

2004 LEGISLATIVE INTERIM REPORT

A report to the 56th Legislature on recommended
legislation and studies from the 2004 Legislative Interim
Committees



OFFICE OF LEGISLATIVE RESEARCH AND GENERAL COUNSEL

Utah State Legislature

2004 LEGISLATIVE INTERIM REPORT

A report to the 56th Legislature
on recommended legislation and studies
from the 2004 Legislative Interim Committees

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INTRODUCTION AND ACKNOWLEDGMENTS

INTRODUCTION

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

ACKNOWLEDGMENTS

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

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SUMMARY OF RECOMMENDED LEGISLATION

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

BUSINESS AND LABOR INTERIM COMMITTEE

Consumer Sales Practices Act Amendments, H.B. 30—This bill makes the use of an unsolicited check or negotiable instrument a deceptive sale, act, or practice (page 17).

Conveyances of Property, H.B. 26—This bill clarifies application of after-acquired property and provides for special warranty deeds (page 18).

Limitation on Liability Regarding Liquefied Petroleum Gas, S.B. 21—This bill provides an affirmative defense to a lawsuit for persons selling, supplying, installing, handling, or transporting liquefied petroleum gas if: an alteration, modification, or repair of equipment was done without the person's knowledge or consent or the equipment was used in a manner inconsistent with its purpose (page 18).

Regulating Proprietary Postsecondary Schools, S.B. 18—This bill modifies provisions related to what constitutes a prohibited act; clarifies rulemaking authority; adds to the list of exemptions education providers certified by the Division of Real Estate; authorizes the Division to conduct audits; addresses registration statements, exemptions, and certificates of registration; modifies the information that must be made available to applicants and the Division; provides for additional penalties; and addresses denial, suspension, or revocation of a certificate for registration including conducting criminal background checks (page 18).

CHILD WELFARE LEGISLATIVE OVERSIGHT PANEL

Child Protection Team Meetings, H.B. 8—This bill extends the child protection team meeting deadline for certain protective supervision cases and addresses what a team may do at the meeting (page 20).

Foster Care Citizen Review Board, S.B. 17—This bill requires that the 6-month reviews of a case involving

a child in the custody of the Division of Child and Family Services be conducted until the court terminates the state's custody of the child; requires that in cases where a court conducted a 6-month review hearing, a foster care citizen review board must conduct a review of the case within 18 months of the date that the child was removed from the child's home; removes the requirement that a court provide notice to the Foster Care Citizen Review Board Steering Committee of a determination or finding made by the court; and provides that the Foster Care Citizen Review Board Steering Committee shall have access to certain court records and shall forward relevant information from those records to the appropriate foster care citizen review board (page 20).

ENERGY POLICY TASK FORCE

Emergency Related Amendments, H.B. 34—This bill defines and modifies terms; changes the requirement that the Office of Energy prepare an energy emergency plan to a requirement that the Division of Emergency Services and Homeland Security coordinate the development of an energy emergency plan; modifies duties of the Division of Emergency Services and Homeland Security; establishes the requirements for an energy emergency plan; makes certain emergency related records protected records; and modifies the process for the Governor issuing a proclamation declaring a state of emergency related to energy (page 27).

Public Utilities Amendments, S.B. 26—This bill addresses prudence; addresses certificates of convenience and necessity; enacts the New Energy Resource Procurement Act; defines terms; establishes requirements for a solicitation process for a significant energy resource of an affected electrical utility; provides for the review of action plans under an affected electrical utility's integrated resource plan; provides for the approval of a significant energy resource decision; provides for cost recovery of a prudent significant energy resource decision; permits an energy utility to request approval of a resource decision; provides for cost recovery of a prudent resource

SUMMARY OF RECOMMENDED LEGISLATION

decision; and grants the Public Service Commission rulemaking authority (page 27).

Reauthorization of Energy Policy Task Force, S.B. 28—This bill reauthorizes the Energy Policy Task Force for 2 years, modifies study items, and provides a repeal date for the Task Force (page 28).

