Rules Reauthorization, S.B. 22**—This bill is required by the Administrative Rulemaking Act. The bill reauthorizes all state agency administrative rules except those enumerated. (page 8)

### BUSINESS AND LABOR INTERIM COMMITTEE

**Captive Insurance Companies Act Amendments, H.B. 17**—This bill makes several amendments to laws regulating captive insurance companies.

**Construction Bonding Statutes, H.B. 20** —This bill provides that for certain bond actions, including actions under state procurement, a preliminary notice is not required to be filed if a notice of commencement is not filed. (page 12)

**Licensing – Insurance Law Amendments, H.B. 21**—This bill makes several amendments relating to licensing including requiring a producer to have experience with property and casualty lines of authority to be eligible to add surplus lines of authority and repealing the insurance commissioner's authority to issue a single license to each licensed adjuster for a single fee.

**Lien Amendments, H.B. 32** —This bill makes several amendments relating to liens including amending the timing requirement for filing notices of claims for liens as well as actions to enforce liens and provides that substantial compliance with content requirements for a notice of claim is sufficient to hold and claim a lien. (page 12)

**Life Insurance Law Amendments, H.B. 16** —This bill addresses eligible insured groups for group or blanket life insurance policies and grants rulemaking authority to the Insurance Department.

**Requirements for Recording Certain Real Estate Documents, H.B. 12**—This bill eliminates the requirement that in order for a reconveyance of a trust deed and release of mortgage to be recorded in the office of any

county recorder a document must contain a legal description of the real property affected. The bill also requires a reconveyance of trust deed and release of mortgage to be recorded if it contains a reference to the book and page where the description of the real property is recorded.

**Requirements of Trustees of Trust Deeds, H.B. 35**—This bill eliminates the requirements that a trustee of a trust deed must reside and maintain a bona fide office in Utah.

### EDUCATION INTERIM COMMITTEE

**Civic and Character Education in Schools, H.B. 22**—This bill provides legislative recognition that civic and character education are fundamental elements of the public education system's core mission. The bill requires civic and character education to be included in the social studies curriculum of kindergarten through grade twelve and universally taught in connection with regular school work. (page 16)

**Refurbished Computers in Schools Program, S.B. 6**—This bill terminates a pilot program for the acquisition and refurbishing of donated computers to be used in Utah's public schools. (page 16)

**Repeal of Education Mandates, H.B. 14**—This bill eliminates school building utilization requirements and the State Board of Education's responsibility to design and implement a state textbook plan. (page 16)

### ENERGY POLICY TASK FORCE

**Reauthorization of Energy Policy Task Force, S.B. 17**—This bill reauthorizes the Energy Policy Task Force until November 30, 2006.

**Sales and Use Taxes - Exemption for Energy Related Equipment And Machinery, S.B. 19**—This bill amends the Sales and Use Tax Act to provide an exemption for certain machinery or equipment installed on either renewable

## SUMMARY OF RECOMMENDED LEGISLATION

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energy production facilities or waste energy production facilities. (page 17)

### GOVERNMENT OPERATIONS INTERIM COMMITTEE

**Absentee Ballot Amendments, H.B. 9** –This bill eliminates barriers to people voting by absentee ballot by allowing anyone to vote an absentee ballot either by mail or at the election officer's office and expanding the ability of the county legislative body to administer an election in a voting precinct entirely by absentee ballot. (page 22)

**Amendments to Local Referendum Process, S.B. 10**–This bill modifies the local referendum provisions of the Election Code by increasing the number of days from 35 to 45 for filing a referendum petition challenging a local law. (page 22)

**Local Referendum Amendments, S.B. 8**–This bill corrects a statute involving local referenda that conflicts with the *Utah Constitution* by prohibiting a local law challenged by a referendum that has qualified for the ballot from taking effect until it is approved by voters. The bill also clarifies when that law will take effect if it is approved by the voters. (page 22)

**Publication of Resolution or Notice, H.B. 5**–This bill makes a technical correction in the State Financing Consolidation Act. (page 22)

**Repeal of Cost-savings Suggestions Pilot Program, S.B. 4**–This bill repeals the Cost-savings Suggestions Pilot Program found in the Utah State Personnel Management Act. (page 22)

**Repeal of Utah Interstate Commission for Cooperation in Higher Education, H.B. 6** –This bill repeals the Utah Interstate Commission for Cooperation in Higher Education. (page 21)

**Technical Amendment - Polling Place Supplies, H.B. 4**–This bill corrects an erroneous cross-reference in the Election Code. (page 22)

### HAZARDOUS WASTE REGULATION AND TAX POLICY TASK FORCE

**Hazardous Waste and Nonhazardous Solid Waste Fee and Tax Amendments, H.B. 13**–This bill terminates a \$28 per ton fee on hazardous waste, reinstates a \$14 per ton fee on treated hazardous waste, and terminates a gross receipts tax on certain hazardous waste facilities and nonhazardous solid waste facilities. (page 28)

### HEALTH AND HUMAN SERVICES INTERIM COMMITTEE

**Insurance Code Exemption, S.B. 14**–This bill provides an exemption from the Insurance Code for death, accident, health, and disability benefits provided by a charitable, educational, social, or religious organization to its volunteers under specified circumstances. (page 29)

### JUDICIARY INTERIM COMMITTEE

**Marriage Preparation Education, H.B. 7**–This bill modifies the marriage counseling and education provisions by granting a reduction in marriage license fees for couples who voluntarily take a premarriage education course that is taught by either a licensed or ordained minister, a person who can solemnize marriages, a marriage and family therapist, a social worker, or a psychologist. (page 36)

**Parent-time Schedule Amendments, H.B. 26** –This bill adds Halloween to the list of holidays the noncustodial parent is entitled to in odd-numbered years and adds Valentine's Day to the list of holidays the noncustodial parent is entitled to in even-numbered years. (page 36)

**Transportation of Children for Parent-time, S.B. 12**–This bill removes the requirement that the noncustodial parent pick up and return a child for parent-time visits and gives the court discretion to require both parents to participate in the transportation of a child for parent-time visits. (page 36)

## SUMMARY OF RECOMMENDED LEGISLATION

### LAW ENFORCEMENT AND CRIMINAL JUSTICE INTERIM COMMITTEE

**Drug Offenders Reform Act, S.B. 21**—This bill requires all drug offenders with a presentence investigation report to have a Substance Abuse Severity Index screening. Offenders needing further consideration would complete an Addictive Severity Index assessment. The scope of the process would expand the following year to require all felony offenders with a presentence investigation report to be screened. (page 39)

**Management, Enhancement, and Funding of 911 System, H.B. 36**—This bill imposes a fee on wireless and land-based telephones to fund a statewide unified emergency 911 system capable of geographically locating a wireless phone user's location in an emergency. (page 40)

**Unlawful Controlled Substances in Correctional Facilities, H.B. 34**—This bill provides that the Department of Corrections advise all persons visiting inmates at correctional facilities of prohibited items and the criminal penalties associated with distribution of unlawful controlled substances to inmates. The bill enhances the penalty for those found guilty of this offense and provides a penalty for bringing contraband tobacco products into a correctional facility for distribution. (page 40)

### LEGISLATIVE MANAGEMENT COMMITTEE

**Authorization to Close a Meeting, H.B. 33** —This bill amends the Open and Public Meetings law to expand the purposes of closing a meeting. This bill amends open and public meetings law to allow the records committee of the executive, legislative, or judicial branch to have an in-camera review of a record that is not public.

**Resolution Reappointing Legislative Fiscal Analyst, S.J.R. 1**—This joint resolution reappoints John E. Massey as Legislative Fiscal Analyst for a 6-year term.

**Sunset Reauthorizations, H.B. 37**—This bill reauthorizes certain state entities and programs that would otherwise sunset before the 2005 General Session of the Utah Legislature.

### LEGISLATIVE PROCESS COMMITTEE

**Resolution Amending Dates of Annual Legislative Session, H.J.R. 1**—This bill proposes to amend the Utah Constitution to provide for a seven-day unpaid recess after the 28th day of each annual general sessions, unless a majority of each house votes not to recess. The bill excludes the seven days of a recess from the 45-day limit for annual general sessions. The bill also clarifies a limitation on compensation during annual and special sessions trying cases of impeachment. (page 42)

### NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENT INTERIM COMMITTEE

**Concurrent Resolution Approving Solid Waste Permit, S.C.R. 1**—This resolution grants statutorily required approval of the operating plan, as approved by the Department of Environmental Quality, and allows the Solitude Landfill to operate as a Class V landfill and receive nonhazardous waste, including municipal waste, industrial waste, construction and demolition waste, and special wastes as enumerated. (page 44)

### POLITICAL SUBDIVISIONS INTERIM COMMITTEE

**Municipal Annexation Provisions in First Class Counties, S.B. 18**—This bill modifies petition, notice, and signature provisions of the Utah Municipal Code relating to municipal annexations in counties of the first class. This bill places filing requirements on proponents of a proposed annexation of an area in a county of the first class. The bill places notice requirements on counties regarding proposed annexations. The bill requires annexation petitions to include a notice to petition signers and authorizes a signer of an annexation petition to withdraw the signer's signature. (page 49)

**Property Rights Amendments, S.B. 9**—This bill modifies provisions relating to rights and procedures in eminent domain proceedings and other disputes between a property owner and a governmental entity. This bill requires those intending to acquire property by eminent domain to negotiate with and provide a specified written explanation to the property owner beforehand. The bill imposes relocation assistance requirements on nongovernmental persons and entities acquiring property

## SUMMARY OF RECOMMENDED LEGISLATION

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by eminent domain. The bill amends requirements regarding enactment of relocation assistance rules. The bill modifies notice requirements for redevelopment agencies intending to exercise eminent domain. The bill provides that an appraisal obtained by a governmental entity is not a protected record if the governmental entity has initiated negotiations to acquire a single family residence before using eminent domain. The bill exempts takings law actions from specified governmental immunity procedural requirements. The bill imposes reasonable time and reasonable notice requirements on those entering land for examination, survey, and other purposes when the land is subject to being acquired by eminent domain. The bill prohibits a defendant in an eminent domain action from having to respond to a motion for immediate occupancy before the time for answering the complaint expires, unless the court so orders. (page 49)

**Rail Corridor Provisions, S.B. 7**–This bill exempts public transit district construction and improvements within a railroad right-of-way from certain county and municipal land use and development provisions, and prohibits counties and municipalities from regulating or imposing a fee on public transit district operations of a fixed guideway system in a rail corridor. (page 49)

### PUBLIC UTILITIES AND TECHNOLOGY INTERIM COMMITTEE

**Governmental Internet Information Privacy Act, H.B. 25**–This bill provides criteria for the collection of personally identifiable information on governmental agencies and prohibits the posting of personally identifiable information on court websites with certain exceptions. (page 56)

### RETIREMENT AND INDEPENDENT ENTITIES COMMITTEE

**Unused Sick Leave for State Employee Provisions, H.B. 11**–This bill modifies the Utah State Personnel Management Act by clarifying that a retired employee may receive the same medical and life insurance benefits as an active member of the retirement system and may receive the same coverage (member, two person, or family) as the member had at the time of retirement. (page 58)

### REVENUE AND TAXATION INTERIM COMMITTEE

**Individual Income Tax Amendments, H.B. 27**–This bill provides that the Internal Revenue Code in effect on January 1, 2004 shall be used for certain purposes within the Individual Income Tax Act. (page 62)

**Resort Communities Tax Amendments, S.B. 13**–This bill requires a municipality to file with the State Tax Commission information regarding lodging capacity, requires the State Tax Commission to notify a municipality if its transient room capacity is less than 66 percent of its permanent population, provides that a municipality that receives such notice may not impose a resort communities tax, and includes other provisions. (page 62)

**Sales and Use Tax - Repeal of Cable and Satellite Service, H.B. 38**–This bill excludes from the sales and use tax base sales of cable and satellite television services. (page 62)

### TRANSPORTATION INTERIM COMMITTEE

**Driving Under the Influence Amendments, S.B. 20**–This bill amends several provisions related to driving under the influence. This bill provides that an attorney with felony jurisdiction over the defendant must approve a plea of guilty or no contest to a possible felony DUI charge. This bill also amends the definition of conviction, amends and redefines screening and assessment, and provides that an assessment shall be ordered if found appropriate in a screening. This bill provides that a plea to a DUI charge may not be held in abeyance unless the plea is entered pursuant to an education or treatment incentive program approved by the prosecuting attorney, or circumstances justify resolution through a plea in abeyance. The bill also provides that a court may not expunge a person's record for a conviction of an automobile homicide or a felony DUI violation, or within 10 years for a felony violation by a person that knowingly and intentionally has any amount of a controlled substance in the person's body and operates a vehicle in a negligent manner causing serious bodily injury or death or for the equivalent of a misdemeanor DUI conviction. (page 72)

**Motor Vehicles Code Revisions, H.B. 24** –This bill modifies the Motor Vehicles Code by amending traffic rules and regulations provisions. The bill clarifies that a

## SUMMARY OF RECOMMENDED LEGISLATION

local authority traffic-control device shall conform to the standards on traffic-control devices adopted by the Department of Transportation. The bill provides that a right turn is prohibited at a red arrow signal and requires an operator facing a steady circular red or red arrow signal to yield to other traffic. The bill clarifies the meaning of pedestrian-control signals. The bill provides that a left turn is permitted across a solid double yellow line indicating a two-direction, no-passing zone on a highway. The bill provides that an operator of a vehicle may not enter into a two-way left turn lane more than 500 feet prior to making a left turn or travel in a two-way left turn lane more than 500 feet if the operator turned into the two-way left turn lane. The bill prohibits an operator from traveling straight through an intersection in a two-way left turn lane. (page 73)

**Motor Vehicles Title and Registration Amendments, H.B. 15**—This bill provides that an application for registration renewal shall be accompanied by a certificate of emissions inspection, and provides that the Motor Vehicle Division may deliver a certificate of title to the owner or lienholder electronically. (page 73)

**State Highway System Changes, H.B. 10**—This bill modifies the Designation of State Highways Act to delete SR-308 near Kodachrome Basin State Park from the state highway system, remove a portion of SR-74 in Alpine from the state highway system, and rename SR-666 to SR-491. (page 71)

**Utah State Scenic Byway Committee, H.B. 18**—This bill creates the Utah State Scenic Byway Committee and outlines its responsibilities. The bill grants the Department of Transportation rulemaking authority in consultation with the Committee to establish certain rules, requires the Department to designate state scenic byways on future state highway maps, and provides that a highway designated as a scenic byway is subject to federal outdoor advertising regulations. (page 74)

### TRANSPORTATION PLANNING TASK FORCE

**Guidelines for Local Matching Dollars for Transportation Projects, S.B. 11**—This bill requires the Transportation Commission to make rules adopting guidelines for partnering with counties and municipalities to help finance state highway improvement projects

through local matching dollars. This bill requires the Transportation Commission to provide for:

- consideration of factors relevant to a decision to make program adjustments;
- a process for submitting, evaluating, and hearing partnering proposals; and
- maintenance of a public record of each proposal from initial submission to final disposition.

(page 79)

**Joint Transportation Planning Amendments, H.B. 23**—This bill modifies the Transportation Code to amend the Department of Transportation administration provisions. The bill also defines a metropolitan planning organization, places additional requirements on the Department regarding metropolitan planning organizations, and provides that the governor and local units of government may redesignate or realign metropolitan planning organizations if the governor determines that metropolitan planning organizations have failed to cooperate and submit joint transportation plans. (page 79)

**Transportation Planning Task Force Reauthorization, H.B. 28**—This bill reauthorizes, for one year, the Transportation Planning Task Force created in 2003. The bill also outlines task force membership, duties, and reporting requirements. (page 79)

### UTAH TAX REVIEW COMMISSION

**Sales and Use Tax Agricultural Exemptions**—This bill repeals a sales and use tax exemption for certain sprays and insecticides that are also exempt under a provision exempting tangible personal property used or consumed in farming operations. The bill also repeals a provision exempting sales of irrigation equipment and supplies for the same reason.

### UTAH TECHNOLOGY COMMISSION

**Amendments to Administrative Services Rate Committee, H.B. 30**—This bill moves the statutes governing the Administrative Services Rate Committee to the Administrative Services Code, broadens the membership and duties of the Committee, and requires the Department of Administrative Services to conduct a

## SUMMARY OF RECOMMENDED LEGISLATION

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market analysis of fee for submission to the Committee. (page 84)

compensation from 100 percent to 50 percent for a 3-year period ending on July 1, 2007. (page 89)

**Carryover of Authorized Capital Outlay Amendments, S.B. 15**—This bill amends the Budgetary Procedures Act by lapsing an internal service fund agency's unused capital acquisition authority at the end of each fiscal year with certain exceptions. The bill also requires an annual report and review of accumulated nonlapsing capital outlay authority. (page 84)

**Identity Theft Amendments, S.B. 16**—This bill establishes that the residence of a victim of identity theft in Utah is sufficient for jurisdiction purposes, permits the prosecution in the county where the victim resides, and makes the unauthorized possession of another person's identifying documents a crime. (page 84)

**Information Technology Procurement Amendments, H.B. 31**—This bill clarifies that the Division of Information Technology Services must follow Utah's Procurement Code, requires a business case analysis to be performed before purchasing certain information technology services or equipment, and directs Utah's chief procurement officer to verify that a business case analysis was conducted. (page 84)

**Utah Telehealth Commission Amendments, H.B. 29**—This bill changes the name of the Utah Telehealth Commission to the Utah Digital Healthcare Commission. (page 85)

### WORKFORCE SERVICES AND COMMUNITY AND ECONOMIC DEVELOPMENT INTERIM COMMITTEE

**Employment Security Modifications, S.B. 5** —This bill modifies the benefits and eligibility provisions of the Employment Security Act and a related provision of the Utah Exemptions Act. (page 89)

**Employment Support Act Amendments, H.B. 19**—This bill repeals outdated provisions of the Employment Support Act and makes other technical changes. (page 90)

**Unemployment Insurance Benefits – Social Security Benefits Offset, H.B. 8** —This bill reduces the offset of Social Security benefits against weekly unemployment

## ADMINISTRATIVE RULES REVIEW COMMITTEE

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### ADMINISTRATIVE RULES REVIEW COMMITTEE

#### Membership

Sen. Howard A. Stephenson, Senate Chair  
Rep. David Ure, House Chair  
Sen. Mike Dmitrich  
President Al Mansell  
Sen. Ed P. Mayne  
Sen. Michael G. Waddoups  
Rep. Judy A. Buffmire  
Rep. Greg J. Curtis (as of 10/01/03)  
Rep. James R. Gowans  
Rep. Merlynn T. Newbold  
Speaker Martin R. Stephens (until 10/01/03)

#### Staff

Arthur L. Hunsaker, Policy Analyst  
Susan Creager Allred, Associate General Counsel  
Cassandra N. Bauman, Legislative Secretary

#### OVERVIEW

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

The Committee primarily reviewed proposed agency rules, 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, were still unreviewed.

In the 1988 General Session, funds were appropriated for full-time staff to provide an existing rules component to 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 instructed staff to work with each affected agency to ensure that the rewritten authorizing statutes would still provide the specific rulemaking authority needed. The Committee felt 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 was passed which granted the Committee authority to prepare annual legislation reauthorizing all rules of the state except for rules enumerated in each year's bill. The Committee delayed any action on broad statutory grants until after the 1990 General Session.

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

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

With the passage of H.B. 182, "Administrative Rules Review Committee Amendments," in the 1997 General Session, committee membership increased from 6 to 10. Today, the Committee reviews the large number of proposed agency rules published twice monthly in the *Utah State Bulletin* and addresses specific concerns regarding proposed and existing rules as raised by legislators and the public.

### ANNUAL ADMINISTRATIVE RULES REAUTHORIZATION LEGISLATION

#### Background

During the 1989 General Session, the Legislature enacted a law requiring that legislation be passed annually to reauthorize state agency rules, except for rules specified in the bill to be repealed.

## ADMINISTRATIVE RULES REVIEW COMMITTEE

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### Action

The Committee met with various state agencies throughout 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 7, 2004 meeting and is expected to recommend draft legislation "Administrative Rules Reauthorization."

### COURT ORDERED HEALTH INSURANCE FOR DEPENDENTS

#### Background

Representatives of the Utah Health Insurance Association expressed concern that recent changes by the Insurance Department to R590-209 required insurance companies who cover a divorced person to also cover the medical expenses of the children of the divorcé who do not live within the state or service area. The coverage required was to be the same as if the child lived within the service area.

Department of Insurance representatives explained that their legal staff concluded there was adequate statutory authority for the rule, but Utah Health Insurance Association representatives disagreed. A staff analysis concluded that R590-209 exceeded the scope authorized by state law.

#### Action

The Committee voted to recommend that R590-209 sunset during the 2004 General Session. The Committee discussed this issue at its April 22 and May 14 meetings.

### GROUND-WATER MANAGEMENT PLANS

#### Background

Residents of Cache Valley expressed concern that the current Interim Cache Valley Ground-Water Management Plan affects the public in a way that requires rulemaking, but it is not in rule. The State Water Engineer acknowledged that state water management plans have not gone through the rulemaking process but that

extensive time and effort has been expended to give the public opportunities to provide input into the plans.

#### Action

The Committee voted to send a letter to the Natural Resources, Agriculture, and Environment Interim Committee and the State Water Development Board urging them to review the issue. The Committee also indicated that it may consider the rulemaking implications of water management plans at a future meeting. The Committee considered this issue at its November 5 meeting.

### PRIVACY OF MEDICAL RECORDS

#### Background

The Labor Commission's recent changes to R612-2-22 allow employers to gain wide access to an employee's medical history by removing the previous requirement that the sharing of information can only take place if the employee grants approval. Staff concluded that the authority cited by the Labor Commission to authorize this change was inadequate.

#### Action

The Administrative Rules Review Committee voted to recommend R612-2-22 for sunset during the 2004 General Session. The Committee considered this issue at its August 6, August 20, and October 8 meetings.

### SCENIC BYWAY DESIGNATION PROCESS

#### Background

The Committee directed staff to examine whether state restrictions on outdoor advertising within scenic byways were established in rule. Staff research indicated that there are no rules governing scenic byway designations. The Committee also learned that neither the Scenic Byway Committee nor its process for designating scenic byways is established in statute.

#### Action

The Committee voted to request that the Transportation Interim Committee consider developing legislation to establish the Scenic Byway Committee in statute. Draft legislation "Utah State Scenic Byway Committee," was presented to the Administrative Rules Review Committee and later approved with amendments by the Transportation Interim Committee. The Administrative



## ADMINISTRATIVE RULES REVIEW COMMITTEE

Rules Review Committee considered this issue at its June 5, October 8, and December 8 meetings.

### SCOPE OF PRACTICE OF CHIROPRACTORS

#### Background

Prior to 1995 there was an express statutory prohibition against chiropractors performing acupuncture, but in 1995 the chiropractor law was revised and the prohibition eliminated. When the chiropractor law was further amended in 1998, language granting chiropractors authority to practice acupuncture was amended into the bill in both the House and the Senate but removed prior to passage by the Legislature.

In 1998 the Division of Occupational and Professional Licensing expanded, by rule, the scope of practice of chiropractors to include acupuncture (R156-73-601). Acupuncturists indicated to the Committee that the rule does not have a statutory basis for permitting chiropractors to practice acupuncture. However, representatives of the Division of Occupational and Professional Licensing defended the rule by citing *Utah Code* Subsection 58-1-307(1)(f), which exempts members of a licensed profession that is not licensed under Title 58 from having to be licensed to practice in a profession licensed under Title 58. They also indicated that this approach was consistent with the Attorney General's informal legal opinion.

#### Action

The Committee voted to delay a vote on whether to recommend that R156-73-601 be sunsetted until a future meeting when the Attorney General's opinion could be reviewed, and indicated that a committee member would approach the Speaker to request an opinion from the Attorney General. The Committee considered this issue at its November 25 meeting.

### OTHER STUDIES

#### Rule for Denial of Personalized License Plate Requests

The Utah State Tax Commission cited R873-22M-34 for its authority to deny Mr. Dennis Udink a personalized license plate featuring his surname because it is considered an offensive slang term. State statute grants the Tax Commission the discretion to make the rule, but members of the Committee requested that the Commission review whether an exception could be made for a person's given

surname. The Tax Commission reported that it decided against making changes to the rule. The Committee considered this issue at its October 8 and November 5 meetings.

#### Statutory Terms Related to Rulemaking

Representatives of the School and Institutional Trust Lands Administration requested that the Committee advise them on which uses of the words "policy" in their statutes should be changed to "rule" in the 2004 General Session to assure that the original intent of the Legislature is preserved. The request was made in light of the passage of H.B. 30 "Administrative Rulemaking Act Amendments" (2003 General Session), which clarified that an agency's written statement, whether it is called a policy or some other name, is a rule if it conforms to the definition of a rule. It is only enforceable, however, if it has gone through the rulemaking process, including publication and the opportunity for public input.

The Committee discussed various options, including reviewing all statutes to correct language that does not accurately describe authority to make a rule, but it took no action. A committee member suggested that the School and Institutional Trust Lands Administration prepare legislation for the 2004 General Session to change four specific uses of the word "policy" or "policies" in statute to "rule" or "rules" in order for the statutes to more clearly reflect legislative intent. The Committee considered this issue at its July 9 and August 6 meetings.

#### Viatical Settlements

H.B. 4 "Viatical Settlements" (2003 General Session), granted the insurance commissioner authority to make rules in a number of specific regulatory areas. However, R590-222, a rule based on H.B. 4, contained provisions that regulated the public beyond the parameters specified in the legislation. Representatives of the Insurance Department stated their intention to develop draft legislation for the 2004 General Session that would provide the Insurance Department with the specific authority needed to regulate in those areas not included in H.B. 4. The Committee considered this issue at its July 9 and August 6 meetings.



## BUSINESS AND LABOR INTERIM COMMITTEE

### BUSINESS AND LABOR INTERIM COMMITTEE

#### Membership

Sen. Parley G. Hellewell, Senate Chair  
Rep. Katherine M. Bryson, House Chair  
Sen. Curtis S. Bramble  
Sen. Gene Davis  
Sen. Dan R. Eastman  
Sen. Thomas Hatch  
Sen. Ed P. Mayne  
Rep. Jeff Alexander  
Rep. Jackie Biskupski  
Rep. Craig W. Butters  
Rep. David Clark  
Rep. Stephen D. Clark  
Rep. Carl W. Duckworth  
Rep. James A. Dunnigan  
Rep. Ben C. Ferry  
Rep. Neil A. Hansen  
Rep. Todd E. Kiser  
Rep. Michael T. Morley  
Rep. R. Curt Webb

#### Staff

Mary Catherine Perry, Policy Analyst  
Patricia Owen, Associate General Counsel  
Tracey Fredman, Legislative Secretary

#### OVERVIEW

The Business and Labor Interim Committee considers issues relating to 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 five departments and commissions: the departments of Alcoholic Beverage Control, Commerce, Financial Institutions, Insurance, and the Labor Commission. In 2001, the Legislative Management Committee voted to move issues related to Community and Economic Development from the Business and Labor Interim Committee to the Workforce Services and Community and Economic Development Interim Committee.

Issues addressed by the Committee in recent years include regulation of construction activities, use of credit information for insurance purposes, consumer lending,

motor fuel marketing, business assistance and recruitment programs, consumer credit reporting, economic and fiscal impacts of the 2002 Olympic Winter Games, workers' compensation, anti-discrimination, regulation of financial institutions, consumer protection, and real estate activities.

### USE OF CREDIT OR LOSS HISTORY REPORTS FOR INSURANCE RATES AND ELIGIBILITY

#### Background

Insurers may use several factors when evaluating whether to offer insurance to a potential customer or for certain properties and also when evaluating how much to charge for that insurance. There are conflicting opinions as to whether credit information and loss history reports are predictors for future loss and whether insurers should use those tools when determining insurance coverage and rates.

#### Action

The Committee received a report from staff on this issue and heard testimony from the Insurance Department, private insurers, national credit bureaus that compile credit and loss histories, and the public. The Committee considered this issue at its June meeting but did not recommend legislation.

### WORKERS' COMPENSATION FUND

#### Background

The WCF (Workers' Compensation Fund) is a nonprofit quasi-public corporation originally created by the Utah Legislature in 1917 to provide workers' compensation insurance to Utah employers. Among other duties, WCF is charged with being the "insurer of last resort" for those who cannot otherwise obtain insurance. Recently, WCF has sought independence from the State primarily to continue its out-of-state business. In October, WCF filed a declaratory judgment lawsuit seeking a ruling that the State has no ownership interest in WCF or its assets other than as a policyholder.

#### Action

The Committee heard extensive testimony from private Utah and out-of-state insurers, the Insurance Department and other executive branch representatives, the public, and WCF. The Committee considered this issue at its July and September meetings but did not recommend legislation.

## **BUSINESS AND LABOR INTERIM COMMITTEE**

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### **OTHER STUDIES**

#### **Construction Law Amendments**

The Committee studied several issues in the area of construction law amendments with an emphasis on issues related to lien filings. At its October meeting, the Committee received a report from the Department of Commerce on the viability of the Residence Lien Recovery Fund. The Committee considered these issues at its May and November meetings and recommended draft legislation "Lien Amendments" and "Construction Bonding Statutes."

#### **Employers Reinsurance Fund Special Assessment - Sunset Review**

The ERF (Employers Reinsurance Fund) pays permanent total disability compensation and medical benefits to workers injured by accident prior to July 1994. Before 1997, ERF's primary funding source was an assessment against workers' compensation insurance premiums and the imputed premiums of self-insured employers. In 1997, it became apparent that the 7.5 percent maximum assessment rate would provide insufficient revenue to properly fund the ERF. Since the revenue shortfall appeared to be a temporary problem, in 1997 the Legislature authorized an additional 2 percent "special" premium assessment for three years. In 2001, it was determined that the special assessment was still required because the standard premium assessment would not provide sufficient revenue to the ERF. In the 2001 General Session, the Legislature extended the sunset date of the special premium assessment to January 1, 2005. At the Committee's October meeting, the Labor Commission reported that the special assessment could be allowed to sunset. The Committee recommended that the ERF Special Assessment sunset on January 1, 2005.

#### **Journals of Notaries Public**

Under current law, notaries public are not required to keep journals documenting their actions as notaries. The Committee studied the possibility of requiring notaries public to keep journals and the potential impacts this would have on various groups including the Department of Public Safety. The Committee considered this issue at its September meeting but did not recommend legislation.

## CHILD WELFARE LEGISLATIVE OVERSIGHT PANEL

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### CHILD WELFARE LEGISLATIVE OVERSIGHT PANEL

#### Action

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

#### Membership

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

#### Staff

Mark D. Andrews, Policy Analyst  
Stacey M. Snyder, Associate General Counsel  
Wendy Bangerter, Legislative Secretary

#### OVERVIEW

The Child Welfare Legislative Oversight Panel is a permanent oversight body created 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.

#### PUBLIC INPUT

##### Background

The Panel conducted two public hearings to identify concerns and recommendations of parents, attorneys, and others involved with the child welfare system.

##### Action

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

#### REPORT FROM THE JUDICIARY

##### Background

Judge Sharon P. McCully reviewed a history of the child welfare system and shared her perspectives about the system as a member of the Third District Juvenile Court, Lead Judge of the Salt Lake City Model Court, member of the Utah Court Improvement Project, and Vice President of the National Council of Juvenile and Family Court Judges. She reviewed changes and improvements made to model courts, including implementation of "best practices," and encouraged the Legislature to continue its support of the child welfare system.



### EDUCATION INTERIM COMMITTEE

#### Membership

Sen. Howard A. Stephenson, Senate Chair  
Rep. Margaret Dayton, House Chair  
Sen. D. Chris Butters  
Sen. David L. Gladwell  
Sen. Karen Hale  
Sen. Bill Wright  
Rep. LaVar Christensen  
Rep. John Dougall  
Rep. James R. Gowans  
Rep. Wayne A. Harper  
Rep. David L. Hogue  
Rep. Gregory H. Hughes  
Rep. Bradley T. Johnson  
Rep. Brad King  
Rep. Dana C. Love  
Rep. Carol Spackman Moss  
Rep. Merlynn T. Newbold  
Rep. LaWanna "Lou" Shurtliff

#### Staff

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. In addition to studying various education issues, the Committee was responsible this year for awarding grants to develop proposals for cost-efficient methods of improving public education. The proposals funded by the Committee are to be completed by December 31, 2003.

#### REQUEST FOR PROPOSALS

##### Background

Legislation enacted in the 2003 General Session directed the Education Interim Committee to issue an RFP (Request for Proposals) to improve public education in a cost-efficient manner. Utah employers and the state system of higher education have asserted that too many students are graduating from high school without adequate skills for today's jobs or the prerequisite skills for success in college. The State not only faces the challenge of improving public education, but it also must be prepared

for a school age population boom. By 2020, the school age population is projected to reach 753,950, which is 47 percent greater than it was in 2000.

At the request of the Education Interim Committee, legislative management authorized the formation of a committee to issue the RFP and make recommendations to the Education Interim Committee for the funding of complete proposals. On August 7, 2003, the Request for Proposals Committee issued a request for proposals for new elementary and secondary education delivery systems that: 1) result in improved student performance and are financially feasible; or 2) create greater cost efficiencies. Preliminary proposals were due on September 30, 2003. After reviewing the written preliminary proposals and hearing oral presentations from the proposers, the Request for Proposals Committee recommended that grants be awarded for the funding of three complete proposals.

##### Action

The Committee considered this issue at its April, May, June, and October meetings and recommended awarding grants for the development of complete proposals as follows: 1) \$42,000 to ProCert Communications; 2) \$30,000 to Innovations in Education; and 3) \$75,000 for a joint proposal by Dr. Donald Wright, EduMetrics Institute, and Rep. David Cox, with Dr. Wright receiving \$30,000, EduMetrics Institute receiving \$30,000, and Rep. David Cox receiving \$15,000.

#### SCHOOL CHOICE PROGRAMS

##### Background

Two publicly-funded school choice programs are currently available to kindergarten through grade 12 students in Utah. Students may attend any public school if space is available, and they may attend charterschools, which are public schools operated by governing bodies typically consisting of parents and school staff. In the 2003-04 school year, 20 charter schools were operating in Utah, and more charter schools are expected to open in the future.

In the 2003 General Session, legislation was introduced to create another publicly-funded school choice program. S.B. 34, "Tuition Tax Credits," provided tax credits for tuition paid to private elementary or secondary schools or for donations to scholarship granting organizations that

## EDUCATION INTERIM COMMITTEE

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award scholarships for private elementary or secondary schools. Uncertainty about the fiscal impacts of the tuition tax credit was one of the major reasons why the bill did not pass. Although the State may accrue savings if sufficient numbers of students transfer to private schools, school districts were concerned that a loss of students to private schools may result in reduced revenues to help pay overhead costs, such as staff costs and building operation and maintenance expenses.

The Committee requested the Office of the Legislative Fiscal Analyst to compare the costs of providing a tuition tax credit for a student's private school education versus the costs of educating a student at a charter school. The Fiscal Analyst's study, which only examined costs to the State, showed that the average tuition tax credit is projected to be less than the State's cost of educating a student in a regular public school, thus saving the State money. The study showed that the State's cost of educating a student in a charter school exceeds the cost of educating a student in a regular public school.

The reason why it costs the State more to educate a student in a charter school than in a regular public school is because the Legislature, in the 2003 General Session, changed the charter school funding formula. Previously, a school district was obligated to send some of its local property tax revenues to the charter schools attended by students residing within the school district's boundaries. That revenue was intended to help pay for charter schools' capital facilities costs. Beginning in the 2003-04 school year, the State provided those monies instead of the school districts.

### **Action**

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

## OTHER STUDIES

### **Civic and Character Education**

In the 2001 General Session, many categorical funding programs, including funding for character education, were eliminated and combined into a block grant. When the categorical funding ended, the State Board of Education repealed its rule governing character education programs. A committee member urged the Committee to enact in statute some of the provisions of the former character education rule. The Committee considered this issue at its

May, July, and November meetings and recommended draft legislation "Civic and Character Education in Schools."

### **Education Mandates**

As budgetary restrictions in recent years have resulted in reduced revenues for public education, the Legislature has sought to alleviate some state-imposed costs on school districts and the State Board of Education. The State Superintendent of Public Instruction recommended that two programs be eliminated – a state textbook plan and school building utilization requirements. The Committee considered this issue at its May and November meetings and recommended draft legislation "Repeal of Education Mandates."

### **Refurbished Computers for Schools**

UCI (Utah Correctional Industries) has been refurbishing used computers for schools since 1998. Initially, UCI received an appropriation to subsidize the program, and the program was intended to be self-sustaining over time. Demand for refurbished computers from public schools has greatly diminished, because computer companies provide new equipment to public schools at significant discounts. UCI and the State Board of Education recommended that the program be discontinued. The Committee considered this issue at its June and November meetings and recommended draft legislation "Refurbished Computers in Schools Program."



### ENERGY POLICY TASK FORCE

#### Membership

Sen. Leonard M. Blackham, Senate Chair  
Rep. Marda Dillree, House Chair (until 10/03)  
Rep. Sheryl L. Allen, House Chair (as of 11/03)  
Sen Gregory S. Bell  
Sen. Mike Dmitrich  
Sen. Dan R. Eastman  
Sen. Ed P. Mayne  
Rep. Ralph Becker  
Rep. Chad E. Bennion  
Rep. Bradley G. Last  
Rep. Ty McCartney  
Rep. David Ure

#### Staff

Mark B. Steinagel, Policy Analyst  
Patricia Owen, Associate General Counsel  
Wendy Bangarter, Legislative Secretary

#### OVERVIEW

In the 2001 General Session, H.B. 244, "Modifying the Electric Deregulation and Customer Choice Task Force," changed the name and focus of the Electric Deregulation and Customer Choice Task Force, which was created in 1997. The newly named Energy Policy Task Force is charged with studying: 1) the energy needs of Utah; 2) federal and other states' efforts to address energy needs; 3) potential Utah, federal, and other states' efforts regarding conservation, demand-side management, efficient use of energy, and use of renewable energy; and 4) potential ways Utah could develop, facilitate, or promote the generation, exploration, or transportation of new energy to serve the needs of the State. The Task Force was also charged with recommending legislation to ensure that the energy needs of Utah are met.

### RENEWABLE ENERGY INCENTIVES

#### Background

Renewable energy is defined as energy resources that are naturally replenishing but flow-limited. They are virtually inexhaustible in duration but limited in the amount of energy that is available per unit of time. Examples of renewable energy include biomass, hydro, geothermal, solar, wind, ocean thermal, wave action, and tidal action. Many states, including Utah, have passed laws

encouraging the use of one or more types of renewable energy.

#### Action

The Task Force considered this issue at its September and November meetings and recommended draft legislation, "Sales and Use Taxes - Exemption for Energy Related Equipment and Machinery."

### OTHER STUDIES

#### Background

During the 2003 Interim, the Task Force considered the following other study items: 1) reports on electric generation resource acquisition and development, 2) status and outlook of the natural gas market outlook, 3) PacifiCorp's procurement process for obtaining new electric generation, and 4) the future of the Energy Policy Task Force. The Task Force is authorized through November 30, 2004.

#### Action

The Task Force considered these issues at its June and September meetings and recommended that legislation be drafted to reauthorize the Energy Policy Task Force until November 30, 2006.



### FINANCIAL INSTITUTIONS TASK FORCE

#### Membership

Sen. Dan R. Eastman, Co-Chair  
Rep. Jeff Alexander, Co-Chair  
Sen. Mike Dmitrich  
Sen. Thomas V. Hatch  
Sen. Howard A. Stephenson  
Sen. Michael G. Waddoups  
Rep. Jackie Biskupski  
Rep. LaVar Christensen  
Rep. Scott Daniels  
Rep. Brad L. Dee  
Rep. Wayne A. Harper  
Rep. Michael E. Noel

#### Staff

Jami Momberger, Policy Analyst  
Mary Catherine Perry, Policy Analyst  
Thad LeVar, Associate General Counsel  
Cassandra N. Bauman, Legislative Secretary

#### OVERVIEW

During the 2003 General Session the Legislature passed H.B. 162 "Amendments Related to Financial Institutions." This bill created a 2-year task force to study issues related to credit unions and other financial institutions.

#### BANKS AND CREDIT UNIONS

##### Background

The Task Force studied several issues including recent litigation involving banks and credit unions, structural differences between banks and credit unions, capital development by credit unions, background information on the National Credit Union Administration, and cooperative associations. The Task Force also considered the differences between state and federally chartered credit unions and the potential sales tax loss due to charter conversions of credit unions in Utah.

##### Action

The Task Force considered these issues at its April and May meetings. The Task Force presented its first report to the Business and Labor Interim Committee at the Committee's November meeting.



# GOVERNMENT OPERATIONS INTERIM COMMITTEE

## GOVERNMENT OPERATIONS INTERIM COMMITTEE

### Membership

Sen. John W. Hickman, Senate Chair  
Rep. James A. Ferrin, House Chair  
Sen. Ron Allen  
Sen. Beverly A. Evans  
President Al Mansell  
Sen. Michael Waddoups  
Rep. Doug Aagard  
Rep. Ron Bigelow  
Rep. DeMar "Bud" Bowman  
Rep. Don E. Bush  
Rep. Neal B. Hendrickson  
Rep. Eric K. Hutchings  
Rep. Roz McGee  
Rep. Karen Morgan  
Rep. Loraine T. Pace  
Rep. Peggy Wallace

### Staff

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

### OVERVIEW

The Government Operations Interim Committee considers a broad range of issues, including elections, campaign finance, ethics, appropriations and bonding, 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. While not all of the issues mentioned above were directly studied during the 2003 Interim, many of these issues are still expected to be debated, and legislation affecting these areas may be introduced during the 2004 General Session.

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

## BOARDS AND COMMISSIONS

### Background

There are approximately 400 boards and commissions in Utah, including several types of boards with differing authority. Included in this number are policy boards, advisory boards, licensing boards, and nominating committees. Policy boards set state policy while advisory boards make recommendations to policymakers. Licensing boards have an advisory role and manage occupational licensing in the state. Nominating committees nominate individuals for various volunteer and full-time positions in state government.

### Action

The Committee reviewed a number of boards and commissions, examining the purposes, costs, and possible elimination or consolidation of certain boards and commissions, with a focus on policy boards. The Committee completed a survey of all policy boards in Utah, and identified 15 policy boards recommended for further review.

The Committee considered these issues at its May, June, July, September, and October meetings and recommended draft legislation "Repeal of Utah Interstate Commission for Cooperation in Higher Education."

## ELECTION LAW

### Background

In 2002, Congress passed the "Help America Vote Act of 2002." This federal legislation has had and will continue to have significant impacts on Utah's elections processes. Utah formed a State Plan Committee on Election Reform in response to this federal legislation. The State Plan Committee on Election Reform reported several times to the Government Operations Interim Committee on its progress in implementing this plan, and discussed potential legislation needed to do so. Some of the issues addressed in these meetings included new voting equipment, early voting, absentee voting, funding, voting precinct size, and others.

The Committee focused significant discussion on early voting and uncontested absentee voting. Early voting means establishing a time period prior to election day where voters may vote at the county clerk's office or other designated locations. Uncontested absentee voting,

## GOVERNMENT OPERATIONS INTERIM COMMITTEE

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sometimes referred to as "no-excuse absentee voting," allows any voter to vote an absentee ballot for any reason, whereas current law allows absentee voting only in certain circumstances.

### Action

The Committee considered these issues at its April, June, July, September, and October meetings and recommended draft legislation "Absentee Ballot Amendments." The Committee also recommended H.B. 2001, "Election Law Amendments," which was amended and passed by the Legislature during the 2003 2<sup>nd</sup> Special Session.

## LOCAL REFERENDA

### Background

A referendum is a law passed by the Legislature or by a local legislative body that is submitted to the voters for their approval or rejection. State law establishes processes for both statewide and local referenda. In examining local referenda, the Committee focused on a conflict between the *Utah Constitution* and statute, and on timelines for filing a petition for a local referendum.

Article VI Section 1 of the *Utah Constitution* states that the voters of a county, city, or town may "require any law or ordinance passed by the law making body of the county, city, or town to be submitted to the voters thereof, as provided by statute, *before the law or ordinance may take effect*" (emphasis added). Current statute, however, indicates that the local law remains in effect until repealed by the voters via referendum.

### Action

The Committee considered legislation to modify the statute to be consistent with the *Utah Constitution*, and also examined legislation to extend the timeline for filing petitions for local referendum.

The Committee considered these issues at its May, July, September, and November meetings and recommended draft legislation "Local Referendum Amendments," and "Amendments to Local Referendum Process."

## OTHER STUDIES

### Compensation Study

During the 2003 General Session, the Legislature passed H.B. 81 "Compensation Study", requiring DHRM (Department of Human Resource Management) to conduct a study examining compensation in state government to determine if there are discrepancies in compensation between genders. The legislation required DHRM to report its findings to the Government Operations Interim Committee. DHRM asserted in its report to the Committee that, as an employer, Utah is generally in good shape for pay equity based on gender. The Committee considered this issue at its May and October meetings but did not recommend legislation.

### Cost Savings Suggestions Pilot Program

State law establishes a process for DHRM to initiate a pilot program encouraging cost savings in state government, and requires DHRM to report the results of this process to the Committee. DHRM reported difficulties in initiating a pilot program, and recommended the repeal of this statute. The Committee considered this issue at its September and October meetings and recommended draft legislation "Repeal of Cost-savings Suggestions Pilot Program."

### Legislation to Correct Technical Errors

The Committee examined amending certain statutory provisions that are technical in nature, but not eligible for inclusion in the annual Revisor's Bill. The Committee considered this issue at its June meeting and recommended draft legislation "Publication of Resolution or Notice," and "Technical Amendment - Polling Place Supplies."