FINANCIAL INSTITUTIONS TASK FORCE

Joint Resolution Related to Financial Institutions, H.J.R. 1—This resolution affirms the Legislature's decision to establish a classification of "nonexempt credit unions" and encourages Congress to adopt a similar approach; urges Congress to examine the rulings of the National Credit Union Administration and take appropriate action; urges Congress to recognize and affirm the authority of states and local governments to determine whether federally chartered credit unions may be taxed the same as state chartered credit unions; urges Congress to provide a principled, fair, and equitable tax structure for financial institutions that allows the state to determine what state and local taxes shall apply to financial institutions; requests that if Congress elects to retain the current tax structure for financial institutions unchanged, it provide Utah and other states with a thorough, detailed, and reasoned explanation; requests that Congress, in determining monies provided to the state by the federal government, take into account revenues that may be lost to the state as a result of federal tax policy and regulations related to financial institutions; urges Congress to fully and carefully consider the principles, policies, circumstances, and conditions identified and referenced in this resolution and promptly act; and provides for the distribution of the resolution (page 29).

GOVERNMENT OPERATIONS INTERIM COMMITTEE

Bond Election Process Amendments, H.B. 14—This bill changes the dates by which a legislative body must approve bond election resolutions and bond proposition language to be used at the election in order to meet ballot preparation and mailing requirements; implements provisional ballot procedures for challenged ballots in bond elections; provides that bond elections comply with

the general voter registration and voting procedures contained in the Election Code; modifies election administration and canvassing procedures for bond elections to provide consistency with general election procedures; provides that county clerks, municipal clerks, clerks or chief executive officers of special districts, and business administrators or superintendents of school districts may act as election officers to conduct and administer bond elections, and to supervise and administer certain bond and voted leeway elections; permits an election officer to appoint or employ agents to assist with the conducting and administration of bond elections; provides that election officers in bond elections shall conduct their procedures at the direction of the municipality calling the election; clarifies procedures for challenging bond elections and for publishing requirements for notice of bond elections by newspaper; removes procedures for mailing of notice of bond elections by postcard; modifies the Election Code to provide consistent procedures for recounts of bond election results and challenges to bond elections; changes the name of the "Utah Municipal Bond Act" to "Local Government Bonding Act" to provide consistency in the definition of words commonly used in the Utah code; and renumbers Title 14, Chapter 11, "Local Government Bonding Act" (page 32)

Initiative Petitions Amendments, S.B. 11—This bill establishes uniform standards for determining whether a signer's signature on an initiative petition is valid or not and provides for the placement of birth date information on initiative petitions (page 32).

Office of Legislative Auditor - Access to Information, S.B. 20—This bill clarifies that the Legislative Auditor General may access the records, documents, and reports of any entity that receives public funds and allows the Legislative Auditor General to use the legislative subpoena powers to access those records when necessary (page 32).

Procurement Code Renumbering, H.B. 19—This bill renumbers the Utah Procurement Code (page 33).

SUMMARY OF RECOMMENDED LEGISLATION

Repeal of State Debt Collection Advisory Board, H.B. 15—This bill repeals the Advisory Board to the Office of State Debt Collection (page 31).

Repeal of Vehicle Equipment Safety Commission, H.B. 16—This bill repeals the Vehicle Equipment Safety Commission (page 31).

HAZARDOUS WASTE REGULATION AND TAX POLICY TASK FORCE

Waste Amendments, S.B. 24—This bill modifies the Environmental Quality Code and the Radioactive Waste Tax Act to amend provisions relating to waste. This bill requires the Solid and Hazardous Waste Control Board to review and report to the Legislature every 5 years the adequacy of the amount of financial assurance required for closure and postclosure care of a commercial hazardous waste treatment, storage, or disposal facility; whether funds or financial assurance are necessary for perpetual care and maintenance of a commercial hazardous waste treatment, storage, or disposal facility and the adequacy of those funds or financial assurance, if found necessary; and the adequacy of any funds or financial assurance required to cover certain costs. This bill expands the scope of the Radiation Control Board's review of the Radioactive Waste Perpetual Care and Maintenance Fund to include a review of the adequacy of the fund to cover certain costs and a review of the amount of financial assurance required for closure and postclosure of a commercial radioactive waste treatment or disposal facility. This bill increases the penalty amount per day for violating a provision of the Solid and Hazardous Waste Act; provides that the owner or operator of certain waste facilities, rather than the generator, is liable for certain fees; clarifies that fees for certain waste shall be determined by multiplying the fee amount by the waste volume or curie calculated to the first decimal place; clarifies that certain wastes are subject to only one fee if multiple fees apply; requires the owner or operator of a facility receiving waste containing PCBs to submit a form with the disposal fees and requires the Department of Environmental Quality to make rules specifying the information required in the form; and imposes gross

receipts taxes on mixed waste disposal received from certain governmental entity or agent contracts (page 35).