### Master Bond Act

The Committee considered draft legislation that establishes in statute a template for the State to issue bonds, and outlines the requirements for doing so. This eliminates the future need for the Legislature to enact lengthy technical provisions each time the State wishes to issue bonds. The Committee considered this issue at its May meeting and recommended draft legislation "Amendments to Master Bond Act." This legislation was considered and passed by the Legislature during the 2003 1<sup>st</sup> Special Session.

### **Personal Information from Government Records**

The Committee considered the issue of modifying the protection of certain information contained in government records. The Committee considered this issue at its May meeting but did not recommend legislation.

### **Resource Development Coordinating Committee - Sunset Review**

The RDCC (Resource Development Coordinating Committee) is scheduled to be repealed July 1, 2004. The Committee conducted a sunset review of RDCC to consider whether the sunset date for RDCC should be extended. The Committee considered this issue at its May meeting and recommended that the sunset date be extended for one year. This statutory change is expected to be included in the omnibus sunset legislation, "Sunset Reauthorizations."

### **Waste Regulation**

The Committee considered issues concerning the regulation of radioactive materials in Utah. More specifically, the Committee discussed financial guaranties to ensure the State is able to manage and secure certain sites if and when private industry cannot. The Committee considered this issue at its April meeting but did not recommend legislation.





# GUBERNATORIAL AND LEGISLATIVE TASK FORCE ON ALTERNATIVE REVENUE SOURCES FOR WATER FUNDING

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## GUBERNATORIAL AND LEGISLATIVE TASK FORCE ON ALTERNATIVE REVENUE SOURCES FOR WATER FUNDING

### Membership

Sen. Thomas V. Hatch, Senate Chair  
Rep. David Ure, House Chair  
Sen. Mike Dmitrich  
Rep. James R. Gowans  
Mr. Tage Flint  
Ms. Natalie Gochnour  
Mr. Joe Melling  
Mr. Bob Morgan  
Ms. Dianne Nielson  
Mr. David Ovard  
Mr. Warren Peterson  
Mr. Ron Thompson

### Staff

J Brian Allred, Policy Analyst  
Jeanenne B. Larson, Associate General Counsel  
Joy L. Miller, Legislative Secretary

### OVERVIEW

In the 2002 5<sup>th</sup> Special Session, the Legislature passed S.B. 5012 which created the Gubernatorial and Legislative Task Force on Alternative Revenue Sources for Water Funding. The task force legislation provided for appointment of 12 members, including 4 legislators, 3 executive branch officials, and 5 nonvoting persons with water experience appointed by the Governor with concurrence from the co-chairs of the Utah State Water Development Commission.

At the first meeting of the Task Force, the voting members created a subcommittee composed of the nonvoting task force members to determine and identify alternative water funding revenue options for the Task Force to consider. The subcommittee presented a report "Water Funding Alternatives Task Force Subcommittee Draft Report" which outlined the context of Utah's water funding programs, assessed Utah's water development needs, and evaluated alternative funding sources to meet those needs.

## ALTERNATIVE REVENUE SOURCES FOR WATER FUNDING

### Background

Utah's history and geophysical setting dramatically affect water availability. Utah's culture determines how those water resources are used. Beginning with the settlement pattern established by the 1847 pioneers and continuing into the present, a culture of irrigation and water utilization has developed.

The Task Force received information on estimated water needs from the Division of Water Resources, the Division of Water Quality, and the Division of Drinking Water. The Task Force compared funding methods used in other states and at other times in Utah and then analyzed the advantages of various funding methods.

The task force report included the following conclusions and recommendations:

- current funding levels will not be sufficient to meet future needs. An estimated \$5.3 billion will be needed in the next 20 years for water quality and drinking water projects and an estimated \$1.7 billion for major water transport projects;
- conservation, education, prudent use of funding sources, and quality planning and coordination can help water managers meet the anticipated needs;
- given significant growth projections and the increasing complexity and lead time in water development, Utah cannot afford to neglect water development;
- rural economic growth depends heavily on state-managed water development funding;
- significant synergies can be achieved by better land development codes adopted at the local levels to protect water sources and water infrastructure;
- state and local agencies and affected water users should work through the operational, environmental, and legal ramifications of water reuse so that this high quality water source can be properly utilized;
- current water development appropriations represent a small, but very effective part of the state budget;
- present sales tax funding should be maintained and new funding sources should be explored.

The Task Force presented its report "Water Funding Alternatives Task Force Report" to the Water Development Commission at its September meeting and

## GUBERNATORIAL AND LEGISLATIVE ALTERNATIVE REVENUE SOURCE TASK FORCE

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to the Natural Resources, Agriculture and Environment Interim Committee at its November meeting.

### **Action**

At its September meeting, the Task Force adopted the report of the Water Funding Alternatives Task Force Subcommittee and requested that the Water Development Commission study the appropriate level of state sales and use tax funding.

# HAZARDOUS WASTE REGULATION AND TAX POLICY TASK FORCE

## HAZARDOUS WASTE REGULATION AND TAX POLICY TASK FORCE

### Membership

Sen. Curtis S. Bramble, Senate Chair  
Rep. Stephen H. Urquhart, House Chair  
Sen. Ron Allen  
Sen. Patrice M. Arent  
Sen. Gregory S. Bell  
Sen. Beverly Ann Evans  
Sen. Lyle W. Hillyard  
Sen. Scott K. Jenkins  
Rep. Eli H. Anderson  
Rep. Roger E. Barrus  
Rep. James A. Ferrin  
Rep. David L. Hogue  
Rep. Bradley T. Johnson  
Rep. Patricia W. Jones  
Rep. Joseph G. Murray  
Rep. Merlynn T. Newbold

### Staff

J Brian Allred, Policy Analyst  
Bryant R. Howe, Policy Analyst  
Robert H. Rees, Associate General Counsel  
Tracey Fredman, Legislative Secretary

### OVERVIEW

S.B. 172 from the 2003 General Session created the Hazardous Waste Regulation and Tax Policy Task Force and established a Moratorium on the Acceptance of Class B and C Radioactive Waste. The Task Force is charged with reviewing issues such as economics, fee and tax structure, long-term state policy, protection of public health and the environment, and long-term management and perpetual care as they relate to radioactive waste, hazardous waste, and solid non-hazardous waste. The Task Force is also required to make recommendations regarding the proposed disposal of low level radioactive B and C waste. The Task Force is authorized through November 2004.

## RADIOACTIVE , HAZARDOUS , AND SOLID NONHAZARDOUS WASTE DISPOSAL

### Background

The Task Force met 11 times in 2003. The Task Force held public hearings in Tooele, Price, Blanding, and Salt

Lake City, and conducted site visits at Envirocare, Clean Harbors Aragonite, Clean Harbors Grassy Mountain, East Carbon Development Corporation, and International Uranium Corporation. Task force efforts in the 2003 Interim focused on:

- regulatory adequacy and compliance;
- waste facility closure, post closure, and perpetual care;
- waste tax and fee policy;
- proposal to approve the Solitude Landfill as a class V waste facility; and
- consideration of the Fernald, Ohio uranium mill tailings.

The Task Force study plan for the 2004 Interim includes:

- issues related to the proposed approval of B&C waste disposal including:
- amount and source of B&C waste being produced and stored;
- necessary state regulation and associated costs;
- nature of B&C waste (risks, radioactivity);
- transportation issues (safety, costs, training);
- economic impact (economic development, state image);
- taxes, fees, and regulations at sites currently accepting B&C waste;
- role of interstate compacts and Utah's obligations under the current compact;
- presentation from Envirocare regarding its long term plans; and
- other relevant issues;
- waste facility closure and post closure (radioactive and hazardous);
- radioactive waste perpetual care (cost, ownership);
- regulatory and legislative history of how the State has approved the disposal of waste in Utah;
- the Legislature's, Governor's, and DEQ's (Department of Environmental Quality) authority and responsibility related to waste disposal;
- analysis of current DEQ regulatory requirements for the operation of waste facilities to determine if they are adequate to provide effective management of state environmental concerns and safeguard public health and quality of life; and
- additional public hearings.

### Action

Based on information received and visits to waste facilities, the Task Force concluded that:

- waste facilities regulated by DEQ appear to be in substantial compliance with DEQ regulations;

## HAZARDOUS WASTE REGULATION AND TAX POLICY TASK FORCE

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- DEQ is providing effective oversight and monitoring of waste facilities to ensure compliance;
- in order to implement legislative policies relating to waste management, additional statutory requirements may be necessary;
- the Task Force should seek additional information by conducting an independent analysis of current DEQ regulatory requirements for the operation of waste facilities to determine if they are adequate to provide effective management of state environmental concerns and safeguard public health and quality of life; and
- if adequate funding is available, the independent analysis should be reported to the Task Force by May 1, 2004.

The Task Force recommended that legislation be enacted to require the approval of the Legislature and the Governor before radioactive waste that exceeds a certain radioactive concentration can be disposed of in the state; that the Legislature take no action on waste management policy issues until the Task Force has completed its study; and that the NRC (Nuclear Regulatory Commission) delay action on Envirocare's request to modify its license and allow a final decision on whether to modify Envirocare's license to be determined by DEQ after the NRC has granted regulatory primacy to regulate 11e (2) waste.

The Task Force recommended draft legislation "Hazardous Waste and Nonhazardous Solid Waste Fee and Tax Amendments."

## HEALTH AND HUMAN SERVICES INTERIM COMMITTEE

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### HEALTH AND HUMAN SERVICES INTERIM COMMITTEE

#### Membership

Sen. David H. Steele, Senate Chair (until 05/21/03)  
Sen. Sheldon Killpack, Senate Chair (as of 07/16/03)  
Rep. Mike Thompson, House Chair  
Sen. James M. Evans  
Sen. Scott K. Jenkins  
Sen. Paula F. Julander  
Sen. David L. Thomas  
Rep. Calvin G. Bird  
Rep. Judy Ann Buffmire  
Rep. Marda Dillree  
Rep. Craig Frank  
Rep. Patricia W. Jones  
Rep. Brad Last  
Rep. David Litvack  
Rep. Rebecca D. Lockhart  
Rep. Steven R. Mascaro  
Rep. Darin G. Peterson  
Rep. J. Morgan Philpot  
Rep. Jack A. Seitz

#### Staff

Mark D. Andrews, Policy Analyst  
Catherine J. Dupont, Associate General Counsel  
Stacey M. Snyder, Associate General Counsel  
Joy L. Miller, Legislative Secretary

#### OVERVIEW

The Health and Human Services Interim Committee considers a wide range of issues. In addition to dealing with public health issues including smoking, immunizations, bioterrorism, and AIDS testing, the Committee considers topics related to mental health, aging, child abuse, substance abuse, health insurance, health facility and occupational licensing, adoption, and abortion. The Committee provides oversight to many of the programs carried out by the Department of Health and the Department of Human Services.

#### HEALTH INSURANCE EXEMPTION

##### Background

Currently, the Department of Insurance does not regulate health insurance benefits provided by a church to its volunteers serving outside Utah and providing full-time or other significant volunteer service. The Committee

considered draft legislation that would provide a specific exemption from the Insurance Code for death, accident, and health benefits provided by a charitable, educational, social, or religious organization to its volunteers.

##### Action

The Committee considered this issue at its October and November meetings and recommended draft legislation "Insurance Code Exemption."

#### HEALTH INSURANCE MANDATES

##### Background

Legislation passed in 2000 requires the Committee to complete by November 2005 a review of all health insurance mandates in effect as of July 1, 2000. The Department of Insurance has been preparing reports on the cost and effectiveness of each mandate.

The Committee reviewed reports on the adoption indemnity benefit and mandated coverage for diabetes supplies and education. A report on coverage of mental health services will be available in February 2004.

##### Action

The Committee considered this issue at its April, September, and November meetings and recommended that the Legislature eliminate the 2004 repeal of the diabetes benefit so that the provision is permanent. The Committee took no action on the adoption indemnity benefit.

#### PRESCRIPTION DRUGS

##### Background

In 2002 the Legislature directed the Department of Health to create an ad hoc advisory committee to inform the Legislature of options for improving access to prescription drugs for senior citizens, people with disabilities, Medicaid recipients, and the uninsured. The advisory committee presented its final report which included draft legislation to create a prescription drug insurance program for persons who cannot otherwise obtain pharmaceutical coverage. Following the Committee's consideration of this issue, the U.S. Congress passed legislation which will create a national Medicare prescription drug benefit. The legislation recognizes and authorizes funding to state prescription drug programs for specified purposes.

## IMPACTS OF GRAVEL PITS TASK FORCE

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In 2003 the Legislature also authorized the Department of Health to implement a drug program to minimize Medicaid cost increases, but required the Department to report to the Legislature prior to implementing the program. The Department reported its proposal to use evidenced-based research as a basis for establishing cost control measures specific to various classes of drugs. However, in response to concerns expressed by the Executive Appropriations Committee, the Department does not plan to implement the proposal at this time.

### Action

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

## SUNSET REVIEWS

### Background

The Committee conducted sunset reviews of the Medical Assistance Act (Medicaid), the Detection of Public Health Emergencies Act, the Utah Health Data Authority Act, the Veterinary Practice Act, and the Massage Therapy Practice Act.

### Action

The Committee considered these issues at its September and November meetings and recommended that the Legislature:

- Reauthorize the Medical Assistance Act (Medicaid) for 10 years.
- Reauthorize the Detection of Public Health Emergencies Act for 5 years.
- Reauthorize the Utah Health Data Authority Act for 10 years.
- Reauthorize the Veterinary Practice Act for 10 years.
- Reauthorize the Massage Therapy Practice Act for 10 years.

## OTHER STUDIES

### Child Welfare Legislative Oversight Panel

The Oversight Panel reported the concerns and recommendations of parents and others expressed at two hearings during the interim for people involved with the child welfare system. The Panel did not recommend legislation. The Committee considered this issue at its November meeting but did not recommend legislation.

### Future of Utah's Healthcare System

The Committee sought to identify what is needed to ensure a successful future for Utah's healthcare system. The Committee received testimony from individuals on behalf of hospitals, various healthcare professionals, the insurance industry, low income persons, Medicaid, long-term care facilities, and medical teaching institutions. The Committee considered this issue at its April and May meetings but did not recommend legislation.

### Local Mental Health System Performance Audit

The Legislative Auditor General reported that state and county oversight of mental health centers needs to improve, policy improvements are needed for untraditional activities, and some administrative practices fail to ensure the best use of public funds. The Committee considered this issue at its July and October meetings but did not recommend legislation.

### Safety Net

The Committee heard testimony from various state and local agencies on the strength of the safety net of public and private health and human services created to assist individuals who are homeless, unemployed, uninsured, have low incomes, or are otherwise in need. The Committee considered this issue at its June meeting but did not recommend legislation.

### Surrogate Parenthood

The Committee considered draft legislation "Gestational Agreement Act" which repeals a *Utah Code* section largely invalidated by a recent U.S. District Court ruling and adopts Article 8, Gestational Agreements, of the 2000 Uniform Parentage Act. The Committee considered this issue at its July meeting but did not recommend legislation.

### Tobacco Settlement

The Office of the Attorney General testified to the Committee that Internet and mail order sales of cigarettes are an increasing problem. Also, there has been tremendous growth in the number of cigarettes produced by manufacturers who are not subject to the payment provisions of the Master Settlement Agreement. The Committee considered this issue at its May meeting but did not recommend legislation.

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## IMPACTS OF GRAVEL PITS TASK FORCE

### IMPACTS OF GRAVEL PITS TASK FORCE

#### Membership

Sen. Peter C. Knudson, Senate Chair  
Rep. Ben C. Ferry, House Chair  
Sen. James Evans  
Sen. Paula Julander  
Rep. Eli Anderson  
Rep. Ralph Becker  
Rep. Don E. Bush  
Rep. Ann W. Hardy  
Mr. Lowell Braxton  
Mayor Lou Ann Christensen  
Mr. Greg Fredde  
Mr. Paul Glauser  
Commissioner Jerry Grover  
Mr. Richard Sprott

#### Staff

Stewart E. Smith, Policy Analyst  
Esther Chelsea-McCarty, Associate General Counsel  
Cassandra N. Bauman, Legislative Secretary

#### OVERVIEW

In the 2003 General Session, the Legislature passed S.B. 37 which created the Impacts of Gravel Pits Task Force. The Task Force was directed to review and make recommendations on: 1) the operations of gravel pits in Utah and their impact on the environment, the surrounding infrastructure, and the peace and serenity of adjoining areas; 2) how the operations of gravel pits may be more compatible with the environment, the surrounding infrastructure, and adjoining areas; and 3) the benefit provided by gravel pits to the economic well-being of Utah and the contribution they make to the construction industry and the overall economy of Utah.

Utah's Wasatch Front has extensive sand and gravel due to Lake Bonneville shoreline deposits. Many of these high quality sand and gravel products are located in the most densely populated areas of Utah. Construction of an average modern home requires approximately 400 tons of sand and gravel material. The public demand for these products continues to increase with Utah's rapid population growth.

As policy questions arise relating to impact mitigation of gravel pit operations, the challenge is to find a balance between the growing need for affordable sand and gravel

resources, efforts to mitigate the adverse effects of gravel pit operations, and the property rights of the land owners involved.

### IMPACTS OF SAND AND GRAVEL OPERATIONS

#### Background

The most commonly discussed impacts of sand and gravel operations include: 1) dust and air quality, 2) nighttime noise and lights, 3) road wear and vehicle damage, 4) reclamation, and 5) water quality.

Dust produced in sand and gravel operations generally does not violate EPA health standards. Larger dust particles are generally not considered a health hazard. These larger particles are only regulated by the State when they block 10 percent or more of the sun's rays. This is a difficult standard to enforce and some dust is unavoidable in these operations. Those who live in close proximity to gravel pit operations experience increased dust and other effects of the aggregate operations. Mayors and city council members receive the most complaints from those who have homes close to the gravel pits.

Water quality can be affected by sand and gravel operations. Suspended particles must be controlled with holding ponds before discharge. Lime from cement operations can raise PH levels in water and must be controlled before discharge. Because of careful state monitoring and industry's efforts, the Utah Division of Water Quality reports that the effects of gravel pit operations on the ground water of Utah are currently inconsequential.

Utah's mining reclamation laws have exempted gravel pits from their requirements since 1987. Some local governments, however, have enacted reclamation requirements in their ordinances. Generally, there is a natural financial incentive for gravel pit owners to reclaim the land for future use or resale.

Nighttime noise and lights can be regulated by local ordinances. Vehicle safety signaling devices and construction activities are exempt but loading, unloading, and crushing operations are not.

Road wear can be affected by heavy vehicles in a variety of businesses and industries and there is no substantial data available to document the dollar value of the negative

## IMPACTS OF GRAVEL PITS TASK FORCE

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effects of sand and gravel truck traffic on highways. State and local roads are generally designed and constructed to accommodate the heaviest vehicles. Damage to other vehicles can result from spilled gravel products, even though Utah law requires covering loads.

Draft legislation "Impact Mitigation for Gravel Pits" brings sand, gravel, and rock aggregate operations back into the definition of "deposit" for regulation under the Mined Land Reclamation Act. It also adds two members to the Board of Oil, Gas, and Mining who have expertise in the area of sand, gravel, and rock aggregate.

This provides surety and reclamation requirements for all sand and gravel operations. This does not, however, address other areas of impact such as dust, noise, air quality, water quality, road wear, and vehicle damage.

Although there are differences among gravel pit operators on how well they work with communities on mitigating the negative effects of their businesses, the Aggregate Council represents a large majority of Utah's sand and gravel operations. The Council indicated that through the Task Force, the gravel pit owners had come to better understand how their businesses affect their neighbors; and volunteered to provide to local governments, without state funding or regulation, reclamation plans and guarantees for their accomplishment for their larger ongoing sand and gravel operations, where impacts are occurring. They indicated that they would work more proactively with cities and communities to control dust and provide mitigation through landscaping, buffer zones, and barriers. The Aggregate Council is concerned that if further taxes are imposed on their businesses, the revenue will not be used to actually mitigate the effects of the operation but rather just go into the general fund of the government assessing the tax.

### Action

The Task Force considered these issues at its June, July, August, October, and November meetings but did not recommend legislation.

## TAXATION AND REGULATION

### Background

The ability of municipal and county governments to regulate sand and gravel operations is limited when the operation legally existed before changes in the local

zoning ordinances. Utah's non-conforming use statutes preclude local restrictions on the use of land that legally existed before the current zoning regulation governing the land changed. The use of the land must also have been maintained continuously since the time the zoning regulation governing the land changed. (*Utah Code*, Sections 10-9-103(1)(l) and 17-27-103(1)(o))

Further, a sand and gravel operation that has been in existence for over three years is not subject to nuisance ordinances so long as it was not a nuisance at the time the operation thereof began, and provided that the operation does not increase the condition asserted to be a nuisance. (*Utah Code*, Sections 78-38-5(1) and 78-38-6)

Sand and gravel operations are subject to regulation by a variety of agencies, including federal OSHA (Occupational Safety and Health Administration), MSHA (Mine Safety and Health Administration), EPA (Environmental Protection Agency), Utah DEQ (Department of Environmental Quality), including the Divisions of Air Quality and Water Quality, as well as county and city ordinances. However, in relation to local ordinances, some existing gravel pits claim a legal "non-conforming use." That is, they were a legal operation before local government ordinances were passed which may have restrained or affected these operations. Therefore some gravel pits claim a "grandfathered" status as not being subject to current local ordinances. However, within some limitations, even grandfathered gravel pit operations are subject to state and federal law regardless of when a statute is passed.

Gravel pits operations pay a variety of taxes and fees including property tax on land and vehicles, sales tax, and income tax.

- Truck registration and fuel taxes are also part of the taxes paid by these businesses.
- Business license fees are paid to local government.
- Water discharge fees include a storm water permit of \$100 to \$500 depending on the size of the disturbed site.
- Washing sand and gravel requires a permit costing \$1,000 and concrete manufacturing requires a permit costing between \$900 and \$3,600.
- Air quality permits for pre-construction or pre-modification require one-time filing fees of \$3,000 to \$15,000 and Title 5 emissions fees are \$36.31 per ton of emissions.



However, there is some agreement among government agencies that these taxes and fees do not provide enough revenue to mitigate the negative effects of aggregate operations, particularly in the communities in which they are located.

The Task Force discussed a variety of potential solutions and approaches, including a severance tax and other proposals which attempted to pass money to local governments. These approaches were precluded by the *Utah Constitution*, which prohibits revenue sharing with local governments unless the purpose of the revenue sharing is deemed to be a statewide purpose.

The League of Cities and Towns proposed a plan whereby local governments would be permitted to replace legal non-conforming use operations with conditional use permits. The first phase would require a surety for reclamation efforts by 2005. The second phase would permit local governments to impose ordinances relating to noise and dust by 2006. The final phase would require sand, gravel, and rock aggregate operations to completely phase into the conditional use process by 2007. This proposal was discussed with variations but was set aside because a law to eliminate a legal non-conforming use must allow time for the amortization of the investment of the landowner and it must apply equally to all non-conforming uses.

### **Action**

The Task Force considered these issues at its June, July, August, October, and November meetings but did not recommend legislation.



### JUDICIARY INTERIM COMMITTEE

#### Membership

Sen. David L. Gladwell, Senate Chair  
Rep. Ben C. Ferry, House Chair  
Sen. Patrice M. Arent  
Sen. Gregory S. Bell  
Sen. James Evans  
Sen. John Valentine  
Rep. J. Adam Stuart  
Rep. Chad E. Bennion  
Rep. Katherine M. Bryson  
Rep. Scott Daniels  
Rep. Neal B. Hendrickson  
Rep. David L. Hogue  
Rep. Eric K. Hutchings  
Rep. Susan Lawrence  
Rep. Roz McGee  
Rep. J. Morgan Philpot  
Rep. Mike Thompson

#### Staff

Jerry D. Howe, Policy Analyst  
Esther Chelsea-McCarty, Associate General Counsel  
Cassandra N. Bauman, Legislative Secretary

#### OVERVIEW

The Judiciary Interim Committee serves as a link for the three branches of state government in considering issues pertaining 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.

#### MINORITY AFFAIRS SUBCOMMITTEE

##### Background

The Committee authorized a Minority Affairs Subcommittee to study the effectiveness of state agencies in delivering services to traditionally under served Utah

residents, including the ethnic community, people with disabilities, refugees, and senior citizens.

The Subcommittee heard oral presentations from state agencies and interested individuals at two meetings held on September 25 and October 8, 2003. The presentations seem to indicate that there is a general lack of coordination and cooperation among state programs that provide services to our state's minority residents.

##### Action

The Committee received a report from its Minority Affairs Subcommittee at its November meeting but did not recommend legislation.

#### SUBCOMMITTEE ON DIVORCE, CHILD CUSTODY, AND VISITATION

##### Background

Over the past several years the Judiciary Interim Committee has taken an interest in issues involving divorce, child custody, and parent-time. During the 2003 Interim, the Divorce, Child Custody, and Visitation Subcommittee was created and charged with reviewing and making recommendations on several bills that have failed to pass the Senate during the past two Legislative Sessions.

The chairs of the Subcommittee first met with an ad hoc committee formed by the Utah State Bar which reviewed ideas to improve Utah divorce law. After the Utah State Bar ad hoc committee had completed its review, the Subcommittee held two meetings, one on October 20 and the other on October 27, 2003, to review "Parent-Time Schedule Amendments," "Transportation of Children for Parent-Time," "Child Support Obligations - Use of Utah Data," "Shared Parenting by Divorcing Parents," "Parent-Time Assistance Office," "Parent-Time Amendments," and "Limitation on Alimony."

In addition to making recommendations on these bills, the Subcommittee also received a supplemental report from the Utah Office of Recovery Services regarding a proposal by the Child Support Guidelines Committee to increase the child support guidelines.

The Subcommittee also received a report regarding a recently published longitudinal study on mandatory mediation which concluded that the process of litigation for

## JUDICIARY INTERIM COMMITTEE

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divorces may be more harmful to the future relationships of divorced parents and their children than ever before realized. The Subcommittee was urged to consider implementing mandatory mediation in Utah.

### Action

The Committee received a report from its Divorce, Child Custody, Visitation Subcommittee at its November meeting and recommended draft legislation "Parent-Time Schedule Amendments" and "Transportation of Children for Parent-Time."

## OTHER STUDIES

### Alternative Dispute Resolution - Sunset Review

Title 78, Chapter 31b, *Utah Code*, Alternative Dispute Resolution Act, is repealed on July 1, 2004. The Committee heard testimony regarding the purpose for the Alternative Dispute Act. The Committee considered this issue at its November meeting and recommended reauthorization of the Act for 2 years.

### Child Support Advisory Committee

The Committee received a report from the Child Support Advisory Committee which explained its methodology for reviewing the current child support guidelines. Based on its review, the Child Support Advisory Committee recommended an increase in child support obligations. The Committee considered this issue at its October meeting but did not recommend legislation.

### Commission on Criminal and Juvenile Justice - Sunset Review

Title 63, Chapter 25a, Part 1, *Utah Code*, Commission on Criminal and Juvenile Justice Act, is repealed on July 1, 2004. The Committee heard testimony regarding the responsibilities of the Commission on Criminal and Juvenile Justice. The Committee considered this issue at its October and November meetings and recommended reauthorization of the Act for 10 years.

### Judicial Certification

The Utah Judicial Council is responsible for certifying that each judge standing for a retention election has met or exceeded minimum standards of judicial performance. State law requires that the Council's certification decision be reported to the electorate in Utah's Voter Information Pamphlet. The Committee reviewed the judicial performance standards, the process for determining

compliance to those standards, and several publications of the Voter Information Pamphlet. The Committee considered this issue at its May meeting but did not recommend legislation.

### Juvenile Compact

The Administrative Office of the Courts reported on the deficiencies and inconsistencies within the current Interstate Compact on Juveniles. The Committee received testimony from the executive branch that the enforcement mechanisms of the current compact are not working. The Committee discussed the merit of adopting a new Interstate Compact on Juveniles. The Committee considered this issue at its June meeting but did not recommend legislation.

### Marriage Preparation Course

To promote healthy marriages, reduce divorce, and reduce the negative effects on children of divorce, the Committee considered legislation to provide a mechanism for couples who undergo premarital education to receive a reduction in the marriage license fee. The legislation also limits who can conduct the premarital education to licensed or ordained ministers, persons who can solemnize marriages, or marriage and family therapists. The Committee considered this issue at its May and September meetings and recommend draft legislation "Marriage Preparation Education."

### Nomination and Appointment of Judges - Sunset Review

Title 20A, Chapter 12, Part 1, *Utah Code*, Nomination and Appointment of Judges, is repealed on July 1, 2004. The Committee heard testimony regarding the duties and responsibilities of both the Appellate Court Nominating Commissions and the Trial Court Nominating Commissions. The Committee considered this issue at its November meeting and recommended reauthorization of the Act for 10 years.

### Pardons and Paroles - Sunset Review

Title 77, Chapter 27, *Utah Code*, Board of Pardons and Parole is repealed on July 1, 2004. The Committee heard testimony regarding the responsibilities of the Board of Pardons and Parole. The Committee considered this issue at its November meeting and recommended reauthorization of the Act for 10 years.

### Right to a New Judge After Successful Appeal

The Committee continued a discussion which started during the 2002 Interim, about whether or not a litigant should have the opportunity to request a new judge if the case before the judge had been successfully reversed and remanded on appeal. It was recommended that this issue be studied by one of the Supreme Court's Judicial Rules Advisory Committees. The Committee considered this issue at its June meeting but did not recommend legislation.

### **Sentencing DUI Offenders**

The Utah Substance Abuse and Anti-Violence Coordinating Council and the Utah Sentencing Commission provided information about the DUI sentencing matrix, the DUI best practices guidebook, and shared state statistics of DUI arrests, convictions, and sentencing information on repeat offenders. The Committee considered this issue at its October meeting but did not recommend legislation.

### **Special Session**

At its October meeting, the Committee held a public hearing on two bills that were considered during the 2003 2<sup>nd</sup> Special Session. The Committee considered this issue at its October meeting and recommended draft legislation "Trust Law Amendments" and "Court Security Amendments."

### **The Children's Justice Center Program - Sunset Review**

Title 67, Chapter 5b, *Utah Code*, The Children's Justice Center Program is repealed on July 1, 2004. The Committee heard testimony regarding the purposes and responsibilities of the Children's Justice Center Program. The Committee considered this issue at its November meeting and recommended reauthorization of the Act for 10 years.

### **Uniform Laws**

Potential legislative sponsors of uniform law legislation requested an opportunity to report to the Committee on the contents of "Uniform Parentage Act," "Uniform NonJudicial Disclosure Act," and "Uniform Arbitration Act." The Committee considered this issue at its June and July meeting but did not recommend legislation.



## **LAW ENFORCEMENT AND CRIMINAL JUSTICE INTERIM COMMITTEE**

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### **LAW ENFORCEMENT AND CRIMINAL JUSTICE INTERIM COMMITTEE**

#### **Membership**

Sen. D. Chris Butters, Senate Chair  
Rep. DeMar "Bud" Bowman, House Chair  
Sen. Paula F. Julander  
Sen. Peter C. Knudson  
Sen. Michael G. Waddoups  
Rep. Douglas C. Aagard  
Rep. Ron Bigelow  
Rep. Duane E. Bourdeaux  
Rep. D. Gregg Buxton  
Rep. LaVar Christensen  
Rep. Brad L. Dee  
Rep. Patricia W. Jones  
Rep. David Litvak  
Rep. Michael T. Morley  
Rep. R. Curt Webb

#### **Staff**

Jami Momberger, Policy Analyst  
Susan Creager Allred, Associate General Counsel  
Tracey Fredman, 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 attempts to maintain a balance between public safety, victim rights, and offender accountability and rehabilitation.

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

The Committee's focus has been on increasing the efficiency and cost-effectiveness of the criminal justice system by increasing communication and collaboration

between programs that support a three-pronged approach: prevention, enforcement, and treatment.

### **DRUG TREATMENT POLICY REFORM**

#### **Background**

The Vera Institute and the Commission on Criminal and Juvenile Justice presented information to the Committee on the issue of incarcerating drug offenders with substance abuse problems because of limited treatment options. The treatment system is currently so overloaded that offenders are often not monitored adequately or placed appropriately. The Committee considered legislation that requires all drug offenders with a presentence investigation report to have a Substance Abuse Severity Index screening. The legislation would eventually require all felony offenders with a presentence investigation report to receive the same screening the following year. Offenders needing further consideration would complete an Addictive Severity Index assessment.

Further phases of the proposed program include: 1) requiring all presentence investigation reports to include findings from a screening, and if needed, an assessment; 2) requiring all parolees to participate in the screening and assessment program prior to release or within 45 days of release; 3) securing interagency agreements between the Department of Corrections and local substance abuse authorities to facilitate treatment placement and monitoring the completion of a treatment plan; and 4) authorizing the Utah Substance Abuse and Anti-Violence Coordinating Council to develop an implementation plan, monitor the program, and evaluate efforts. These recommendations require a 3-year funding plan.

#### **Action**

The Committee considered this issue at its June, July, October, and November meetings and recommended draft legislation "Drug Offenders Reform Act."

### **ENHANCED EMERGENCY 911 SYSTEM**

#### **Background**

Enhanced 911 service couples advanced computer technology with geo-based mapping systems to locate the number and location of any land line 911 call coming into a 911 center. These computers assist 911 dispatchers by providing critical information on the exact address of a 911 emergency. Phase II E-911 provides the technology to

## LAW ENFORCEMENT AND CRIMINAL JUSTICE INTERIM COMMITTEE

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track cellular phone calls. This system, not yet available in Utah, uses GPS (global position satellites) and triangulation technology to locate the cell phone to within a few meters.

Federal Communication Commission rules require cellular phone suppliers to provide Phase II capable phones to 95 percent of their customers by December 31, 2005. However, they are only required to provide Phase II E-911 if the state or local jurisdiction has dispatch centers capable of receiving Phase II E-911 calls. The Committee considered legislation to impose a fee on cellular and land-based telephones to create a statewide unified emergency 911 system capable of geographically locating a cellular phone user's location in an emergency

### Action

The Committee considered this issue at its September and November meetings and recommended draft legislation "Management, Enhancement, and Funding of 911 System."

## ILLEGAL DRUG USE IN PRISON

### Background

The Committee received information from the Department of Corrections regarding the prevalence of illegal drug use in Utah prisons, the current policies and procedures used by the Department to prevent illegal drug use in prison, and the ways to enhance the Department's ability to effectively address this issue.

The Committee considered a proposal to require the Department to advise persons visiting inmates at correctional facilities of prohibited items and the criminal penalties associated with distribution of unlawful controlled substances to inmates, enhance the penalty of those found guilty of this offense, and provide a penalty for bringing contraband tobacco products into a correctional facility for distribution.

### Action

The Committee considered this issue at its May and November meetings and recommended draft legislation "Unlawful Controlled Substances in Correctional Facilities."

## OTHER STUDIES

### Automobile Theft Prevention

The Committee received a proposal from the Department of Public Safety to establish an Automobile Crime Prevention Authority and impose a \$1.00 fee on vehicle registration. The Authority would provide aid to state and local law enforcement agencies' automobile crime prevention programs. The Committee considered this issue at its September meeting but did not recommend legislation.

### Crime Victims Restitution and Reparation

The Committee received information from the OCVR (Office of Crime Victim Reparations), the Department of Corrections, and the Administrative Office of the Courts regarding restitution and reparation. The OCVR provides financial compensation for victims of violent crime. Restitution is a court ordered dollar amount that an offender is responsible for paying as a part of sentencing.

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

### Education in Prison

The Committee received information from the Utah State Office of Education and the University of Utah regarding education programs in Utah correctional facilities. Several studies were provided highlighting the importance of education in the criminal justice system. Education in prisons has proven to decrease recidivism; the recidivism rate associated with students in prison education programs is nearly 55 percent below that of the general prison population. The Committee considered this issue at its May meeting but did not recommend legislation.



### LEGISLATIVE PROCESS COMMITTEE

#### Membership

Sen. Leonard M. Blackham, Senate Chair  
Rep. Ron Bigelow, House Chair  
Sen. Ron Allen  
Sen. Peter Knudson  
Rep. Ben C. Ferry  
Rep. Brent H. Goodfellow  
Rep. Bradley T. Johnson  
Rep. Karen Morgan

#### Staff

Stewart E. Smith, Policy Analyst  
John L. Fellows, Associate 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 role 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.

### APPROPRIATIONS PROCESS REFORM

#### Background

The Committee's evaluation of the appropriations process included: the reliability of revenue forecasts, placing an upper limit on the appropriations target budget, creating a Joint Budget Committee to replace the Executive Appropriations Committee, and using session time more effectively. The Committee also explored other states' performance-based budgeting systems as it considered how performance goals and measures can provide enhanced accountability, particularly when goals are set jointly by the legislative and executive branches and used in their budget deliberations.

#### Action

The Committee considered this issue at its May and October 1 meetings and recommended that the Legislative Management Committee:

- establish a 2-day interim schedule, adding one day for appropriation subcommittee meetings;
- consider budgeting procedures which will provide accountability in state law; and
- set goals and performance measures that are agreed to by agencies and appropriations subcommittees for use in evaluating budget requests.

### COMMITTEE PROCEDURES

#### Background

Committee chairs do not always use the same procedures when they conduct standing committee meetings, receive public comment, and consider legislation. Draft legislation, "House Rules Resolution - Standing Committee Process Amendments" was presented as a means to standardize the process so that committee meetings would be more predictable for the public regardless of which committee they attend.

#### Action

The Committee considered this issue at its September, October 1, and October 28 meetings and recommended that the Legislative Management Committee provide additional training to standing committee chairs on committee procedures, particularly as it relates to public testimony.

### SESSION BREAK

#### Background

The Committee studied the advantages and disadvantages of a one week, unpaid break after the 28th day of the Legislative General Session. Notwithstanding an ending date for the session one week later than normally scheduled, the Committee felt that such a break may provide an opportunity for legislators to manage information more appropriately and allow them to reconnect with their constituency, families, and occupations. Committee members suggested that a one week recess may also have additional benefits of allowing staff to respond to additional drafting requests and to provide a slightly more accurate revenue estimate before preparation of the Appropriations Acts.

#### Action

The Committee considered this issue at its September and October 1 meetings and recommended draft

## LEGISLATIVE PROCESS COMMITTEE

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legislation "Resolution Amending Dates of Annual Legislative Session."

### SESSION COMMITTEE MEETING SCHEDULES

#### Background

Time is short during the session. With the goal of providing scheduling efficiencies during the session, the Committee developed the following proposals to be used only during the first four weeks of the General Session. Some proposals may encourage public involvement in committee meetings and increase a legislator's ability to meet with constituents in home districts on weekends or during the general session. Any of the following options could be implemented without constitutional changes or legislation:

- 1) Add an hour to the length of each appropriation subcommittee meeting on Mondays and Wednesdays and eliminate several appropriation subcommittee meetings on Friday afternoons.
- 2) Schedule the appropriation subcommittee meetings normally held on Friday during the General Session, on Thursday afternoon and schedule the Thursday afternoon standing committee meetings on Friday afternoon so that those legislators not involved will be able to leave. (All legislators are on appropriations subcommittees but the standing committees rotate so that not all legislators are involved at one time. This option moves the discretionary time for a portion of the legislators from Thursday afternoon to Friday afternoon.)
- 3) Schedule either a morning or afternoon block of standing committee meetings during a weekday evening at 6:00 p.m. and adjust the schedule to leave Friday afternoon free.
- 4) Add an extra hour to scheduled meetings and use the accumulated time savings for a 1 or 2-day break at the end of the 4th week of the General Session.
- 5) Schedule one or two appropriation subcommittee meetings the week before the session begins and put a 1 or 2-day break at the end of the 4th week of the General Session.

#### Action

The Committee considered this issue at its May, September, and October 1 meetings and recommended option 2 (above) to the Legislative Management Committee.

### OTHER STUDIES

#### Identification Badges

The Committee considered the difficulty of identifying members of the media, government agencies, and lobbyists and discussed options for identification badges. The Committee considered this issue at its September meeting but did not recommend legislation.

#### Legislative Constituent Services

The Committee discussed expanding staff, offices, and meeting schedules to provide more and better services to constituents. The Committee discussed draft legislation, "Task Force on Legislative Reform," and the effectiveness of potential changes to the appropriations process, the interim process, legislative staff, constituent services, and legislator compensation. The Committee also considered the potential negative impact on the perception of legislator integrity. The Committee considered this issue at its October 1 meeting but did not recommend legislation.

# **NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENT INTERIM COMMITTEE**

## **NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENT INTERIM COMMITTEE**

### **Membership**

Sen. Beverly Evans, Senate Chair  
Rep. Craig W. Buttars, House Chair  
Sen. Gene Davis  
Sen. Thomas Hatch  
Sen. Parley G. Hellewell  
Sen. Bill Wright  
Rep. Eli H. Anderson  
Rep. Roger E. Barrus  
Rep. Jackie Biskupski  
Rep. Margaret Dayton  
Rep. Glenn A. Donnelson  
Rep. James R. Gowans  
Rep. Bradley T. Johnson  
Rep. Michael E. Noel  
Rep. Loraine T. Pace  
Rep. Darin G. Peterson  
Rep. Michael R. Styler  
Rep. David Ure  
Rep. Stephen H. Urquhart

### **Staff**

J Brian Allred, Policy Analyst  
Jeanenne B. Larsen, Associate General Counsel  
Joy L. Miller, Legislative Secretary

### **OVERVIEW**

Under the broad subject of natural resources, the Committee deals with water rights, water development, wildlife, mining, forestry, parks, and recreation. 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: Natural Resources, Agriculture and Food, and Environmental Quality.

### **DROUGHT IMPACTS**

#### **Background**

In 2003, drought conditions continued to plague Utah. Agricultural producers in all 29 counties sustained at least a 30 percent loss, making the entire state eligible for federal disaster assistance for agriculture programs. Drought conditions also affected other areas under the responsibility of the Committee.

- **Wildlife Management Plans** - The Division of Wildlife Resources testified on the impacts of continued drought on Utah's big game and Utah's sport fisheries. Mule deer populations have been hardest hit by the drought. Hatchery production has been decreased by approximately 12 percent.
- **Farmers & Ranchers** - The Department of Agriculture and Food presented a report "Utah Drought Damage Assessment Report by County." Seventy-five percent of farms in Utah have suffered a loss with damage reaching a total of over \$286 million. Information on the "Nonfat Dry Milk Emergency Feed Assistance Program" was distributed.
- **Grazing Permits** - The U.S. Forest Service, indicated that forests are under severe stress. A healthy grazing industry is needed to accomplish rangeland objectives. District rangers continue to work with permittees and are sensitive to their needs.
- **State Parks** - The Division of Parks and Recreation distributed and reviewed "Drought Impacts on the Division Operations." Approximately half of the parks in the Utah State Park system are considered "boating parks" which account for 42 percent of the total revenue collected from state park operations.
- **Weed Control** - The Department of Agriculture and Food reported that the economic loss from reduced crop yields caused by agricultural weeds in just eight of Utah's farm crops now exceeds \$34 million annually. It stated that weeds also waste precious irrigation water.

## **NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENT INTERIM COMMITTEE**

Invasive, noxious weeds currently infest 2-3 million acres of land in Utah.

### **Action**

The Committee discussed this issue at its April, May, June, and July meetings but did not recommend legislation.

## **SOLITUDE LANDFILL**

### **Background**

Landfill Investors, owner of the Solitude Landfill in Green River, Utah, holds a noncommercial Class I solid waste permit issued by the Department of Environmental Quality. Landfill Investors has applied for a solid waste permit to construct and operate a proposed Class V landfill in Green River, Utah. Class V landfills are commercial landfills that may receive municipal and other nonhazardous solid waste not otherwise prohibited by rule. Any new permit requires the subsequent approval of the Legislature and the Governor.

The Green River site is permitted for 320 acres with a projected life span of approximately 20 years. Additional land can be acquired if the company chooses to expand. Representatives of the Emery County Commission indicated that the proposal was brought before the Public Lands Council and was unanimously supported by the Emery County Commission. The mayor of Green River City, indicated that the majority of the city council and Green River citizens support the proposal. A draft resolution "Joint Resolution Approving Solid Waste Permit" was presented to the Committee.

### **Action**

The Committee considered this issue at its July meeting and recommended draft legislation "Concurrent Resolution Approving Solid Waste Permit."

## **OTHER STUDIES**

### **Agricultural Product Dealers**

In the 2003 General Session, the Legislature passed H.B. 17 "Agricultural Products Dealer's Act Amendments" which raised the ceiling on the amount of a surety bond required before a license is issued to a dealer and allowed the Commissioner of Agriculture to increase the original bond requirements for a license if the Commissioner determines that the bond is inadequate. The Committee discussed

whether to allow double bonding of packer/buyers in an effort to increase fairness and competition. The Committee considered this issue at its October meeting but did not recommend legislation.

### **Bureau of Land Management Resource Management Plans**

The BLM (Bureau of Land Management) is developing new RMPs (Resource Management Plans) in several Utah regions. An RMP is a land-use decision-making document that guides management decisions in specific BLM areas. The Committee discussed ways state and local government officials could influence the RMP process. County officials discussed the need for technical expertise that can be provided by the State. The Committee considered this issue at its May meeting but did not recommend legislation.

### **County Land Use Management Plan**

The Committee discussed proposed legislation establishing a statewide land use policy. The proposal is intended to assist counties in establishing land use management plans that can be used to influence federal resource management decisions. The Committee considered this issue at its November meeting but did not recommend legislation.