HEALTH AND HUMAN SERVICES INTERIM COMMITTEE

Assistance for People with Bleeding Disorders, H.B. 33—This bill creates a 5-year pilot program within the Comprehensive Health Insurance Pool Act for disease and pharmaceutical management of bleeding disorders; permits enrollees in the pilot program to participate in a federal 340B discounted drug pricing program; requires the Comprehensive Health Insurance Pool to report on its claims experience and pharmaceutical costs under the pilot program; and permits the Comprehensive Health Insurance Pool to terminate the pilot program under certain circumstances. This bill creates an ongoing appropriation of \$250,000 from the General Fund to the Department of Health, for the 2005-06 fiscal year, for a grant program to assist people with bleeding disorders (page 37).

Child Protection Team Meetings, H.B. 8—This bill extends the child protection team meeting deadline for certain protective supervision cases and addresses what a team may do at the meeting (page 38).

Dental Services for Adults on Medicaid, H.B. 32—This bill appropriates money to the Department of Health to restore dental benefits to the Medicaid program and to increase the rates paid for the dental services to levels equivalent to the Public Employee's Health Plan. This bill appropriates \$5.7 million from the General Fund for fiscal year 2004-05 only, to the Department of Health, to be used to restore dental benefits (page 39).

Direct-entry Midwife Act, H.B. 25—This bill provides for licensing of direct-entry midwives by the Division of Occupational and Professional Licensing; provides for definitions relating to the practice of direct-entry midwifery; creates the Licensed Direct-entry Midwife Board and sets forth its membership and duties; requires the division to establish a Licensed Direct-entry Midwife Formulary Committee and a licensed direct-entry midwife formulary to define which prescription drugs can be obtained and administered by licensed direct-entry midwives and to

SUMMARY OF RECOMMENDED LEGISLATION

provide guidelines for their use; provides for disciplinary action, including administrative penalties, against licensed direct-entry midwives; defines and provides penalties for unlawful and unprofessional conduct; sets standards for consultation with, collaboration with, referral to, and transfer to other health care providers and sets standards for liability under those circumstances; and brings licensed direct-entry midwives within the scope of the Health Care Providers Immunity From Liability Act (page 38).

Disease Testing of Individuals Exposed to Blood Borne Pathogens, S.B. 19—This bill repeals provisions in the Health Code regarding workplace testing for exposure to blood pathogens; moves provisions from the Health Code to the Labor Code regarding worker's compensation presumption for emergency medical services providers; amends provisions in the Judicial Code regarding court-ordered disease testing for at risk public safety officers; and adds Hepatitis C to the definition of disease for purposes of disease testing and the presumptions for workers' compensation (page 37).

Foster Care Citizen Review Board, S.B. 17—This bill requires that the 6-month reviews of a case involving a child in the custody of the Division of Child and Family Services be conducted until the court terminates the state's custody of the child; requires that in cases where a court conducted a 6-month review hearing, a foster care citizen review board must conduct a review of the case within 18 months of the date that the child was removed from the child's home; removes the requirement that a court provide notice to the Foster Care Citizen Review Board Steering Committee of a determination or finding made by the court; and provides that the Foster Care Citizen Review Board Steering Committee shall have access to certain court records and shall forward relevant information from those records to the appropriate foster care citizen review board (page 38).

Health Care Assistants, H.B. 12—This bill repeals provisions in the Nurse Practice Act that requires the registration of health care assistants by the Division of Occupational and Professional Licensing and makes conforming amendments in the Human Services Code (page 38).

Health Insurance Fair Marketing Standards, H.B. 27—This bill amends the disclosures required of health insurance benefit plans to include plan coverage for cancer screening and general information that will facilitate comparison of different health benefit plans by consumers. This bill authorizes the insurance commissioner to adopt administrative rules to develop uniform standards for the health benefit plan disclosure and clarifies that the disclosure requirement applies to health insurance plans and the Public Employee's Health Benefit Plan (page 38).

Occupational and Professional Licensing Sunset Amendment, H.B. 13—This bill eliminates repeal dates for the licensure of certain occupations and professions by the Division of Occupational and Professional Licensing (page 39).