### **Cricket and Grasshopper Infestation**

The Utah Department of Agriculture and Food reported on areas that have been treated for cricket and grasshopper infestation around Utah. Over 5 million acres of land are infested with grasshoppers and crickets with treatment areas totaling approximately 120,000 acres. The chemical Demolin, a growth regulator, is used to treat for these infestations. Ground baiting is also used in areas where Demolin cannot be used. In 2003 alone, 50,000 pounds of bait have been distributed. The Committee considered this issue at its June meeting but did not recommend legislation.

### **Dam Safety**

The State Engineer has the authority to regulate dams for the purpose of protecting public safety. The Division of Water Rights reported on proposed rule changes to minimum safety standards for existing high hazard dams and reviewed a dam safety report. The Committee considered this issue at its November meeting but did not recommend legislation.

## **NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENT INTERIM COMMITTEE**

### **Fire Management**

A panel of state and federal fire management officials discussed fire management policies, the state Wildland Fire Suppression Fund, interagency cooperation, cost control, and related issues. The Division of Forestry, Fires, and State Lands reviewed the responsibilities of the Division and counties regarding wildland fires. Cooperative agreements are established with each county. The Wildland Suppression Fund was established primarily to help counties pay costs of fire suppression on private and county owned land. Most large fires cross jurisdictional boundaries and require interagency efforts. Cost containment is established by priorities and taking appropriate fire suppression actions based upon values at risk. The USFS (U.S. Forest Service) noted that, based on conditions of existing hazardous fuels and the changing ecosystem, fires are becoming hotter and larger. Last year the USFS spent \$1.4 billion nationally in overall fire suppression costs. The Committee considered this issue at its June meeting but did not recommend legislation.

### **Ground Water Management**

The State Engineer reported that significantly more water than the safe annual yield of the aquifer could be withdrawn from the Salt Lake Valley ground water system based on existing water rights - many of which are undeveloped. By some estimates, water rights have been issued to as much as three times the aquifer's safe annual yield. There are several ground water basins in Utah that have experienced substantial declines in water levels because the annual quantity of water pumped far exceeds the recharge. The State Engineer's authority to regulate perfected ground water right holders is not clearly defined in Section 73-5-1(5), nor does the statute specify how to divide a ground water supply among claimants where the supply is inadequate. The State Engineer sought legislative direction on the proper management of ground water under the statute. The Committee considered this issue at its September meeting but did not recommend legislation.

### **Instream Flow**

The Committee discussed proposed instream flow legislation which allows political subdivisions and charitable organizations to hold certain water rights and allows the filing of change applications for additional purposes. The Committee considered this issue at its November meeting but did not recommend legislation.

### **Milk Marketing**

The Committee reviewed the current federal milk marketing structure and discussed possible options to increase the pay price to dairy producers in Utah. The Committee discussed a private industry contract between producers and processors. The Legislature authorized the Department of Agriculture and Food to work on marketing issues so the actions discussed can be accomplished through administrative rule. The Committee considered this issue at its October meeting but did not recommend legislation.

### **Task Force Reports**

The Committee received reports from the Gubernatorial and Legislative Task Force on Alternative Revenue Sources for Water Funding, the Hazardous Waste Regulation and Tax Policy Task Force, and the Impacts of Gravel Pits Task Force. The Committee received these reports at its November meeting but did not recommend legislation.

### **Wild and Scenic Rivers Designation**

The Wild and Scenic Rivers Act was passed by Congress in 1968. The Act stated that "certain selected rivers of the Nation, which, with their immediate environments, possess outstandingly remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural, or other similar values, shall be preserved in the free flowing condition, and that they and their immediate environments shall be protected for the benefit and enjoyment of present and future generations." Depending on the "type and degree of human development associated with the river and adjacent lands," eligible rivers are categorized as wild, scenic, or recreational. Congress must approve any rivers recommended by federal agencies for designation in the Wild and Scenic River System. The Committee discussed ways local governments and other interested parties can influence Wild and Scenic Rivers designation under the Wild and Scenic Rivers Act. Local government officials were concerned that areas that did not deserve consideration have been nominated for designation. The Committee considered this issue at its July and September meetings but did not recommend legislation.

### **Wolf Management Plan**

In the 2003 General Session, the Legislature passed H.J.R. 12 "Resolution Providing Management of Wolves in Utah," which urged the DWR (Division of Wildlife Resources) to draft a wolf management plan for the

## **NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENT INTERIM COMMITTEE**

review, modification, and adoption by the Utah Wildlife Board through the Regional Advisory Council process. DWR reported on the status of the proposed management plan and indicated that a wolf management plan will be finalized by 2005. The Committee considered this issue at its July meeting and approved a motion to reiterate the Committee's support for the principles outlined in H.J.R. 12, but did not recommend legislation.

# **OCCUPATIONAL AND PROFESSIONAL LICENSURE REVIEW COMMITTEE**

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## **OCCUPATIONAL AND PROFESSIONAL LICENSURE REVIEW COMMITTEE**

### **Membership**

Sen. David L. Gladwell, Senate Chair  
Rep. J. Morgan Philpot, House Chair  
Sen. Gene Davis  
Sen. John L. Valentine  
Rep. Carl W. Duckworth  
Rep. Thomas V. Hatch  
Mr. Brian Allen  
Mr. Phil Hancock  
Mr. Reed Mackley  
Mr. Bert Smith  
Mr. Noel Williams

### **Staff**

Arthur L. Hunsaker, 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.

## **WHETHER TO DEREGULATE PROFESSIONS AND COMBINE BOARDS**

### **Background**

S. B. 67 "Revisions to Board and Commissions" (2003 General Session), directed the Occupational and Professional Licensure Review Committee to "study licensing boards in the state . . . to enhance efficiencies and reduce costs in state government." The legislation included a list of two professions to be reviewed for possible deregulation and 19 licensing boards for possible consolidation into seven boards. The Committee focused its review on these two lists and invited representatives of several of the listed professions and their corresponding licensing boards to offer testimony. Representatives of the Division of Occupational and Professional Licensure

presented data on potential costs to the state of deregulating or consolidating as well as possible scenarios for the makeup of consolidated licensing boards.

### **Action**

The Committee voted to recommend to the Business and Labor Interim Committee that acupuncture and naturopathy not be deregulated. The Committee also voted to recommend that a task force be created to study 1) ways to determine which currently licensed professions could become self-regulated and 2) identify requirements and other impediments in law that create licensing standards that impede self-regulation and recommend their repeal. Due to the lack of a quorum, an official vote was not possible on the question of consolidating boards, although the committee members present indicated that they would have voted to not consolidate the boards discussed, with one member in opposition.

The Committee discussed these issues at its September 2, September 23, and October meetings and submitted a written report to the Business and Labor Interim Committee.





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## POLITICAL SUBDIVISIONS INTERIM COMMITTEE

### POLITICAL SUBDIVISIONS INTERIM COMMITTEE

#### Membership

Sen. Carlene M. Walker, Senate Chair  
Rep. Kory M. Holdaway, House Chair  
Sen. Patrice M. Arent  
Sen. Gregory S Bell  
Sen. Lyle W. Hillyard  
Rep. Eli H. Anderson  
Rep. Roger E. Barrus  
Rep. Duane E. Bourdeaux  
Rep. D. Greg Buxton  
Rep. David N. Cox  
Rep. Scott Daniels  
Rep. Brad L. Dee  
Rep. Ann W. Hardy  
Rep. M. Susan Lawrence  
Rep. Joseph G. Murray

#### 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, dependent and independent 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.

### EMINENT DOMAIN AND PROPERTY RIGHTS

#### Background

In the April committee meeting, the state Private Property Ombudsman outlined for discussion 12 changes to the *Utah Code*. An ad hoc workgroup of affected parties was formed to find common ground, draft legislation, and report back with recommendations.

#### Action

The Committee considered this issue at its April, July, September, and November meetings and recommended consensus draft legislation "Property Rights Amendments."

### LOCAL PERMITTING FOR RAIL CORRIDOR TRANSIT PROJECTS

#### Background

The UTA (Utah Transit Authority) was created as a Public Transit District under state statute. Public Transit Districts, as well as other special districts, are subject to municipal and county land use requirements. Representatives of UTA claim that local governmental land use requirements hinder UTA in the expansion of light rail and the implementation of commuter rail. UTA proposed that: 1) UTA be exempt from municipal/county land use regulation within railroad corridors; and 2) the Interlocal Cooperation Act be modified to make interlocal agreements more enforceable.

#### Action

The Committee considered this issue at its June, September, October, and November meetings and recommended draft legislation "Rail Corridor Provisions."

### NOTICE OF MUNICIPAL ANNEXATIONS IN FIRST CLASS COUNTIES

#### Background

State statute provides a process for annexing property into a municipality. Currently, public notice of a pending annexation is only required to be published in a newspaper or posted in a public place. A notice is not required to be mailed to individual property owners. The Committee considered ways to provide better notice to all property owners of a pending municipal annexation. The study sponsor proposed that every property owner within the area proposed for annexation receive in the mail a notice of the proposed annexation. Some questions considered include: Who (petitioners, city, county, or other) should be responsible for providing the notice to property owners? Who should pay the costs? When in the municipal annexation process should the notice be sent to property owners?

#### Action

The Committee considered this issue at its June, July, and October meetings and recommended draft legislation "Municipal Annexation Provisions in First Class Counties."

## POLITICAL SUBDIVISIONS INTERIM COMMITTEE

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### PLANNING FOR FACILITIES WITH REGIONAL IMPACT AND LAND USE PLANNING CONFLICTS BETWEEN GOVERNMENTAL ENTITIES

#### Background

Municipalities and counties have statutory authority to regulate land use. Municipalities have jurisdiction within their own corporate boundaries. Counties have jurisdiction in unincorporated parts of the county. State entities, including school trust lands, are exempt from municipal and county land use regulations. School districts are partially exempt. A recent dispute concerning a special district's siting of a major facility within a city highlighted the problems that can occur when governmental entities do not coordinate the use of land. Some questions the committee considered include: How can the state encourage better coordination and cooperation among local governments in land use planning? Should a process for siting critical regional facilities be put in statute? Is regional planning needed? Should governmental entities be exempt from municipal and county land use regulations? Should a governmental entity whose decisions have fiscal impacts on another governmental entity be required to mitigate fiscal impacts? When conflicts over land use arise between governmental entities, how should they be resolved fairly?

An ad hoc workgroup was formed. The workgroup's proposal includes: 1) a process that provides up-front notification and coordination for facilities that impact another governmental entity; and 2) an appeal/conflict resolution process if negotiations and coordination efforts break down.

#### Action

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

### OTHER STUDIES

#### Audit on Utah's Seven 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. The Committee examined this audit recommendation and other questions such as: What are the origins of AOGs? How were they created?

What are the differences between an AOG and an MPO (Metropolitan Planning Organization)?

The Committee requested this topic be further discussed with draft legislation during the 2004 Interim. The Committee considered this issue at its September meeting but did not recommend legislation.

#### Condemnation of Water Rights

The Committee studied whether counties should have the power to condemn water rights for their own water delivery systems. On the last night of the 2003 General Session, 1st Sub. S.B. 164, County Amendments, was amended to state, "[Language authorizing a county to acquire real property by condemnation] may [not] be construed to authorize a county to acquire by condemnation the rights to water used in agricultural production, unless the land to which those water rights are appurtenant is acquired by condemnation." The Committee considered whether this provision should also apply to municipalities and special districts. An ad hoc workgroup was formed and reported to the Committee.

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

#### County Service Area for Extended Fire Protection

The Committee held a public hearing on S.B. 2003, "Amendments to County Service Area for Extended Fire Protection," which subsequently passed in the 2003 2<sup>nd</sup> Special Session. The Committee considered this issue at its November meeting and recommended S.B. 2003.

#### GIS and Land Use Planning

This interim, the Committee wrestled with land use planning questions such as how to encourage better land use planning coordination and cooperation between governmental entities and others, and how to resolve conflicts when they arise. In an effort to see if technology could help resolve problems, representatives of the state's AGRC (Automated Geographic Reference Center) briefed the Committee on Utah's clearinghouse for GIS (Geographic Information Systems) data and ways GIS might assist in planning for facilities with regional impact.

The Committee considered GIS issues at its September, October, and November meetings but did not recommend legislation.

### **Land Use Planning - Conflicts between Local Government and the Developer**

State statute gives municipalities and counties authority to regulate land use. Municipalities have jurisdiction within their own corporate boundaries and counties have jurisdiction in unincorporated parts of the county. The Committee considered whether to limit a municipality's rights to impose conditions on zoning and development other than for health, safety, and welfare. Some questions considered include: Where do court cases draw the line on placing requirements on a developer? Should the local government be prevented statutorily from imposing too many requirements on a developer?

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

### **Local Planning for Source Protection of Drinking Water and Surface Waters**

Federal law requires the protection of watersheds. The Division of Drinking Water has enacted rules requiring water suppliers to take measures to protect their water sources. Water suppliers do not have control over land use and are thus unable to protect water sources. Municipalities and counties are given authority to regulate land use (state and federal lands are exempt). The Committee discussed conflicts between land use and watershed protection and the value of education or other approaches in assisting the protection of watersheds. The Committee initiated this study during the 2002 Interim and established an ad hoc workgroup to explore potential solutions. The workgroup presented its recommendations to the Committee.

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

### **Municipal Water Rights**

Article XI, Section 6, of the *Utah Constitution* requires municipalities to preserve, maintain, and operate its waterworks, water rights, and sources of water supply for supplying its inhabitants with water, and prohibits municipalities from disposing of waterworks, water rights, or sources of water supply. S.J.R. 5, "Resolution on Municipal Water Rights," (introduced in the 2003 General Session), would have repealed this constitutional provision.

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

### **Quality Growth Commission**

In 1999, the Legislature created the Quality Growth Commission. Representatives of the Quality Growth Commission reported on the state of quality growth in Utah.

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

### **State Planning Coordinator and Land Use Planning**

This interim, the Committee wrestled with land use planning questions such as how to encourage better land use planning coordination and cooperation between governmental entities and others, and how to resolve conflicts when they arise. To determine if existing government programs could help resolve problems, the Committee examined: What is the role of the State Planning Coordinator? What is the role of the Resource Development Coordinating Committee? How could the State Planning Coordinator or the Resource Development Coordinating Committee assist in preventing or resolving conflicts between governmental entities in the siting of critical regional facilities?

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

### **Utah's Seven Associations of Governments**

In October 2001, after having reviewed a legislative audit report, the Committee requested that Utah's seven AOGs (Associations of Governments) report annually to the Committee in order to maintain a continuing dialogue. The Committee received information on the purpose of and services provided by the AOGs.

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



## PUBLIC EDUCATION LEGISLATIVE TASK FORCE

### PUBLIC EDUCATION LEGISLATIVE TASK FORCE

#### Membership

Sen. Thomas Hatch, Senate Chair  
Rep. Kory M. Holdaway, House Chair  
Sen. Ron Allen  
Sen. Karen Hale  
Sen. Parley G. Hellewell  
Sen. Bill Wright  
Rep. David N. Cox  
Rep. Margaret Dayton  
Rep. James R. Gowans  
Rep. Karen W. Morgan  
Rep. LawWanna "Lou" Shurtliff  
Rep. Gordon E. Snow

#### Staff

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

#### OVERVIEW

S.B. 154, "Public Education Amendments" (2003 General Session), established a framework for education reform in Utah. Concepts contained in the bill include competency-based education and progress-based assessments. The Public Education Legislative Task Force was created to study the reform measures outlined in S.B. 154 and to study the impacts of federal legislation "No Child Left Behind."

#### ASSESSMENT OF ACADEMIC PERFORMANCE

##### Background

U-PASS (Utah Performance Assessment System for Students), the federal legislation, "No Child Left Behind," and S.B. 154, "Public Education Amendments" (2003 General Session), each impose mandates for the assessment of academic performance. The Task Force studied to what extent those mandates conflict or are consistent with each other and whether new tests should be developed.

"No Child Left Behind" requires no tests beyond those already implemented by Utah under U-PASS. S.B. 154, however, will require adjustments to existing tests and may require the development and implementation of new assessments.

S.B. 154 requires the USOE (Utah State Office of Education) to develop progress-based assessments to be used by local school boards to identify schools, teachers, and students that need remediation. Rather than developing new progress-based assessments, the USOE intends to create scaled scores for the existing criterion-referenced tests, statewide tests that measure students' mastery of the core curriculum. Scaled scores can help determine students' year-to-year progress.

Another requirement of S.B. 154 is the development of competency-based standards and assessments. The State Board of Education had suggested in its "Performance Plus" proposal that the criterion-referenced tests be used to assess competency. After dozens of hearings statewide on the "Performance Plus" proposal, the State Board of Education concluded that the criterion-referenced tests are not a sufficient measure of competency. The State Board is continuing its study of how to measure competency.

##### Action

The Task Force considered this issue at its June, August, September, October, and November meetings but did not recommend legislation.

#### NO CHILD LEFT BEHIND

##### Background

The federal government has provided money to states for elementary and secondary education programs since 1965. The reauthorization of the Elementary and Secondary Education Act known as "No Child Left Behind" requires states to adopt assessment and accountability programs in order to continue to receive federal aid. The act also prescribes qualifications for new and existing teachers and paraprofessionals.

Utah's statewide assessment program U-PASS (Utah Performance Assessment System for Students) incorporates all the assessments required by "No Child Left Behind." U-PASS does not include, however, an accountability component. The law does not impose consequences when schools or students do not meet expected performance levels, and no new programs were created to assist low performing schools or students.

As required by "No Child Left Behind," the State designed an accountability program to measure adequate yearly

## **PUBLIC EDUCATION LEGISLATIVE TASK FORCE**

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progress of schools. Federal law prescribes various interventions and consequences for schools that fail to make adequately yearly progress, including private tutoring, transportation for students who transfer to other public schools, and state control of a school. These measures, as well as programs to provide additional instruction to students to assure that they and their schools make adequate yearly progress, will be costly.

The Utah State Office of Education informed the Task Force that if the State elects to not comply with "No Child Left Behind," it will lose all federal funds made available under the act. In the 2003-04 school year, \$85,000,000 in federal funds authorized by "No Child Left Behind" is expected to be distributed to Utah public schools.

### **Action**

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

## **PUBLIC UTILITIES AND TECHNOLOGY INTERIM COMMITTEE**

### **PUBLIC UTILITIES AND TECHNOLOGY INTERIM COMMITTEE**

#### **Membership**

Sen. Leonard M. Blackham, Senate Chair  
Rep. Stephen H. Urquhart, House Chair  
Sen. Mike Dmitrich  
Sen. Peter C. Knudson  
Sen. John L. Valentine  
Rep. Sheryl L. Allen  
Rep. Ralph Becker  
Rep. Chad E. Bennion  
Rep. Greg J. Curtis  
Rep. Glenn A. Donnelson  
Rep. Brent H. Goodfellow  
Rep. Ty McCartney  
Rep. Michael E. Noel  
Rep. Gordon E. Snow  
Rep. Michael R. Styler  
Rep. David Ure

#### **Staff**

Richard C. North, Policy Analyst  
Thad LeVar, Associate General Counsel  
Clay Hatch, Legislative Information Liaison

#### **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.

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.

#### **EMAIL**

##### **Background**

With the development of the Internet and email as communication tools, the issues of unsolicited commercial

and sexually explicit messages have raised policy concerns. At the time of the Committee's review, there was no uniform federal legislation regulating email which has resulted in state legislatures adopting email policies. Utah's law provides civil remedies for violations which has raised concerns with business entities which send commercial email.

##### **Action**

The Committee received reports and heard testimony regarding the type of unsolicited email being received and the costs to providers and users of email. The Committee considered this issue at its October meeting but did not recommend legislation.

#### **ENERGY**

##### **Background**

Three related energy issues under review are the multi-state process for cost allocation, integrated resource planning, and power grid stability. Since April 2002, PacifiCorp and the six states which regulate its activities have been in the process of determining how to allocate energy production costs in a balanced manner. The proposed compromise solution will be presented to the six states' regulatory commissions for review. The outcome of this review will influence the development of PacifiCorp's Integrated Resource Plan which targets new energy production facilities and their location. The new facilities will generate approximately four thousand megawatts of electric power and will contribute to stability via upgraded grid management processes.

##### **Action**

The Committee received testimony and reports on these three energy related topics and requested updates in the future. The Committee considered these issues at its September, October, and November meetings but did not recommend legislation.

#### **INTERNET PRIVACY**

##### **Background**

The collection of personally identifiable information by governmental and private sector entities has raised concerns regarding appropriate access, identity theft, and personal privacy. The development of the Internet and the concordant ability to search and process information has also contributed to privacy concerns.

## **PUBLIC UTILITIES AND TECHNOLOGY INTERIM COMMITTEE**

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### **Action**

The Committee received testimony and discussed the differences between government and business entities collecting personally identifiable information. The Committee considered this issue at its November meeting and recommended draft legislation "Governmental Internet Information Privacy Act."

### **PUBLIC SERVICE COMMISSION**

#### **Background**

The Utah Public Service Commission is a legislatively created entity responsible for the cost and service regulation of certain public utilities such as energy and telecommunications. It is a three-member commission supported by the Division of Public Utilities and the Committee of Consumer Services and operates in a quasi-legal manner adjudicating regulatory issues. The Commission also has certain rulemaking authority

#### **Action**

The Committee received reports and discussed the organizational structure and rulemaking process the Public Service Commission follows. The Committee considered these issues at its April and May meetings but did not recommend legislation.

### **TELECOMMUNICATIONS**

#### **Background**

Since the deregulation of telephone service providers in 1995 and with the increase in wireless telephone service in the late 1990s, rates and access to local, state, and interstate rights of way has been an issue. Because Utah allows political subdivisions to regulate their rights of way, telephone service providers contend the multitude of different regulations for rates and access needs legislative review.

#### **Action**

The Committee received reports and heard testimony regarding the need for a review of the existing rights-of-way issues. The Committee considered this issue at its May, June, and July meetings but did not recommend legislation.

### **WIRELESS TELEPHONE SERVICE**

#### **Background**

Wireless telephone service has grown dramatically since the late 1990s resulting in a number of issues such as wireless telephone plans, billing practices, and number portability. The issues of wireline plans and billing practices focuses on notification by providers of changes in plans and billing. Number portability became effective November 24, 2003 and affects both wireless and wireline telephone numbers.

#### **Action**

The Committee received reports and heard testimony from telephone service providers, customers, and regulators regarding these issues. The Committee considered these issues at its July and November meetings but did not recommend legislation.

### **OTHER STUDIES**

#### **Blue Stakes**

The statutory Blue Stakes program requires providers to mark their utility lines and excavators to contact the Blue Stakes office before digging. This issue focuses on the need for wider participation by municipalities and excavators in the Blue Stakes program. The Committee received testimony from gas providers and utility regulatory entities. The Committee considered this issue at its November meeting but did not recommend legislation.

#### **Green Sticker**

Questar's Green Sticker program focuses on the safety of gas appliances and the need for equipment checks and adjustments by qualified technicians. The Committee heard testimony from the natural gas industry and from utility regulatory entities. The Committee considered this issue at its October meeting but did not recommend legislation.



# RETIREMENT AND INDEPENDENT ENTITIES COMMITTEE

## RETIREMENT AND INDEPENDENT ENTITIES COMMITTEE

### Membership

Sen. John L. Valentine, Senate Chair  
Rep. David Clark, House Chair  
Sen. Ron Allen  
Sen. Beverly Evans  
Sen. Paula F. Julander  
Sen. Carlene Walker  
Rep. Eli H. Anderson  
Rep. Ron Bigelow  
Rep. Judy Ann Buffmire  
Rep. James A. Ferrin  
Rep. Neil A. Hansen  
Rep. Ann W. Hardy  
Rep. Rebecca Lockhart  
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. During the 2003 General Session, the Legislature changed the name of the committee to its current form from its former names, the Quasi-Governmental Entities Committee and the Independent Entities Committee. 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.

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

## STATE EMPLOYEE UNUSED SICK LEAVE

### Background

Section 67-19-14 of the *Utah Code* provides that unused sick leave hours of state employees may be used for converted sick leave and health and life insurance benefits upon retirement. The section also provides that unused sick leave may be used to provide continuing health and dental insurance to the surviving spouse and family of a state employee whose death occurs in the line of duty. In response to questions regarding specific benefits and limitations under this section, draft legislation was prepared to clarify the statute based on existing language and current administrative practices.

### Action

The Committee received presentations from staff and heard testimony from representatives of the Division of Finance, the Department of Human Resource

## RETIREMENT AND INDEPENDENT ENTITIES COMMITTEE

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Management, the Utah Public Employees' Association, and the public. Committee members raised questions about the history, costs, and other states' policies on these issues. The Committee reviewed reports providing a historical time line, funding methods, and a 50-state survey conducted by the Department of Human Resources Management.

The Committee considered this issue at its June and October meeting and recommended draft legislation "Unused Sick Leave for State Employee Provisions."

### OTHER STUDIES

#### **Investment Practices of the Utah Retirement Systems**

The Legislative Auditor General completed an audit titled, "A Performance Audit of the Investment Practices of the Utah Retirement Systems," dated April 2003. The audit was presented to the Committee and representatives of the Retirement Office responded. The audit addresses a number of investment issues in depth, reports on the use of prudent investment procedures and investment returns achieved by the Retirement Fund, and includes 18 recommendations. Later, at the request of a committee member, the Auditor General identified three key recommendations to the Committee. The three key recommendations are that the Retirement Board should:

- prepare an Annual Strategic Investment Plan;
- revise its Investment Policy; and
- establish a Governance Policy.

The Committee requested that the Retirement Office prepare a response on their progress on implementing these three recommendations and present them at a future meeting of the Committee.

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

#### **Restrictions on Personal Investment Activities of Retirement Office Staff**

The Senate Retirement and Independent Entities Committee voted to have the Retirement Office report specific progress being made to address the three recommendations of a February 2003 audit conducted by the Legislative Auditor General. The audit was titled "A Review of Possible Staff Conflicts of Interest at the Utah Retirement Systems" and recommended that the Utah Retirement Board:

- determine if the CIO's personal investments violated its conflict of interest policy;
- clarify its conflict of interest policies and consider adopting restrictions similar to those used by other retirement systems that impose specific reporting requirements and blackout periods for the personal investments made by staff; and
- consider strengthening its conflict of interest policy to limit outside investment advisory services by its professional investment staff.

The Executive Director of the Utah State Retirement Board responded to these recommendations by:

- hiring the law firm of Parr, Waddoups, Brown, Gee and Loveless to conduct an independent investigation which was reported to the Committee;
- strengthening existing code of ethics and conflict of interest provisions for board members and other fiduciary staff;
- implementing a policy which prohibits staff employees from providing outside investment services;
- finding that the system's Chief Financial Officer violated the code of ethics but that the economic interests of Utah Retirement Systems were not affected; and
- providing that the Chief Financial Officer no longer serves as an employee of Utah Retirement Systems.

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

#### **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 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 adjacent chart. For FY 2005, the Retirement Board has recommended a contribution rate increase to 13.38 percent of salary. This 1.68 percent of salary increase represents approximately \$50 million.

## RETIREMENT AND INDEPENDENT ENTITIES COMMITTEE

| <b>Noncontributory Retirement Contribution Rates</b> |                          |
|--|--------------------------|
| <b>Fiscal Year</b>                                   | <b>Percent of Salary</b> |
| 1998   | 14.16%                   |
| 1999   | 14.16%                   |
| 2000   | 14.16%                   |
| 2001   | 13.68%                   |
| 2002   | 10.40%                   |
| 2003   | 10.40%                   |
| 2004   | 11.70%                   |
| *2005  | 13.38%                   |
| <b>Average</b>                                       | <b>12.76%</b>            |
| *Proposed  |                          |

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

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

### **Utah Science Center Authority - Update**

The Utah Science Center Authority is an independent entity that was created by the Legislature "to foster the development of science, technology, engineering, arts, tourism, cultural, and educational facilities in order to further the welfare of the citizens of the state and its economic growth." The Utah Science Center Authority requested an opportunity to update the Committee on its progress and plans. The Utah Science Center has operated since 1995 through the Discovery on Wheels outreach program reportedly serving thousands of students each year. In late 2004, The Leonardo at Library Square will be the home of the Utah Science Center and will sponsor forums, programs, alliances, and connections to encourage science and technology exploration and hands-on experimentation.

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

### **Workers' Compensation for Occupational Diseases of Firefighters**

During the last two general sessions, legislation has been introduced but not passed titled "Worker's Compensation - Fire Department Employees." The legislation provides a presumption that certain specified occupational diseases are employment-related if contracted by a firefighter. Representatives of the Professional Firefighters Association, including an MD on occupational health, testified on behalf of the legislation.



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## REVENUE AND TAXATION INTERIM COMMITTEE

### REVENUE AND TAXATION INTERIM COMMITTEE

#### Membership

Sen. Curtis S. Bramble, Senate Chair  
Rep. Wayne A. Harper, House Chair  
Sen. Ron Allen  
Sen. Leonard M. Blackham  
Sen. Mike Dmitrich  
Sen. Lyle W. Hillyard  
Sen. Howard A. Stephenson  
Rep. Sheryl L. Allen  
Rep. Ralph Becker  
Rep. Judy Ann Buffmire  
Rep. David Clark  
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Rep. Carl W. Duckworth  
Rep. Craig Frank  
Rep. Ann W. Hardy  
Rep. Kory M. Holdaway  
Rep. Bradley G. Last  
Rep. Carol Spackman Moss  
Rep. Merlynn T. Newbold  
Rep. Jack A. Seitz  
Rep. Gordon E. Snow

#### Staff

Bryant R. Howe, Policy Analyst  
Rebecca L. Rockwell, Associate General Counsel  
Phalin 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 tax revenue collection trends.

Since 1984, the Committee has received significant input from the Utah Tax Review Commission which is an independent study group. This body consists of legislators, tax practitioners, academics, and citizen

representatives. It makes periodic reports to the Committee, usually at the direction of the Legislature or the Governor.

### DELINKING THE STATE INDIVIDUAL INCOME TAX FROM THE FEDERAL INDIVIDUAL INCOME TAX

#### Background

Since 1975, the Utah Individual Income Tax has been "linked" with the federal income tax by having the starting point for determining state taxable income to be federal taxable income. Utah law provides for various additions to and deductions from federal taxable income when determining state taxable income. For example, a taxpayer may deduct one-half of the taxpayer's federal individual income tax liability. Taxpayers also add back to federal taxable income 25 percent of the value of the federal personal exemption for each person claiming the exemption. Tax rates are then imposed on state taxable income.

During the last 10 years, the United States Congress has enacted several major changes to the federal individual income tax system. These changes include establishing a new child credit and various education credits and liberalizing depreciation schedules for certain types of fixed assets owned by businesses. Congress has also lowered tax rates and additional rate reductions are scheduled to take effect in the next few years.

All other things being equal, a reduction in a taxpayer's federal individual income tax liability will increase the taxpayer's state individual income tax liability. This is because a lower federal tax liability results in higher state taxable income and therefore higher state individual income taxes.

Changes to the determination of federal taxable income will also affect state taxable income. For example, Congress recently increased (for the 2003 and 2004 tax years only) the standard deduction for a married couple to twice that of a single individual. This increase in the standard deduction will reduce the taxpayer's federal taxable income. All other things being equal, any decrease in federal taxable income will decrease state taxable income and thereby decrease state individual income tax revenues. Conversely, any increase in federal taxable income will increase state taxable income and thereby increase state individual income tax revenues.

## REVENUE AND TAXATION INTERIM COMMITTEE

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### Action

The Committee considered whether the policy of linking the Utah individual income tax system to the federal individual tax system is still appropriate and where the linkage should occur. The Committee balanced the goal of making the Utah individual income tax system easy to comply with and administer with the goal of revenue stability and predictability. While the policy of linking under the current definition of federal taxable income promotes administrative simplicity and taxpayer compliance, given the many recent federal tax law changes, it may also result in less stable and predictable individual income tax revenues.

The Committee considered this issue at its September and November meetings and recommended draft legislation "Individual Income Tax Amendments."

### IMPOSITION OF THE SALES AND USE TAX ON SALES OF SATELLITE AND CABLE TELEVISION SERVICES

#### Background

The sales and use tax has traditionally not been imposed on sales of cable and satellite television services. While never specifically exempted, these services were considered to be excluded from the sales and use tax base. During the 2003 General Session, the Legislature adopted S.B. 213, "Amendments to Sales and Use Tax," which extended the sales and use tax base to include sales of these services. When S.B. 213 was adopted, it was estimated that it would increase state sales and use tax collections by \$14 million. It would also increase sales and use tax collections to municipalities and counties.

#### Action

During its review of S.B. 213, the Committee was informed that federal law provides that "a provider of direct-to-home satellite service shall be exempt from the collection or remittance, or both, of any tax or fee imposed by any local taxing jurisdiction on direct-to-home satellite service" (47 U.S.C. Sec. 152). Because of this preemption, the Tax Commission has informed providers of satellite television services that they are not required to collect or remit local option sales and use taxes but that they are still required to collect and remit the state sales and use taxes. Representatives of the cable and satellite television service industry and local governments appeared before the Committee regarding this issue. Representatives of

cable television expressed concern that lower sales and use taxes on satellite television services is an unfair competitive advantage and encouraged the Committee to repeal S.B. 213.

The Committee considered this issue at its September and October meetings and recommended draft legislation "Sales and Use Tax - Repeal of Cable and Satellite Service."

### RESORT COMMUNITY LOCAL OPTION SALES AND USE TAX

#### Background

Utah law allows certain "resort communities" to impose additional sales and use taxes. When combined, these additional sales and use taxes in eligible communities can be as high as 1.5 percent. A "resort community" is a municipality whose transient room capacity is at least 66 percent of its permanent population.

#### Action

The Committee considered two administrative issues related to this tax: 1) how should "transient room capacity" be defined; and 2) should there be a regular review to monitor a municipality's eligibility to impose this tax. The Utah League of Cities and Towns and the Tax Commission (Utah State Tax Commission) presented to the Committee legislation to address these administrative issues.

The Committee considered this issue at its November meeting and recommended draft legislation "Resort Communities Tax Amendments."

### OTHER STUDIES

#### Age-based Motor Vehicle Uniform Fee System

Unlike other types of real and personal property in Utah, owners of certain automobiles and light trucks do not pay a property tax based on value. Instead, taxpayers annually pay a uniform fee based ranging from \$10 to \$150, depending on the vehicle's age. Revenue from these fees is allocated to various local taxing entities such as school districts, counties, municipalities, and special service districts. The Committee reviewed the administration of the current age-based fee system on motor vehicles.

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## REVENUE AND TAXATION INTERIM COMMITTEE

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

### **Apportionment of Corporate Taxable Income Under the Utah Corporate Income Tax**

Utah imposes a 5 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 the corporation's sales, income and property, with each factor equally weighted.

The Committee reviewed a proposal to change the weighting of these three factors by double-weighting the corporation's sales. Proponents of this change told the Committee that it would encourage additional investment and employment within Utah. Several other states have recently adopted a similar changes to their state corporate income tax laws.

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

### **Disputed Property Taxes in Escrow**

The *Utah Constitution* requires that certain types of property, including property that crosses county lines, be assessed for property tax purposes by the Utah State Tax Commission. In some counties, this property (commonly referred to as "centrally assessed" property) constitutes a large portion of the property tax base. As with any taxpayer, centrally assessed taxpayers will sometimes appeal the assessed value of their property as determined by the Tax Commission. If the taxpayer ultimately prevails, the taxpayer is due a refund for the overpaid property taxes. Utah law allows taxing entities in certain instances to impose a "judgment levy" to pay the refund. However, taxing entities are sometimes reluctant to impose this levy.

As an alternative to judgment levies, representatives of the Utah Association of Counties appeared before the Committee to seek the re-enactment of a law that was originally passed and then repealed by the Legislature in 1997. Under this law, the property tax revenue that is collected on that portion of the taxpayer's taxable value that is under appeal is placed in an escrow account and not expended by the taxing entity until the appeal is finally resolved. The foregone property tax revenue is recouped by increasing the property tax rate on all taxpayers within the jurisdiction.

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

### **Extending the Residential Exemption to Selected Secondary Residences**

The *Utah Constitution* requires that all tangible property in Utah, unless specifically exempt, be taxed at a uniform and equal rate in proportion to its value. However, the constitution allows the Legislature to exempt from taxation up to 45 percent of the fair market value of residential property. The constitution also allows the Legislature to define "residential property." Under current law, only a taxpayer's "primary" residence is granted this exemption. A secondary residence, such as a vacation home or cabin, is taxed at full market value. For several years, the Legislature has considered, but never enacted, legislation that would extend the residential exemption to secondary residences.

The Committee considered two proposals to address this issue. The first proposal would grant a limited exemption to certain secondary residences that are not connected to a government-owned water or sewer system. This proposal would also reimburse taxing entities from the General Fund for the lost property tax revenue resulting from the exemption. The second proposal would also grant a limited exemption to certain secondary residences. It would also grant an additional exemption if there is no right of access to the secondary residence.

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

### **Incentive Payments of Local Option Sales and Use Tax Revenue by Municipalities to Retailers**

All Utah municipalities impose a one percent local option sales and use tax. Half of the revenue from this tax is distributed based on the point of sale and the other half is distributed based on population. Because municipalities realize increased sales and use tax revenue due to increased retail sales, some municipalities promote and encourage retail sales by offering incentive payments to selected retail establishments to locate, expand, or remain within their jurisdictions. A survey of municipalities was conducted to ascertain the extent of this practice. Of the 237 municipalities in Utah, 155 responded to the survey. Of those that responded, 12 offer some type of incentive payment to a retail establishment. These incentive

## REVENUE AND TAXATION INTERIM COMMITTEE

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payments are structured in a variety of ways and for a variety of reasons.

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

### **Individual Income Tax Amendments for Education Funding**

At the request of the bill's sponsors, the Committee reviewed proposed draft legislation "Individual Income Tax Amendments for Education Funding." This bill: 1) eliminates the deduction from federal taxable income when determining state taxable income for one half of federal income taxes paid; 2) adjusts the current tax brackets for inflation (the brackets have only been adjusted once since they were adopted in 1975); 3) requires future inflationary adjustments to the tax brackets; 4) provides for a non-refundable state earned income tax credit equal to five percent of the federal earned income tax credit; and 5) modifies what portion of the federal personal exemption is added to federal taxable income when determining state taxable income. It would increase individual income tax revenues by \$90 million.

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

### **Standards Used by the Property Tax Division in Conducting Assessment/Sales Ratio Studies**

The *Utah Constitution* requires that all taxable tangible personal property be "assessed at a uniform and equal rate in proportion to its fair market value." Utah law directs the Utah State Tax Commission's Property Tax Division to annually evaluate the accuracy of property value assessments performed by county assessors to ensure that property is being assessed for property tax purposes at fair market value. If the assessments are found to be in error, the Tax Commission may, if all other alternatives to reach market value fail, order the county assessor to undertake corrective action. As part of the assessment/sales ratio study process, the Committee is required by law to periodically review the standards and processes used by the Property Tax Division. The Committee reviewed the standards utilized by the Property Tax Division and also received testimony from county assessors and taxpayers at its June meeting and found that no modification is needed.

### **Streamlined Sales Tax Project Amendments**

In November 2002, delegates from Utah and 33 other states adopted the "Streamlined Sales and Use Tax Agreement." Once implemented by the states, this national agreement will provide for a simplified and more uniform sales tax structure. The Utah Legislature began the process of conforming Utah's sales and use tax laws to the agreement with the passage of S.B. 147 "Streamlined Sales Tax Project Amendments." Most provisions of this bill take effect July 1, 2004. As part of its study of this issue, the Committee reviewed draft legislation "Amendments to Sales and Use Tax and Certain Taxes or Charges Imposed by a County or Municipality" that would further conform Utah laws to the national agreement.

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

### **Tax Collection Processes of the Utah State Tax Commission**

The Committee received a report from the Legislative Auditor General regarding the Division of Taxpayer Services of the Utah State Tax Commission. The audit found that "despite allegations . . . of poor tax notifications and adversarial treatment . . . the Tax Commission is treating taxpayers fairly." The audit also found that better case screening could potentially increase revenues, improved compliance procedures could benefit the state, and that improvements are needed in collections operations and productivity.

One area of collection activity of concern to the Committee involves when and how liens are filed by the Tax Commission. The Tax Commission reported to the Committee that it is reviewing its statutes, rules, policies, and procedures to develop uniform methods and policies with regards to when liens are filed, how they are filed, and for how long liens are in place. The Tax Commission will present recommendations at a later time on ways to conform its lien policies to those of the Internal Revenue Service.

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



### **Tax Expenditure Report**

A "tax expenditure report" is an accounting of the tax revenue that is foregone to a taxing jurisdiction due to the existence of various tax exclusions, credits, deductions, or other forms of favorable tax treatment. Proponents of tax expenditure budgets argue that policy makers should be informed regarding the amount of foregone revenue due to favorable tax treatment received by certain persons, organizations, or economic activities. Opponents of tax expenditure budgets argue that these reports imply that all tax revenue belongs to the taxing jurisdiction and not taxpayers. The Committee discussed whether Utah should adopt a tax expenditure budget and how such a system would be implemented.

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



# STATE WATER DEVELOPMENT COMMISSION

## STATE WATER DEVELOPMENT COMMISSION

### Membership

Sen. Thomas V. Hatch, Senate Chair  
Rep. David Ure, House Chair  
Sen. Gene Davis  
Sen. Mike Dmitrich  
Sen. Peter C. Knudson  
Rep. Craig W. Buttars  
Rep. James R. Gowans  
Rep. Wayne A. Harper  
Rep. Bradley T. Johnson  
Rep. Brad King  
Mr. Larry Andher  
Mr. Tom Christensen  
Mr. Don Christiansen  
Mr. Ivan Flint  
Mr. Tage Flint  
Mr. Chris Fullmer  
Mr. Irvin Haws  
Mr. Dallin Jensen  
Mr. Darrell H. Mensel  
Mr. Bob Morgan  
Ms. Dianne Nielson  
Mr. Cary Peterson  
Mr. Dale Pierson  
Mr. Paul Riley  
Mr. Ron Thompson  
Mr. Thorpe Waddingham

### Staff

J Brian Allred, Policy Analyst  
Jeanenne B. Larson, Associate General Counsel  
Joy L. Miller, Legislative Secretary

### OVERVIEW

The State Water Development Commission was created to determine the State's role in the protection, conservation, and development of Utah's water resources. The Commission is to consider and make recommendations to the Legislature and Governor regarding: 1) how the water needs of Utah's growing municipal and industrial sectors will be met, 2) what the impact of federal regulations and legislation will be on the ability of the State to manage and develop its compacted water rights, 3) how the State will fund water projects, 4) whether the State should become an owner and operator of water projects, 5) how the State will encourage

the implementation of water conservation programs, and 6) other water issues of statewide importance.

## REPORT OF THE GUBERNATORIAL AND LEGISLATIVE TASK FORCE ON ALTERNATIVE REVENUE SOURCES FOR WATER FUNDING

### Background

S.B. 5012 from the 2002 5<sup>th</sup> Special Session created the Gubernatorial and Legislative Task Force on Alternative Revenue Sources for Water Funding to make recommendations on alternative ways to fund water development. The task force report included the following conclusions and recommendations:

- current funding levels will not be sufficient to meet future needs. An estimated \$5.3 billion will be needed in the next 20 years for water quality and drinking water projects and an estimated \$1.7 billion for major water transport projects;
- conservation, education, prudent use of funding sources, and quality planning and coordination can help water managers meet the anticipated needs;
- given significant growth projections and the increasing complexity and lead time in water development, Utah cannot afford to neglect water development;
- rural economic growth depends heavily on state managed water development funding;
- significant synergies can be achieved by better land development codes adopted at the local levels to protect water sources and water infrastructure;
- state and local agencies and affected water users should work through the operational, environmental, and legal ramifications of water reuse so that this high quality water source can be properly utilized;
- current water development appropriations represents a small, but very effective part of the state budget;
- present sales tax funding should be maintained and new funding sources should be explored.

### Action

The Commission considered this issue at its July and September meetings. The Commission recommended that the task force report include a discussion of the importance of agricultural and rural water use, the possibility of increasing the sales tax allocation to water funding, unanticipated future costs, and water reuse. The Commission did not recommend legislation.

### OTHER STUDIES

## **STATE WATER DEVELOPMENT COMMISSION**

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### **Bear River Development and Lake Powell Pipeline**

The Division of Water Resources reported that the estimated cost of the proposed Lake Powell Pipeline from Lake Powell to Sand Hollow would be about \$354 million. Extending the Pipeline to Cedar City would add an additional \$113.6 million. The Division also reported on Bear River development and the Division's modified development plans. The Commission considered this issue at its September meeting but did not recommend legislation.

### **Provo River Canal Enclosure Project**

The Provo River Water Users Association reported to the Commission regarding a proposal to enclose the Provo River Canal. The Association cited benefits such as improved water quality, restored capacity, increased safety, and decreased liability. The Commission considered this issue at its September meeting but did not recommend legislation.

### **Water Conservation**

The Commission received information from the Division of Water Resources regarding the extreme drought conditions Utah is experiencing and the State's water conservation efforts. The goal is to reduce the 1995 per capita water demand from public community systems by at least 25 percent before 2050. The Commission considered this issue at its July meeting but did not recommend legislation.

### TRANSPORTATION INTERIM COMMITTEE

#### Membership

Sen. Dan R. Eastman, Senate Chair  
Rep. Joseph G. Murray, House Chair  
Sen. John W. Hickman  
Sen. Sheldon Killpack  
President Al Mansell  
Sen. Ed P. Mayne  
Rep. Calvin G. Bird  
Rep. Don E. Bush  
Rep. David Clark  
Rep. Marda Dillree  
Rep. John Dougall  
Rep. James A. Dunnigan  
Rep. James A. Ferrin  
Rep. Neil A. Hansen  
Rep. Brad King  
Rep. Todd E. Kiser  
Rep. Rebecca Lockhart  
Rep. Ty McCartney

#### Staff

Benjamin N. Christensen, Policy Analyst  
Shannon C. Halverson, Associate General Counsel  
Wendy L. Bangarter, Legislative Secretary

#### OVERVIEW

The Transportation Interim Committee has responsibility for issues relating to the safe and efficient movement of people and property within Utah. 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 UTA (Utah Transit Authority) relating to public transit issues.