Vision Care for Medicaid Recipient, H.B. 31—This bill appropriates \$1,126,600 from the General Fund to the Department of Health to restore vision care benefits to the state's Medicaid program (page 39).

JUDICIARY INTERIM COMMITTEE

Divorce Mediation Program, H.B. 4—This bill creates a mandatory mediation program for divorce actions and allows parties to be excused for good cause (page 43).

Intercountry Adoption Accreditation, H.B. 22—This bill authorizes the Office of Licensing, within the Department of Human Services, to accredit agencies and persons to provide intercountry adoption services and make rules to implement the accreditation (page 43).

Liability Reform Act Amendments, S.B. 10—This bill provides for a 90-day period to add defendants to a lawsuit, requires that a party who makes a request to the court to add additional parties also provide specific information about the additional parties, allows the court to deny the request simply because it was not filed timely, and allows the court to permit filing after the 90-day period for good cause (page 44).

SUMMARY OF RECOMMENDED LEGISLATION

LAW ENFORCEMENT AND CRIMINAL JUSTICE INTERIM COMMITTEE

Automobile Crime Prevention, H.B. 21–This bill establishes the membership, authority, and functions of the Automobile Crime Prevention Board; imposes on each vehicle registration a \$1 fee to be used for programs to decrease automobile crime; and authorizes the board to provide aid to state and local law enforcement agencies' and other agencies' automobile crime prevention programs and expend dedicated credit monies for the costs of operation of the board (page 46).

Children's Justice Center Amendments, S.B. 15–This bill increases the number of children to be served by Children's Justice Centers throughout the state by expanding the scope to include all crimes committed against children or in the presence of children (page 47).

Drug Offender Reform Act, S.B. 22–This bill amends provisions regarding the Utah Substance Abuse and Anti-Violence Coordinating Council and the Code of Criminal Procedure to implement provisions regarding screening and assessment of offenders regarding substance abuse. This bill appropriates as ongoing appropriations subject to future budget constraints: 1) \$50,000 from the General Fund, for fiscal year 2005-06, to the Commission on Criminal and Juvenile Justice; 2) \$1,814,720 from the General Fund, for fiscal year 2005-06, to the Department of Corrections; 3) \$4,297,480 from the General Fund, for fiscal year 2005-06, to the Department of Human Services, of which a specified portion is to be used for drug courts; and 4) \$94,500 from the General Fund, for fiscal year 2005-06, to the Administrative Office of the Courts (page 46).

Juvenile Justice Recodification, H.B. 28–This bill reorganizes provisions that set forth the Division of Juvenile Justice Services' functions and duties in an accessible order, clarifies functions of the Division and of the Youth Parole Authority, and clarifies that the criminal offense of damaging a jail or other confinement facility applies also to juvenile detention facilities (page 47).

Uniform Parentage Act, S.B. 14–This bill enacts the Utah Uniform Parentage Act. This bill sets out guidelines for determining and declaring paternity, provides mechanisms for registering paternity, sets specific guidelines for surrogacy and assisted reproduction arrangements, provides conditions under which genetic testing may be requested or required, provides direction for state offices concerning adjudication of parentage and the filing and issuance of birth certificates, sets penalties for unauthorized release of information, and sets responsibilities for all parties when the parentage of a child is in question (page 46).

LEGISLATIVE MANAGEMENT COMMITTEE

Joint Resolution Approving Appointment of Legislative Auditor General, S.J.R. 1–This joint resolution approves the appointment of Mr. John M. Schaff as Legislative Auditor General for a 6-year term.

Sunset Reauthorizations, S.B. 27–This bill reauthorizes certain state entities and programs that would otherwise sunset before the 2006 Annual General Session of the Utah Legislature.

MOTION PICTURE TASK FORCE

Motion Picture Incentive Fund, H.B. 17–This bill creates a restricted account within the General Fund known as the Motion Picture Incentive Fund. Two-thirds of the fund shall be used to provide incentives for within-the-state production of television series and made-for-television movies and one-third shall be used to provide incentives for within-the-state productions of motion pictures. This bill provides for administration of the fund by the executive director of the Department of Community and Economic Development or the director's designee under the direction of the Board of Business and Economic Development; provides for the executive director to determine the structure, amount, and nature of the incentive given to a motion picture company, subject to ratification by the board; provides conditions upon which incentives may be granted and establishes caps on the incentives to be awarded; and provides for an annual report to Legislative committees on the economic impact of the incentive

SUMMARY OF RECOMMENDED LEGISLATION

awards program. This bill appropriates as an ongoing appropriation subject to future budget constraints, \$3,000,000 from the General Fund for fiscal year 2005-06 to the Motion Picture Incentive Fund (page 49).