UDOT provides transportation-related services through the construction and maintenance of state highways. UDOT also regulates motor carriers for safety, size, and weight compliance. The *Utah Constitution* requires that the proceeds of any tax or fee related to the operation of a motor vehicle on a highway must be used for highway purposes, excluding costs of collection and administration, driver education, and enforcement of motor vehicle and traffic laws (see Article XIII, Section 5, *Utah Constitution*). Highway user-related taxes and fees are deposited in the

Transportation Fund. Motor fuel and special fuel taxes make up approximately 85 percent of the revenue of the Transportation Fund. There is a statutory cap of \$11.6 million that may be appropriated from the fund to other agencies for tax collection costs and law enforcement (see Section 72-2-103, *Utah Code*). Of the amount remaining in the Transportation Fund, 25 percent is appropriated to counties and municipalities for local roads, using a formula based on weighted road mileage and population (see Sections 72-2-107 and 72-2-108, *Utah Code*). The remaining 75 percent is appropriated to UDOT for state highway construction and maintenance.

The Centennial Highway Fund, created in 1996, consists of appropriations made by the Legislature, a portion of the motor vehicle registration fees, voluntary contributions, and revenues generated by a 1/64 percent sales and use tax rate. This fund may only be used for construction, major reconstruction, or major renovation to state and federal highways (see Section 72-2-118, *Utah Code*). The fund was used for the I-15 reconstruction in Salt Lake County and is being used for other previously unfunded state highway projects throughout the state.

Driver licensing is provided by the Driver License Division of the Department of Public Safety (see Title 53, Chapter 3, Uniform Driver License Act, *Utah Code*). Registration and licensing of motor vehicles are provided by the Motor Vehicle Division of the Utah State Tax Commission (see Title 41, Chapter 1a, Motor Vehicle Act, *Utah Code*). The Motor Vehicle Enforcement Division of the Utah State Tax Commission regulates motor vehicle dealers and enforces vehicle theft statutes (see Title 41, Chapter 3, Motor Vehicle Business Regulation Act, *Utah Code*).

UTA provides public transit services within local political subdivisions that include 70 to 80 percent of Utah's population. UTA is a special district formed by municipalities and counties by a vote of the people authorizing a ¼ percent sales tax dedicated to the district (see Section 59-12-501, *Utah Code Annotated*). On November 7, 2000, voters in Salt Lake, Davis, and Weber Counties approved an additional ¼ percent sales tax to fund light rail extensions, expand bus service, and establish commuter rail. Beginning April 1, 2001, the total sales tax rate for mass transit is ½ percent in those counties. In Salt Lake County, 25 percent of the additional ¼ percent sales tax must be used for improvements to I-

## TRANSPORTATION INTERIM COMMITTEE

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15 (see Section 59-12-502, *Utah Code*). Other transit districts in the State include Cache Valley Transit District, Logan Transit District, Park City Transit District, and Sun Tran Transit Districts (in St. George).

### CLEAN SPECIAL FUEL TAX CERTIFICATE

#### Background

The owner of a vehicle powered by propane, natural gas, electricity, or other clean fuel is required to purchase an annual clean special fuel tax certificate for that vehicle in lieu of paying the 24½ cents per gallon state special fuel tax. The Utah State Tax Commission has reported that it has not found a good method to enforce the purchase of the certificates and relies largely on taxpayer honesty and knowledge of the requirement. In FY 2001, only 938 permits were sold, in FY 2002, 528 permits were sold, and in FY 2003, 1,400 permits were sold. Yet the U.S. Department of Energy estimates Utah has 6,325 alternatively fueled vehicles. If these figures are accurate, certificates are being sold for only roughly 14.5 percent of the vehicles that should have them. The lack of enforcement is partially the result of small statutory changes made over time reducing the Utah State Tax Commission's ability to enforce the requirement.

The cost of the certificate is \$82 per year for a passenger vehicle compared to an average of \$162 paid in fuel taxes for all other registered vehicles. The certificate requirement was enacted in 1973, and the fee was set at \$36 per year for a passenger vehicle. In 1973, the fuel tax rate was 7 cents per gallon and today is 24.5 cents per gallon. Excluding the surcharge, the fee today would be \$126 if the fee were originally linked with the fuel tax rate when the certificate requirement was enacted. Despite four separate increases in the fuel tax rate since 1973, the certificate fee remained at \$36 for 24 years until 1997 when it was linked to the fuel tax rate, which was then 19 cents per gallon. This linkage resulted in an automatic increase of the certificate fee to \$47 when the fuel tax rate was raised to 24.5 cents per gallon in the same year (1997).

Beginning January 1, 2001 through December 31, 2005, a \$35 surcharge was imposed on each certificate, making the total fee \$82 for passenger vehicles and \$126 for large vehicles (vehicles with a gross vehicle weight exceeding 26,000 pounds or vehicles with three or more axles).

#### Action

During the 2002 Interim, the Committee received reports from staff and the Utah State Tax Commission on the history and enforcement of the Clean Special Fuel Tax Certificate. Two options were presented to address enforcement issues: 1) collect the tax at the retail level for any clean fuel practical to tax at that level, including propane and natural gas; or 2) require vehicles that use clean fuels to register as a clean fuel vehicle and bill them for the certificate at the time of registration. The State Tax Commission reported that 484 certificates are currently billed with motor vehicle registrations. The Committee voted to have a working group consider these options. The working group supported making the purchase of a clean special fuel tax certificate a prerequisite to registration. Draft legislation was prepared and recommended by the Committee. During the 2003 General Session, the State Tax Commission indicated that the recommended legislation was not workable and the legislation was withdrawn.

During the 2003 Interim and based on a recommendation of the Tax Commission, draft legislation was prepared to collect taxes on clean special fuel (alternative fuel) at the retail level where federal fuel taxes on alternative fuel are currently collected. Those that benefit from the current certificate collection mechanism have indicated that they do not want to pay more fuel taxes but agree that there should be a way to capture clean fuel taxes from those who are not paying fuel taxes. Representatives of the Clean Cities Coalition proposed that they be given 1 year to study the issue and make recommendations on a process to collect taxes from those who are not paying it.

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

### HIGHWAY FUNDING

#### Background

In 1997, the CHF (Centennial Highway Fund) was created as an 11-year program intended to fund the I-15 reconstruction project in Salt Lake County and several other major construction and reconstruction projects in Utah. The primary funding source through FY 2004 is bonding at 41.3 percent. Recent significant reductions in General Fund dollars going to the CHF will delay several projects and extend the bond payoff period to 2017.

The STIP (Statewide Transportation Improvement Program) is a five-year program of highway and transit projects designed to implement the Long Range Highway Plan. The STIP is funded through state and federal transportation dollars and is the primary ongoing program used to address state transportation needs.

The WFRC (Wasatch Front Regional Council), representing Davis, Morgan, Salt Lake, Tooele, and Weber Counties, is currently updating their Long Range Transportation Plan. Four distinct highway and transit alternatives have been developed based on different funding assumptions. Each funding assumption will require action by the Utah Legislature.

The MAG (Mountainland Association of Governments) representing Summit, Utah, and Wasatch Counties, completed an update to its plan in April 2003.

The Transportation Planning Task Force which was created during the 2003 General Session was assigned to study long range transportation funding needs and make its final report to the Committee by November 2003. The Committee received an update at its July meeting and the Task Force's final report, including a written report, at its November meeting.

### Action

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

## OTHER STUDIES

### Annual State Highway System Changes

As required by Section 72-4-102 *Utah Code*, UDOT annually submits to the Transportation Interim Committee a list of highways that the Transportation Commission recommends for addition or deletion from the state highway system. All recommendations must be based on minimum qualifying standards established by the Commission. This list, along with any fiscal recommendations, is reviewed by the Committee before submission to the Legislature.

The Commission's 2003 recommendations delete SR-308 near Kodachrome Basin State Park from the state highway system, remove a portion of SR-74 in Alpine from the state highway system, and rename SR-666 to SR-491.

The Committee considered this issue at its October meeting and recommended draft legislation "State Highway System Changes."

### Commuter Rail and Light Rail Update

UTA (Utah Transit Authority) purchased 175 miles of rail right-of-way from the Union Pacific Railroad for approximately \$185 million. The right-of-way corridor runs 20 feet wide on the main line between Brigham City and Payson and includes the entire right-of-way along four unused railroad corridors and track rights from Ogden to Brigham City. EIS (Environmental Impact Statements) are underway on a Weber County to Salt Lake commuter rail line and on the West Valley and Mid-Jordan light rail extensions. These EIS studies are expected to be completed in 2004.

The cost of constructing and equipping a commuter rail system from Salt Lake City north to Weber County is estimated to be between \$350 and \$450 million, which includes a portion of the \$185 million paid for the right-of-way. UTA has received grants from the Federal Transit Administration for much of the engineering and environmental work done to date and expects to receive federal funding for a significant portion of the construction. The annual operating cost is estimated to be between \$15 and \$20 million. Construction could begin in 2005 with a projected completion date in 2007.

The 1.5 mile light rail extension from Rice Eccles Stadium to the University Medical Center, which began construction May 20, 2002, was completed and began service September 29, 2003, a year ahead of schedule. The \$89.4 million extension project cost includes adding seven TRAX cars, which will make a total of 40 TRAX cars in UTA's fleet.

The Committee received an update on this issue at its June meeting but did not recommend legislation.

### DUI (Driving Under the Influence)

Under Section 41-6-43.7 *Utah Code*, the Commission on Criminal and Juvenile Justice is required to prepare and provide an annual report of DUI-related data collected and maintained by the courts to allow sentencing and penalty enhancement decisions for repeat DUI offenders. The report must include any measures for which data is available to evaluate recidivism and DUI-related processes.

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The DUI Committee of the Utah Substance Abuse Anti-Violence Coordinating Council has recommended draft legislation to more readily identify repeating DUI offenders. The draft legislation requires a prosecutor with felony jurisdiction to approve pleas to a potential felony DUI charge and allows a plea which is held in abeyance and is subsequently reduced or dismissed to be considered a conviction for purposes of enhanced penalties and expungement.

The Committee received the Annual DUI Report to the Legislature, considered these issues at its October and November meetings, and recommended draft legislation, "Driving Under the Influence Amendments."

### **Driver License Requirements**

In recent years, Utah's policy on driver licensing has been criticized for:

- not requiring that an applicant show proof of legal presence in the United States; and
- allowing the use of an ITIN (temporary identification number issued by the IRS) in lieu of a Social Security number for some driver license applicants.

Utah has never checked applicants for legal presence. Since 1999, Utah has allowed the use of an ITIN, which is a number issued by the Internal Revenue Service for tax purposes to workers who do not qualify for a Social Security Number. Utah driver licenses are issued to ensure that motorists share the highway with only qualified drivers. A Utah driver license also provides a valid personal identification by requiring the applicant to show proof of name, birth date, birthplace, and Social Security Number or ITIN.

Critics argue that Utah should require proof of legal presence in the United States before issuing a driver license because a driver license allows illegal aliens to gain other benefits, often illegally. Supporters of the current law argue that an applicant should be issued a license if the applicant qualifies (age, training, knowledge, skills, and medical fitness) for a driver license and can show proof that they are who they say they are. They also argue that a licensed driver will be more likely to comply with other laws, including obtaining required motor vehicle insurance, and that driver licensing was not meant as a means to enforce immigration laws.

The Committee received a staff report on this issue at its May meeting but did not recommend legislation.

### **Electronic Traffic Enforcement**

Red light cameras and photo radar are two electronic traffic enforcement mechanisms that have been used throughout the country, with mixed results. The Utah Legislature has addressed both mechanisms in the past. A red light camera bill was introduced in 1998, but did not pass. Approximately 15 states and 68 communities use red light camera enforcement where a photo of a vehicle in violation of a traffic-control signal law is automatically produced and mailed with a citation to the registered owner of the vehicle.

Utah photo radar provisions were enacted in 1991, and amended with additional restrictions in 1996. Wisconsin and New Jersey prohibit the use of photo radar, and 17 states, including Utah, authorize its use. Utah law allows photo radar only:

- in school zones or areas with a posted speed of 30 mph or less;
- when a peace officer is present;
- when a sign is posted giving notice that photo radar may be used;
- when a local authority's governing body has approved the use of photo radar; and
- when the photo accompanies the citation in the mail.

The Committee received a staff report on this issue at its July meeting but did not recommend legislation.

### **HOV (High Occupancy Vehicle) Lanes**

In May 2001, HOV lanes were introduced in Utah as part of the reconstruction of the I-15 Corridor project in Salt Lake County. HOV lanes are designed to increase people-moving capacity by offering ride sharers travel incentives, including reduced travel time and more reliable and predictable travel time.

Initially, only buses, motorcycles, and vehicles under 12,000 pounds, with two or more passengers, were allowed to use the HOV lane. In October 2001, legislation became effective allowing single occupant vehicles with clean fuel special group license plates in the HOV lane. A study request was made for allowing individuals or shuttle service providers to purchase a permit to use the HOV lane. UDOT must apply for and receive authorization from the Federal Highway Administration in order for the State



to sell permits, allowing single occupant vehicles to use the HOV lane. The application must be part of a value-pricing pilot program. Since HOV pricing is considered a significant operational change from the original project design, an analysis is required addressing plans and justifications for the change. Value-pricing for HOV lane use is allowed in only a few jurisdictions and is usually associated with existing or planned toll-road facilities. UDOT indicates more time is needed to allow HOV lanes to mature in Utah.

The Committee received a staff presentation on this issue at its April meeting but did not recommend legislation.

### **Legacy Parkway Update**

In March 1991, a Wasatch Front Regional Council study of the North I-15 Corridor recommended construction of the West Davis Highway (now Legacy Parkway), from I-215 to Farmington. The Final EIS for this 14-mile project was completed in July 2000, and approval was received from the Federal Highway Administration on October 31, 2000 and from the U.S. Army Corps of Engineers on January 9, 2001. On the same day, UDOT gave the design/build contractor, FAK (Fluor-Daniel), a notice to proceed. The project is a 14-mile stretch of two-lane highway in each direction designed to provide an alternate roadway for northern Utah commuters between North Salt Lake and Farmington. It includes a pedestrian/equestrian/bike path the entire length of the parkway, a 2,098-acre nature preserve designed to preserve wetlands, buffer development, and ensure a habitat for wildlife. The cost of the project was \$451 million and was originally expected to be completed in the fall of 2004.

A majority of the construction of the Legacy Parkway has been halted since November 16, 2001, due to an injunction issued by the U.S. 10<sup>th</sup> Circuit Court of Appeals in Denver. On September 16, 2002 the court issued a decision which ordered further environmental analysis by UDOT, the Federal Highway Administration, and the U.S. Army Corps of Engineers. These agencies are preparing a supplemental environmental impact statement, which is expected to be completed in the summer of 2004. The North interchange work on Park Lane (formerly Burke Lane) and Shepard's Lane is continuing. UDOT incurred \$17 million in suspension costs due to the court injunction. If the supplemental EIS is approved in the summer of

2004, UDOT will re-advertise the Legacy Parkway project, and begin construction as soon as possible.

Currently, the Legacy Parkway Project is approximately 33 percent completed, which means:

- 90 percent of the right-of-way has been purchased;
- 87 percent of the design has been completed;
- 42 percent of the right-of-way has been cleared and stripped; and
- 34 percent of the right-of-way has received fill dirt.

The Committee received an update on this issue at its May meeting but did not recommend legislation.

### **Motor Vehicle Code Revisions**

The MUTCD (Manual on Uniform Traffic Control Devices for Streets and Highways) was adopted by the Federal Highway Administration and accepted as the nationwide standard specifications for traffic-control devices used on highways. Section 41-6-20 *Utah Code*, requires UDOT to make rules adopting a manual establishing specifications for a uniform system of traffic-control devices on highways. The manual must correlate and, where possible, conform to the MUTCD and other standards issued by the federal highway administrator. Recently, UDOT appointed a committee to identify discrepancies between the Utah Traffic Code and the MUTCD and provide recommendations for changes to the *Utah Code*.

The Committee considered this issue at its May and November meetings and recommended draft legislation "Motor Vehicles Code Revisions."

### **Motor Vehicle Title and Registration**

The Committee held a hearing on draft legislation requested by the Utah State Tax Commission at the November meeting and recommended "Motor Vehicles Title and Registration Amendments."

### **Scenic Byway Designation Process**

Under the National Scenic Byways Program, the U.S. Secretary of Transportation recognizes certain roads based on their archeological, cultural, historical, natural, recreational, and scenic qualities. Scenic byways have official roadside designations, are designated on official highway maps, and are eligible for special federal funds. Federally designated scenic byways also come with restrictions on outdoor advertising. Nominations to include a road as a scenic byway must be made through a state's

## TRANSPORTATION INTERIM COMMITTEE

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official scenic byway agency. The Utah State Scenic Byway Advisory Committee has been used to designate scenic byways for Utah. At its June 11 meeting, the Administrative Rules Committee referred this issue to the Transportation Interim Committee, because statutory language establishing the advisory committee, a process to designate scenic byways, and rulemaking authority does not exist in Utah law.

The Committee considered this issue at its September and November meetings, and recommended draft legislation "Utah State Scenic Byway Committee."

### **Street-legal All-terrain Vehicles and Four-wheel Motorcycles**

During the 2003 General Session, H.B. 138 "Street-Legal All-Terrain Vehicle Provisions" was introduced but did not pass. The bill allowed ATVs that are manufactured for highway use and modified conventional ATVs to be used on highways where speed limits are 45 miles per hour or less. Current Utah law allows local officials to specify local highways which lead to ATV trails as open for ATV use. Arizona allows ATVs on highways without restrictions. However, a state-issued brochure, "Arizona All-Terrain Vehicle Laws," clearly states: "With proper registration, riding an ATV on a paved road is not illegal, but it is unsafe." Experts agree ATVs are not designed to be operated on a paved surface. They are difficult to maneuver and the danger of an accident increases. In addition, low pressure tires on ATVs are not safe at high speeds on paved surfaces. Proponents of expanding allowable ATVs' use of the highway argue that ATVs: provide much more freedom, are safer than motorcycles and scooters, are more affordable than motor vehicles, are less polluting than motor vehicles, and are convenient for emergencies and neighborhood watch programs.

The Committee received a staff presentation, heard public testimony, discussed H.B. 138 "Street-legal All-terrain Vehicle Provisions," and considered draft legislation:

- "Off-highway Vehicle Route Designations," which expands the highways that local officials may designate for ATV use; and
- "Street-quad Provisions," which allows four-wheeled motorcycles on the highway if they are manufactured for highway use.

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

### **Studded Snow Tires on Highways**

Because studs on snow tires cause extra wear to highway surfaces, the State restricts their use. Section 41-6-150 *Utah Code*, allows a vehicle that is not in excess of 9,000 pounds to have tungsten carbide studs during winter months from October 15 through March 31, if the studs protrude no more than .050 inches beyond the tire tread. Emergency vehicles and school buses are exempt from the weight limitation. Tire chains are allowed when needed for road conditions. Studded snow tires provide improved traction and stopping ability on untreated icy roads at near freezing temperatures, but require a longer stopping distance on wet or dry pavement. Twenty-seven states, including Utah, allow studded snow tires only during winter months. Eleven states allow studded snow tires, but do not have a winter month restriction. Seven states prohibit studded snow tires. UDOT's preference would be to ban the use of studded snow tires or further limit their use.

The Committee received a staff presentation on this issue at its April meeting but did not recommend legislation.

### **Vehicle Safety Inspections**

A motor vehicle safety inspection is a prerequisite to registering a motor vehicle in Utah. For motor vehicles that are eight or more years old, safety inspections are required each year. For motor vehicles that are less than eight years old (based on model year) safety inspections are required every other year. In even years, even model year vehicles must be inspected and in odd years odd model year vehicles must be inspected. In August 2001, the Legislative Auditor General provided an informal letter report on "Utah's Safety and Emission Testing of Newer Vehicles." Current surveys indicate Utah is one of 19 states that requires periodic safety inspections and the only one among western states. Under Utah's program, the Utah Highway Patrol is also required to inspect each school bus in the state twice each year. The Legislature frequently considers exempting newer vehicles from safety inspections, increasing safety inspection enforcement on highways, or eliminating Utah's safety inspection program as policy options.

The Committee received a staff presentation and an agency presentation on this issue at its June meeting but did not recommend legislation.

# TRANSPORTATION PLANNING TASK FORCE

## TRANSPORTATION PLANNING TASK FORCE

### Membership

Sen. Carlene M. Walker, Senate Chair  
Rep. Rebecca D. Lockhart, House Chair  
Sen. David L. Gladwell  
Sen. Karen Hale  
Sen. Sheldon L. Killpack  
Sen. John L. Valentine  
Rep. J. Stuart Adams  
Rep. Craig W. Buttars  
Rep. John Dougall  
Rep. Neil A. Hansen  
Rep. Neal B. Hendrickson  
Rep. Todd E. Kiser

### Staff

Benjamin N. Christensen, Policy Analyst  
Shannon C. Halverson, Associate General Counsel  
Joy L. Miller, Legislative Secretary

### Overview

H.B. 310 "Transportation Planning Task Force," which passed during the 2003 General Session, created a 12-member legislative task force to review, make recommendations, and report on the following issues:

- the transportation needs for Utah in the next 10 and 20-year time frames;
- the current transportation revenues and their future projections;
- alternative transportation revenue mechanisms available or currently in use around the country;
- effects of transportation systems on communities and neighborhoods; and
- alternative modes to meet transportation needs.

The final report, including any proposed legislation, was presented to the Transportation Interim Committee in November 2003. The Task Force was repealed November 30, 2003.

### Background

The importance of transportation infrastructure to Utah's economy and the general well-being of its citizens is difficult to overstate. Matching resources available for transportation needs are continuing challenges of each successive legislature and state, regional, and local officials. Key background information in the debate include the following:

### Transportation Needs

UDOT (Utah Department of Transportation) and the MPOs (Metropolitan Planning Organizations) are required to develop a fiscally constrained long range plan to address transportation needs. Current planning efforts extend to the year 2030 and total highway needs through the year 2030 exceed \$22.6 billion. Including projected revenue growth due to population and a continuation of annual General Fund contributions of approximately \$60 million through FY 2017, current revenue streams will fund approximately 38.5 percent of the \$22.6 billion in highway needs or \$8.7 billion through the year 2030. That leaves approximately \$13.9 billion in identified highway needs that are not funded with current revenue streams. On an annual basis, that is \$515 million in unfunded highway needs for the next 27 years. Through FY 2004, only \$1.76 billion (or an average of approximately \$220 million annually in new revenues) have been raised for the CHF (Centennial Highway Fund) program which is now in its eighth year. These calculations do not include an estimated \$7.38 billion that will be needed in the next 27 years for capitol improvements needs in Utah's public transit districts.

| 2030* Transportation Needs<br>(Reconstruction, Major Rehabilitation, and<br>Capacity Improvements) |                         |
|--|-------------------------|
| WFRC MPO   | \$10,899,700,000        |
| MAG MPO  | 4,440,100,000           |
| Cache MPO  | 426,800,000             |
| Dixie MPO  | 426,700,000             |
| UDOT Non-MPO   | 6,477,743,000           |
| <b>Total</b>   | <b>\$22,671,043,000</b> |

\*The amounts listed for the Cache and Dixie MPOs are funding distribution estimates. Long Range Plans for these organizations have either not been updated for several years (Cache), or not been developed (Dixie).

WFCA (Wasatch Front Regional Council)  
MAG (Mountainlands Association of Governments)

Source: UDOT 11/12/2003

## TRANSPORTATION PLANNING TASK FORCE

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### Centennial Highway Fund

In 1997, the CHF (Centennial Highway Fund) was created as an 11-year \$2.4 billion program of highway projects. The CHF was used to fund the \$1.56 billion I-15 reconstruction project in Salt Lake County and it is being used to fund 40 other major highway construction and reconstruction projects throughout the state. The initial plan would have provided a \$1.9 million deficit at the end of FY 2007. However, current projections show the deficit will be closer to \$1.4 billion at the end of FY 2007. Under current revenue sources the CHF debt will be paid-off in FY 2017, ten years later than planned. This delay jeopardizes a growing list of other needed highway projects that are not on the CHF list. At least four factors have contributed to this situation:

- 1) \$956 million in increased project costs were added with no additional funding;
- 2) General Fund contributions have not been made as initially planned resulting in:
  - additional bonding (i.e. \$1.2 billion in bonding and \$517 million additional in interest and issuance costs),
  - a disruption of planned cash flow, and
  - planned General Fund contributions being used for other state needs during recent years of state budget shortfalls;
- 3) the initial project costs estimates were not complete and underestimated the cost of the projects due to the lack of project scope, hasty development of the list, and unclear understanding of project expectations; and
- 4) the initial revenue package was overly optimistic (e.g. \$200 million in savings from UDOT efficiencies).

Additional bonding was added to the CHF in response to a lack of current revenue in the plan. The initial CHF plan for \$563 million in bonding included a net interest and other bonding costs of \$200 million. Instead \$1.8 billion in bonding will be needed with net interest and other bonding costs projected to be \$717 million. The increased cost associated with increased bonding and paying off ten years later than originally planned will cost an extra \$517 million.

Other key background information provided in the task force report include:

#### CHF (Centennial Highway Fund)

- CHF was needed to accomplish key highway improvements throughout the state.

- Using the CHF as a state rainy day fund jeopardizes the state's ability to address additional highway needs.

#### New Revenue

New revenue for highway and transit is needed. The Legislature must address this need and consider:

- a shift in state budgets to transportation;
- registration fees;
- drivers license fees;
- fuel taxes;
- impact fees;
- sales taxes attributed to transportation related products;
- general sales taxes;
- taxes on hotel rooms; and
- fees on rental cars.

#### Local Highway Authority Participation

- Counties and municipalities are partners with the state in providing a viable highway and transit system.
- A renewed emphasis in that partnership is needed to find shared transportation solutions.

#### Joint Transportation Planning

- Cooperative transportation planning is essential.
- Recent progress toward joint transportation planning should continue

#### Transportation Project Selection

- Transportation project selection is best done without political influence.
- Criteria based project selection is most likely to result in the most optimal use of taxpayer dollars.

#### State Highway Maintenance

- Highway maintenance must never be neglected.
- Maintaining the current highway system should be UDOT's first priority.

#### Congestion Mitigation Alternatives

- The State cannot build its way out of its transportation problems.
- Optimizing the existing transportation systems and reducing demand on those systems may one day be the only viable option.

#### **Action**

The Task Force studied these issues, heard testimony from key transportation representatives, and prepared and formally adopted a report which includes findings, recommendations, background, appendices containing a list of highway projects that make up the \$22.6 billion in needs through 2030 and other handouts used by the Task Force, and three draft bills it recommended.

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The Task Force considered these issues at its May, June, July, August, September, October, and November meetings and recommended draft legislation:

- "Joint Transportation Planning Amendments";
- "Guidelines for Local Matching Dollars for Transportation Projects"; and
- "Transportation Planning Task Force Reauthorization."



## UTAH TAX REVIEW COMMISSION

### Membership

Mr. M. Keith Prescott, Chair  
Mr. David J. Crapo, Co-chair  
Sen. Ron Allen  
Sen. Lyle W. Hillyard  
Rep. Judy Ann Buffmire  
Rep. Greg J. Curtis  
Mr. Lawrence R. Barusch  
Mr. Mark K. Buchi  
Mr. Gary Cornia  
Ms. Janice Dabno  
Ms. Kathleen Howell  
Commissioner Bruce Johnson  
Mr. Bruce Jones  
Mr. Dixie Leavitt

### Staff

O. William Asplund, Assistant Director  
Bryant R. Howe, Policy Analyst  
Rebecca L. Rockwell, Associate General Counsel  
Thad Levar, Associate General Counsel  
Clark Asay, Research Assistant  
Sandra Wissa, Legislative Secretary

### OVERVIEW

The TRC (Utah Tax Review Commission), established by law, provides an ongoing review of Utah's tax system and recommends changes on specific tax issues and policy. Members include legislators and private citizens.

### REVIEW OF SALES TAX EXEMPTIONS

#### Background

TRC is required by *Utah Code* Section 59-12-104.5 to review each of the sales and use tax exemptions created by Section 59-12-104 one or more times every eight years. TRC reviewed the sales and use tax exemptions relating to federal government food programs and those relating to agriculture production. Testimony was received from the State Tax Commission, the Utah Farm Bureau, and the Retail Grocer's Association.

#### Action

TRC considered exemptions for purchases made under the Federal Food Stamp Program and the WIC program at its May meeting and voted to retain these exemptions. TRC considered the exemptions relating to agricultural

production at its October 24 and November 14 meetings and recommended draft legislation "Sales and Use Tax Agricultural Exemptions."

### THE TAX EXEMPTIONS PROVIDED TO NONPROFIT HOSPITALS, NONPROFIT NURSING HOMES, MUNICIPAL POWERSYSTEMS, GOVERNMENT-OWNED RECREATIONAL FACILITIES, AND GOLF COURSES

#### Background

During the 2002 General Session, the Legislature enacted S.J.R. 6 "Resolution Urging a Study of Certain Exemptions." This resolution directed TRC to study the tax-exempt status of nonprofit hospitals, nonprofit nursing homes, municipal power systems and government-owned recreational facilities. The TRC was directed to determine the cost of each exemption, the purpose and effectiveness of the exemption, whether the exemptions benefit the state, whether they result in unfair competition compared to taxable entities, and whether they should contribute more to public or higher education. TRC was asked to determine whether the exemptions should be continued, modified, or repealed.

#### 1) Nonprofit Hospitals

IHC (Intermountain Health Care), a nonprofit organization, operates several hospitals in Utah and controls 56 percent of the inpatient hospital market. It also operates several other health care related enterprises outside the scope of TRC's review. The University of Utah also owns and operates a nonprofit hospital.

TRC received testimony from IHC, investor-owned hospitals, and others regarding IHC's tax exempt status. TRC also compared the prices charged by IHC hospitals to prices charged by investor-owned hospitals. It then reviewed the cost of the exemptions and the taxes paid by investor-owned hospitals.

Tax exemptions are granted to charitable organizations to assist them in providing essential community services. TRC reviewed the value of hospital charity care provided by IHC Hospitals and compared this to the charity care provided by investor-owned hospitals.

#### 2) Nonprofit Nursing Homes

A questionnaire was sent to nursing homes asking them to report on taxes paid, value of tax exemptions granted, and charity care provided. This information was compiled

## UTAH TAX REVIEW COMMISSION

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for both nonprofit and for-profit nursing homes by dollar size of their operations and presented to TRC. Testimony was then received from the industry.

### 3) Municipal Power Systems

Utah has forty municipal power systems. TRC compared property tax rates in similarly sized cities, where one had municipal power and the other did not. Typically property tax rates were lower in cities with municipal power. Transfers of funds from the municipal power fund to the general fund help explain this difference. TRC also surveyed municipal power systems on their operations, the value of their tax exemptions, transfers to and from the general fund, customers served, and other relevant data. PacifiCorp, Utah's largest private provider of power, also provided information. TRC also gathered information on municipal power systems' power generation and their proposals to expand generating capacity.

### 4) Government-Owned Community or Other Recreational Facilities

Government-owned recreational facilities and golf courses are found throughout the state. The State owns four golf courses and two more are under construction.

Recreational facilities and golf courses are owned, operated, and being built by county, city, and special service districts. Information on these operations was collected by survey. A map of the location of public and private recreational facilities in Salt Lake County was created. Testimony from public and private facilities was received.

### Action

#### 1) Nonprofit Hospitals

TRC approved a motion expressing concern about competition between entities in the hospital industry, but that it was not primarily a tax issue. It may be a business or insurance issue that the Legislature may need to address.

Since it was clear that no uniform method is employed to value hospitals, TRC authorized a working group to establish a uniform method that can articulate hospitals' ad valorem values. The test for tax exemption found in Tax Commission rules could then be accurately applied.

#### 2) Nonprofit Nursing Homes

The TRC review of nursing homes found little uniformity in the administration of property tax exemptions. The self-reporting survey showed little evidence of charity care being provided by nonprofit nursing homes receiving the exemption. TRC sent a letter to the Tax Commission asking it to review the situation and to report back to TRC their findings in May 2004.

### 3) Municipal Power

Since providing power is a municipal option and the dollars that would be collected from changing the structure were not large, TRC felt the system should not be changed. The production of power by municipal systems was a matter of extensive debate, but since a negotiated payment of in-lieu fees was enacted in the 2003 session of the Legislature, TRC voted to not alter the present situation, though the vote was not unanimous.

### 4) Government-Owned Community or Other Recreational Facilities

TRC recognized that private recreational facilities are feeling the competition from those owned by government. However, TRC was told that the competitive advantage does not come primarily from the tax situation, but rather from general fund subsidies and government's ability to raise cheap capital. It would take a constitutional amendment to levy property taxes on these government-owned facilities, and TRC felt this was not the time to recommend that kind of change.

This study was the major focus of TRC and was considered at all of its meetings. A final report was presented to the Revenue and Taxation Interim Committee at its November meeting.



### UTAH TECHNOLOGY COMMISSION

#### Membership

Sen. Beverly Ann Evans, Chair  
Rep. David Clark, Chair  
Sen. Karen Hale  
Sen. David L. Thomas  
Rep. Brad Dee  
Rep. John Dougall  
Rep. Brent H. Goodfellow  
Rep. Neal B. Hendrickson  
Mr. Daniel J. Becker  
Mr. David Harmer  
Mr. Val Oveson  
Mr. Richard Siddoway  
Dr. Gary S. Wixom

#### Staff

Richard C. North, Policy Analyst  
Cathy Dupont, Associate General Counsel  
Wendy Bangerter, 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.

#### ASSESSMENT - INFORMATION TECHNOLOGY ORGANIZATIONAL INFRASTRUCTURE

##### Background

Sweeping changes in information technology since the mid-1990s have raised issues regarding governmental information technology organizational infrastructure. The primary concern in states nationwide is whether existing

information technology organizational infrastructure should be assessed for changes to address future needs.

Utah's existing information technology organizational infrastructure has its roots beginning in the 1970s. Over the 1980s and 1990s, consolidation of telecommunications and data processing resulted in the Division of Information Technology Services which provides centralized technology goods and services. The executive branch over that time period has, consistent with nationwide trends, transitioned from the mainframe delivery of information technology to decentralized personal computer networks. With the recent advances in network technology and centralized delivery capabilities, the issue of effective organizational infrastructure for managing this process is being reviewed nationwide.

##### Action

The Commission received reports and heard testimony regarding the importance of assessing current organizational structures for the purpose of making appropriate needed changes. A working group was created to develop a request for proposal (RFP) for presentation to the Legislative Management Committee.

The Commission considered this issue at its September and November meetings and recommended that a final RFP be developed.

#### IDENTITY THEFT

##### Background

In conjunction with the growth of the Internet, which can provide access to personally identifiable information, the crime of identity theft has increased. This crime usually involves the unauthorized use of another person's personal information for the purpose of fraudulently obtaining money or goods.

Utah is among several states with a high rate of identity theft of more than 60 victims per 100,000 population members.

##### Action

The Commission received reports and heard testimony during a panel discussion on the topic of identity theft.

## UTAH TECHNOLOGY COMMISSION

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The Commission considered this issue at its August and November meetings and recommended draft legislation "Identity Theft Amendments."

### INFORMATION TECHNOLOGY PERSONNEL , PROCUREMENT AND RATE SETTING PRACTICES

#### Background

At issue are three information technology related practices: the use of capital acquisition authority for the on-going procurement of information technology equipment and software, personnel selection, compensation, and rate-setting. These issues arise out of two Legislative Audits conducted over 2002-03 identifying problems that warrant further study and possible statutory changes.

#### Action

The Commission reviewed the audits and heard testimony from the Legislative Auditor General and from the agency being audited.

The Commission considered these issue at its June, July, September, October, and November meetings and recommended legislation "Amendments to Administrative Service Rate Committee," "Carryover of Authorized Capital Outlay Amendments," and "Information Technology Procurement Amendments."

### INFORMATION TECHNOLOGY STRATEGIC PLANS

#### Background

The state's CIO (Chief Information Officer) is statutorily required to annually prepare an information technology strategic plan for presentation to the Utah Technology Commission. The plan is to highlight current and projected uses and management of information technology.

#### Action

The Commission received a report and heard testimony from the CIO regarding the executive branch strategic plan which included future organizational management goals and structures.

The Commission considered this issue at its July meeting 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 aspect of technology in Utah and are dedicated to enhancing state support for Utah's technology industries.

#### Action

The Commission and the Council met jointly to hear reports and discuss how the State could assist Utah's technology industries. The two primary issues discussed involved creating greater flexibility for programs managed by the Department of Community and Economic Development that attract and incubate technology business and funding for technology incubation and commercialization.

The Commission considered these issues at its August, October, and November meetings and recommended legislation be drafted to implement the administrative program flexibility and funding. The Commission also approved sending a letter to legislative leadership and the Constitutional Revision Commission supporting a revision to the Utah Constitution allowing state educational and business entities to take equity positions in exchange for licensing rights.

## UTAH TELEHEALTH COMMISSION

#### Background

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

#### Action

The Commission heard testimony from telehealth providers regarding the need for updating its name and expanding the interactive network.

The Commission considered this issue at its November meeting and recommended a letter be sent to the Executive Appropriation Committee indicating the Commission's support for a \$150,000 appropriation for the Utah Telehealth Commission's programs. The Commission

recommended draft legislation "Utah Telehealth Commission Amendments."

## **OTHER STUDIES**

### **Electronic Waste**

The Commission reviewed the growing problem of computer related electronic waste. With the continual need for upgrading equipment, the issue of how to dispose or recycle electronic waste by government and private sector entities is critical. Legislative and executive branch options for the disposal of electronic waste were also discussed. The Commission considered this issue at its June meeting but did not recommend legislation.

### **Legislative Information Technology Services**

The Commission received a report on the type of information technology services the Legislature currently uses such as bill calendars, email, and Internet access. Future options involving real time public access to meetings and chamber proceedings were also discussed. The Commission considered this issue at its June meeting but did not recommend legislation.

### **Network / Computer Security**

The Commission received presentations from the Chief Information Officer and the Security Users Group regarding the State's strategic plan for security. The need for user awareness and observing security protocols were emphasized. The Commission considered this issue at its August meeting but did not recommend legislation.

### **Utah Communications Network**

The Utah Communications Network is a statutory entity created to develop a universal statewide communications network. It is designed to be a joint project between state and local governments that will provide public safety and others government entities clear communication channels. The Commission received a report on the Network's progress in this joint project. The Commission considered this issue at its September meeting but did not recommend legislation.



### UTAH TOMORROW STRATEGIC PLANNING COMMITTEE

#### Membership

Sen. Beverly Ann Evans, Senate Chair  
Rep. Merlynn T. Newbold, House Chair  
Sen. Paula F. Julander  
Sen. Bill Wright  
Rep. Ann W. Hardy  
Rep. Patricia W. Jones  
Mr. Daniel J. Becker  
Commissioner Kenneth A. Bischoff  
Mr. Kim R. Burningham\*  
Mr. Wes Curtis  
Mr. Rich Kendell  
Mr. Bob Morgan  
Mr. Gene Moser\*  
Ms. Dianne Nielson

\* non-voting members

#### Staff

Mark B. Steinagel, Policy Analyst  
James L. Wilson, Associate General Counsel  
Sandra Wissa, Legislative Secretary

#### OVERVIEW

The Utah Tomorrow Strategic Planning Committee, established by the Legislature in 1990, directs an ongoing and comprehensive strategic planning process to enable Utahns to focus on and achieve a single set of goals for the future. During the 1990 Interim, the Committee developed a vision statement describing where Utahns would like the State to be in 20 years and focused the broad goals of the vision statement into specific, measurable objectives. The first draft of these goals was created by ten task forces whose total participation included more than 350 citizens.

In subsequent years, the Committee continued to refine the vision statement, goals, and performance measures in a cooperative effort with state agencies and departments. The Committee has also strengthened ties with different branches and levels of government in implementing the goals of the Utah Tomorrow Strategic Plan. The Legislature, Governor's Office, executive branch agencies, judicial branch, and local governments combined their efforts to refine the goals and measures.

The Committee continues to emphasize performance measurement and data collection in cooperation with the Governor's Office of Planning and Budget. Executive departments and local governments play a key role in the implementation of statewide strategic goals—their involvement is critical to its success.

#### PUBLICATION OF REPORT

##### Background

The Committee reviewed drafts of the report and report appendices and approved them for publication.

##### Action

The Committee reviewed and approved these items at its June, July, and August meetings and published the Utah Tomorrow Report in September.



# WORKFORCE SERVICES AND COMMUNITY AND ECONOMIC DEVELOPMENT INTERIM COMMITTEE

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## WORKFORCE SERVICES AND COMMUNITY AND ECONOMIC DEVELOPMENT INTERIM COMMITTEE

### Membership

Sen. Scott K. Jenkins, Senate Chair  
Rep. David N. Cox, House Chair  
Sen. Karen Hale  
Sen. David L. Thomas  
Sen. Carlene Walker  
Rep. Jeff Alexander  
Rep. Brent H. Goodfellow  
Rep. Gregory H. Hughes  
Rep. Dana C. Love  
Rep. Steven R. Mascaro  
Rep. Karen W. Morgan  
Rep. LaWanna "Lou" Shurtliff  
Rep. Peggy Wallace

### Staff

Mark B. Steinagel, 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 purview expanded to include the Department of Community and Economic Development. The change allows the Committee to comprehensively address business development programs and opportunities, as well as other issues facing Utah's workforce.

## EMPLOYMENT SECURITY MODIFICATIONS

### Background

Utah's unemployment insurance program provides a source of income to citizens who are laid off from their jobs. The process for determining benefit limits, eligibility, and fraud is complex. To track this information, the Department of Workforce Services gathers wage data and verifies the income levels of benefit recipients as the recipients search for new employment. Some recipients believe that the Department's penalties for people who unknowingly commit fraud are too punitive and should be reduced. This and other proposed changes were explained by the Department.

### Action

The Committee discussed this issue at its October meeting and recommended draft legislation "Employment Security Modifications."

## UNEMPLOYMENT COMPENSATION - SOCIAL SECURITY BENEFITS OFFSET

### Background

Utah's elderly citizens who receive unemployment benefits have those benefits reduced by the amount of Social Security income they receive. Utah is one of three states that completely offsets unemployment insurance benefits by the amount of Social Security an individual receives. The other 47 states either do not have an offset for Social Security, or they only partially offset it.

### Action

The Committee considered this issue at its October meeting and recommended draft legislation "Unemployment Insurance Benefits – Social Security Benefits Offset."

## UTAH COMMISSION ON VOLUNTEERS - SUNSET REVIEW

### Background

The Utah Commission on Volunteers was established in February of 1994 and is set to expire this year if it is not re-authorized. Its purpose is to improve Utah communities through service and volunteerism. The Commission has three basic responsibilities: to administer Corporation for National and Community Service programs, to oversee

## WORKFORCE SERVICES AND COMMUNITY AND ECONOMIC DEVELOPMENT INTERIM COMMITTEE

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America's Promise efforts in Utah, and to provide technical support to Utah's Volunteer Centers. The Commission consists of 25 members appointed by the Governor.

### Action

The Committee reviewed the Commission at its June meeting and recommended re-authorization of the Utah Commission on Volunteers for an additional 10 years.

## UTAH VENTURE CAPITAL ENHANCEMENT ACT

### Background

Utah companies generate many good concepts that are moved or sold out-of-state due to a lack of venture capital investment in Utah. Utah's Venture Capital Enhancement Act was passed in the 2003 General Session to encourage investment in Utah's startup companies so they would remain in Utah as they become mature companies. The act has not been implemented because of concerns expressed by the state auditor and others.

### Action

The Committee considered this issue at its July, September, and November meetings and recommended draft legislation "Utah Venture Capital Enhancement Act Amendments," which passed in the 2003 2<sup>nd</sup> Special Session.

## OTHER STUDIES

### Employment Support Act Amendments

Certain sections of the Employment Support Act are no longer necessary including a section that administered one-time funds from the federal government. The Committee considered this issue at its July and November meetings and recommended draft legislation, "Employment Support Act Amendments."

### Federal Welfare Program Re-authorization

Welfare programs, such as TANF (Temporary Assistance for Needy Families), must be renewed this year in Congress or they will expire. The Committee considered this issue at its September meeting but did not recommend legislation.

### Office of Child Care Simplification Study

The Office of Child Care is studying child care policies in Utah with the goal of simplifying subsidized child care processes for parents, advocates, state employees, and providers. The Committee discussed this issue at its September meeting but did not recommend legislation.

### SUTA (State Unemployment Tax Avoidance) Dumping

SUTA dumping is the practice of circumventing or manipulating a state's unemployment insurance experience rating system to qualify for a reduced tax rate by moving or eliminating unemployment insurance benefit charges from the employer's tax rate calculation. SUTA dumping can result in the state increasing unemployment insurance tax rates for all employers. The Committee discussed this issue at its November meeting but did not recommend legislation.

### Tourism Funding Initiative

Tourism officials in Utah would like to find ways to increase funding for tourism promotion at the state level. The Committee discussed this issue at its May, June, and November meetings but did not recommend legislation.

### Unemployment Insurance for the Self-Employed

Unemployment insurance laws do not apply to the self-employed in many circumstances. The Committee discussed this issue at its May and June meetings but did not recommend legislation.