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENT INTERIM COMMITTEE

State Engineer's Powers and Duties Amendments, H.B. 29—This bill specifies rulemaking authority of the state engineer consistent with provisions of this title and clarifies provisions relating to suits in court, to also include the prevention of theft of water (page 53).

Waste Amendments, S.B. 24—This bill modifies the Environmental Quality Code and the Radioactive Waste Tax Act to amend provisions relating to waste. This bill requires the Solid and Hazardous Waste Control Board to review and report to the Legislature every 5 years the adequacy of the amount of financial assurance required for closure and postclosure care of a commercial hazardous waste treatment, storage, or disposal facility; whether funds or financial assurance are necessary for perpetual care and maintenance of a commercial hazardous waste treatment, storage, or disposal facility and the adequacy of those funds or financial assurance, if found necessary; and the adequacy of any funds or financial assurance required to cover certain costs. This bill expands the scope of the Radiation Control Board's review of the Radioactive Waste Perpetual Care and Maintenance Fund to include a review of the adequacy of the fund to cover certain costs and a review of the amount of financial assurance required for closure and postclosure of a commercial radioactive waste treatment or disposal facility. This bill increases the penalty amount per day for violating a provision of the Solid and Hazardous Waste Act; provides that the owner or operator of certain waste facilities, rather than the generator, is liable for certain fees; clarifies that fees for certain waste shall be determined by multiplying the fee amount by the waste volume or curie calculated to the first decimal place; clarifies that certain wastes are subject to only one fee if multiple fees apply; requires the owner or operator of a facility receiving waste containing PCBs to submit a form with the disposal fees and requires the Department of

Environmental Quality to make rules specifying the information required in the form; and imposes gross receipts taxes on mixed waste disposal received from certain governmental entity or agent contracts (page 52).

PUBLIC UTILITIES AND TECHNOLOGY INTERIM COMMITTEE

Emergency Related Amendments, H.B. 34—This bill defines and modifies terms; changes the requirement that the Office of Energy prepare an energy emergency plan to a requirement that the Division of Emergency Services and Homeland Security coordinate the development of an energy emergency plan; modifies duties of the division; establishes the requirements for an energy emergency plan; makes certain emergency related records protected records; and modifies the process for the Governor issuing a proclamation declaring a state of emergency related to energy.

Telecommunications Amendments, H.B. 35—This bill defines terms; exempts certain activities of telecommunications corporations from compliance with rate schedules; exempts certain activities of telecommunications corporations from prohibitions on rate or service preferences; expands pricing flexibility for certain telecommunications corporations and services; eliminates the requirement that a telecommunications corporation petition the Public Service Commission for pricing flexibility; requires an incumbent telephone corporation to provide basic residential service throughout its service area; requires an incumbent telephone corporation to maintain basic residential service rates at July 1, 2004 levels, except under certain circumstances; allows the Commission to review basic residential service by an incumbent and others; allows the Commission to exempt an incumbent telephone corporation from basic residential service provisions if comparable services exist at comparable prices; allows small incumbent telephone corporations to petition the Commission for regulation by price, rather than traditional rate of return regulation; and allows the Commission to exempt small incumbent telephone corporations from certain pricing provisions under certain circumstances (page 62).

SUMMARY OF RECOMMENDED LEGISLATION

REVENUE AND TAXATION INTERIM COMMITTEE

Calling Local Special Elections for Sales and Use Tax Purposes, H.B. 20—This bill addresses the power of a local political subdivision to call a local special election for a vote authorized or required by Title 59, Chapter 12, Sales and Use Tax Act (page 67).

Individual Income Tax - Contributions for Education, H.B. 7—This bill repeals language designating certain individual income tax contributions to higher education; repeals language designating certain individual income tax contributions; authorizes an individual income tax contribution to be made to a school district if the school district has not established a foundation; provides that if a person making a contribution to a school district foundation does not designate a particular school district foundation to receive the contribution, the contribution shall be made to the Utah State Office of Education to be distributed to one or more associations of foundations; and provides that if a person making a contribution to a school district does not designate a particular school district to receive the contribution, the contribution shall be made to the Utah State Office of Education (page 68).

Individual Income Tax - Subtraction for Certain Military Income, S.B. 13—This bill amends a subtraction for certain military income by repealing an ending date for the application of the subtraction (page 69).

Motion Picture Incentive Fund, H.B. 17—This bill creates a restricted account within the General Fund known as the Motion Picture Incentive Fund. Two-thirds of the fund shall be used to provide incentives for within-the-state production of television series and made-for-television movies and one-third shall be used to provide incentives for within-the-state productions of motion pictures. This bill provides for administration of the fund by the executive director of the Department of Community and Economic Development or the director's designee under the direction of the Board of Business and Economic Development; provides for the executive director to determine the structure, amount, and nature of the incentive given to a motion picture company, subject to ratification by the board; provides conditions upon which incentives may be

granted and establishes caps on the incentives to be awarded; and provides for an annual report to Legislative committees on the economic impact of the incentive awards program. This bill appropriates as an ongoing appropriation subject to future budget constraints, \$3,000,000 from the General Fund for fiscal year 2005-06 to the Motion Picture Incentive Fund.

Property Tax Treatment of Tangible Personal Property, S.B. 23—This bill defines terms; addresses the uniform fees that are required to be received by a city library fund; imposes uniform statewide fees on certain tangible personal property required to be registered with the state; provides procedures for measuring the length of a vessel for purposes of imposing uniform statewide fees on vessels; provides for the collection of the uniform statewide fees; provides that the uniform statewide fees shall be imposed at the time of registration and renewal of registration; requires certain adjustments to be made to a taxing entity's certified tax rate and the certified revenue levy; addresses the appeals process for personal property; provides that for purposes of the corporate franchise and income tax credits and individual income tax credits for renewable energy systems a residential unit does not include property subject to the uniform statewide fees; and grants rulemaking authority to the State Tax Commission (page 69).

Sales and Use Tax - Agricultural Exemption Vehicle Limitation, H.B. 9—This bill amends a sales and use tax exemption relating to certain tangible personal property used in agriculture to provide that a vehicle is not included under the exemption if the vehicle is registered.

Sales and Use Tax Agriculture Exemptions, S.B. 6—This bill repeals a sales and use tax exemption for certain sprays and insecticides because those sprays and insecticides are exempt from sales and use taxation under a provision exempting certain sales of tangible personal property used or consumed primarily and directly in farming operations. This bill also repeals a provision exempting sales of irrigation equipment and supplies used for agricultural production purposes because those sales are exempt from sales and use taxation under the provision exempting certain sales of tangible personal

SUMMARY OF RECOMMENDED LEGISLATION

property used or consumed primarily and directly in farming operations.

RURAL DEVELOPMENT LEGISLATIVE LIAISON COMMITTEE

Funding for Tourism, S.B. 7—This bill modifies the duties, membership, and powers of the Board of Travel Development within the Division of Travel Development; modifies provisions of the Tourism Marketing Performance Fund to establish a budget base and provide a set-aside of a percentage of the increase in tourism-generated tax revenue as a funding source for increased tourism promotion; provides for the creation and funding of a Cooperative Program with cities, counties, and nonprofit destination marketing organizations to advertise and promote tourism; and provides for sunset review of the Board of Travel Development. This bill appropriates \$10,000,000 as an ongoing appropriation subject to future budget constraints and with an automatic \$1,000,000 reduction in each fiscal year following fiscal year 2005-06 (page 73).

SCHOOL BUILDING LEGISLATIVE TASK FORCE

Charter School Construction Amendments, H.B. 36—This bill exempts charter schools from certain municipal land-use regulations and certain county land-use regulations, allows the termination of the nonconforming status of charter school property when the property ceases to be used for charter school purposes, and requires charter schools to provide local governments of intent to purchase a school site or construct a school building (page 75).

TASK FORCE STUDYING WATER ISSUES

State Engineer's Powers and Duties Amendments, H.B. 29—This bill specifies rulemaking authority of the state engineer consistent with provisions of this title and clarifies provisions relating to suits in court, to also include the prevention of theft of water (page 77).

Water Law - Criminal Penalties Amendments, H.B. 38—This bill removes criminal penalties from certain provisions requiring a report to the state engineer and

provides for graduated criminal penalties for violations of various criminal provisions pertaining to the regulation and distribution of water (page 77).

TRANSPORTATION INTERIM COMMITTEE

Master Highway Designation Amendments, H.B. 6—This bill redesignates a portion of SR-89 in Draper, creates SR-222 from a portion of SR-224 in Midway, removes a portion of SR-235 near Pleasant View and provides a new alignment of a portion of SR-134 in Weber County, and creates SR-162 from a portion of SR-163 and SR-262 in San Juan County (page 82).

Person with a Disability Motorcycle Parking, H.B. 5—This bill provides that a disability special group license plate, temporary removable windshield placard, or removable windshield placard may be used to allow one motorcycle to share a parking space reserved for persons with a disability if the additional motorcycle rider assists the person with a disability who is parking a motorcycle (page 84).

Traffic Code Amendments, H.B. 24—This bill requires the operator of a vehicle to provide insurance provider information to persons involved in an accident; repeals certain tail lamp and head lamp exceptions for motor vehicles operated at 20 miles per hour or less; applies aftermarket limitations to adjustments to frame height, wheelbase, and bumper height to all vehicles not just vehicles with a gross vehicle weight rating of 15,000 pounds or less; and clarifies that rear side windows may have nontransparent material on them (page 81).

Traffic Code Recodification and Revisions, S.B. 5—This bill updates statutory language to conform to current legislative styles and renumbers sections and organizes parts (page 81).

Uninsured Motorist Property Damage Coverage Amendments, S.B. 4—This bill allows an insurer to offer higher uninsured motorist property damage coverages at appropriate rates (page 81).

SUMMARY OF RECOMMENDED LEGISLATION

TRANSPORTATION PLANNING TASK FORCE

Local Corridor Preservation Funding, S.B. 8—This bill allows a county legislative body to impose up to a \$20 local option transportation corridor preservation fee on motor vehicle registrations and renewals of registration and requires that revenues from the fee be deposited in the Transportation Corridor Preservation Revolving Loan Fund and allocated for each county based on the total revenue received from the fee. This bill defines council of governments and metropolitan planning organizations; allows fund monies to be used by counties that are not within a metropolitan planning organization for countywide transportation planning with certain limitations; allows highway authorities to apply for preservation funds directly to the Transportation Commission; allows a council of government to approve a preservation project within its county to be funded by monies from the fee; provides that monies from the fee are a grant to each county provided that the state is not charged for any asset purchased with the monies; provides that unless otherwise provided by written agreement, the highway authority that holds the deed to the property is responsible for maintenance of the property and that transfer of ownership to property acquired shall be done with a written agreement; provides that fund monies may be used to pay maintenance costs of properties acquired limited to a total of five percent of the purchase price of the property; requires the department to develop and implement a program to educate highway authorities on the objectives, application process, use, and responsibilities of the fund monies; and provides a notice of approval procedure from a council of government to the Transportation Commission (page 89).

Resolution Encouraging Managed Lanes Study, S.C.R. 1—This concurrent resolution urges the Utah Department of Transportation and other transportation policymaking bodies to study and use the concept of managed lanes on transportation systems throughout the state. This resolution recognizes the importance of adopting a comprehensive transportation plan and incorporating new revenue source options in that plan; recognizes the concept of managed lanes as an effective way to increase the efficiency of the state's existing transportation system and provide new revenue source

options; and urges the Utah Department of Transportation to continue to study and make recommendations to the Legislature and other policymaking bodies throughout the state on managed lane-use and implementation within the state (page 89).

Transportation Amendments and Highway Jurisdictional Transfer Task Force, S.B. 25—This bill provides definitions; expands written notice requirements of a local political subdivision's intent to prepare a capital facilities plan to include notice to the Utah Department of Transportation and a public transit district if the local political subdivision is within the public transit district boundaries; requires municipalities and counties to notify the Utah Department of Transportation, a public transit district if the municipality or county is within the public transit district boundaries, and local associations of governments of proposed zoning designation changes, plat considerations, general plan changes, and annexations that impact state and regional transportation systems; provides that notification for proposed changes is required for projects adjacent to state highways and in other areas that have potential traffic increases of 3,000 Annual Daily Traffic or peak hour traffic of more than 500 vehicles per hour. This bill allows a municipality's or county's general plan recommendations from the planning commission to include comments from the Utah Department of Transportation, a public transit district if the municipality or county is within the public transit district boundaries, and local associations of governments concerning the impacts on state and regional transportation systems. This bill provides that a person who operates a vehicle in a tollway without paying the toll is guilty of a class C misdemeanor; provides that funds in the Tollway Restricted Account may be used for enforcement of a tollway; provides that the Department of Transportation may designate, with the approval of the Transportation Commission highways as tollways on new state highways or additional capacity lanes as toll lanes on existing state highways and high occupancy toll lanes on existing state highways. This bill provides that the Department of Transportation shall make rules establishing standards and specifications for automatic tolling; provides that the Transportation Commission may provide funds for tollways; provides that revenues

SUMMARY OF RECOMMENDED LEGISLATION

received from tolls shall be deposited in the Tollway Restricted Account; and requires district courts and justice courts to allocate fines collected for a violation of operating in a tollway without paying the toll to the Tollway Restricted Account. This bill requires the executive director of the Department of Transportation to develop strategic initiatives and report the initiatives to the Transportation Commission. This bill requires the Department to make rules establishing the strategic initiatives of the department; requires the Transportation Commission, in consultation with the department, to develop a written prioritization process for the selection of new transportation capacity projects. This bill requires the Commission to hold public hearings on the written prioritization process; in consultation with the Department, to make rules establishing the written prioritization process for new transportation capacity projects; to submit the rules to the Legislature prior to adopting them; to prioritize and fund new transportation capacity projects pursuant to the written prioritization process, hold public hearings on the prioritization of projects, and make available upon request the ranking used for any projects prioritized. This bill requires the executive director or the executive director's designee to report annually to the Governor and the Legislature on projects prioritized by the Commission; adds the designations of state highways and the designation of state park access highways to the sunset act to be repealed July 1, 2006; provides that state highways include all interstate routes, all expressways, and all highways on the National Highway System beginning July 1, 2006; repeals provisions establishing criteria for state highways; requires the Department of Transportation to make rules defining and designating regionally significant arterial highways and establishing an access management policy consistent with the functional classification of roadways. This bill provides that the department may operate and control all traffic-control devices located at interchanges on the interstate system, proximate to the interchanges that have significant impact on the safety and operation of the interchange, and on regionally significant arterial highways. This bill requires a county and a municipality to adopt and implement an access management policy; requires a county or a municipality that develops or implements a traffic signal coordination system to have the system compatible with

the state system; establishes a task force to study highway jurisdictional transfers; establishes task force membership, duties, and salaries and designates staff for the task force; requires the task force to prepare a report; and requires the task force to report its findings to the Transportation Interim Committee on a specified date (page 89).

Transportation Investment Act, H.B. 18—This bill creates the Transportation Investment Fund of 2005 to pay the costs of maintenance, construction, reconstruction, or renovation to state and federal highways and directs a portion of certain increases in vehicle fees and sales and use taxes to the fund; redesignates the Centennial Highway Fund as a restricted account within the Transportation Investment Fund of 2005; transfers the Centennial Highway Fund revenue sources to the Transportation Investment Fund of 2005 when the highway general obligation bonds for the Centennial Highway Fund have been paid off; provides that a certain amount of sales and use tax revenue shall be transferred annually to the Centennial Highway Fund; provides that a certain amount of sales and use tax revenue shall be transferred annually to the Transportation Investment Fund of 2005; increases the following fees by \$9: temporary registration permits, motorcycle registration, passenger vehicle registration, and vintage vehicle registration; increases the following fees by approximately 10 percent small trailer registration, farm truck registration, large truck registration, lifetime commercial trailer registration, original and annual personalized license plate set, and oversize and overweight permits and increases the following fees and fines duplicate certificate of registration, original and duplicate certificate of title, original and duplicate license plate set, original special group license plate set, motor carrier fee, overweight vehicle fines; and eliminates a provision that would repeal the \$35 surcharge on cleanspecial fuel tax certificates on December 31, 2005 (page 89).

UTAH TAX REVIEW COMMISSION

Sales and Use Tax - Agricultural Exemption Vehicle Limitation, H.B. 9—This bill amends a sales and use tax exemption relating to certain tangible personal property

SUMMARY OF RECOMMENDED LEGISLATION

used in agriculture to provide that a vehicle is not included under the exemption if the vehicle is registered (page 91).

Sales and Use Tax Agriculture Exemptions, S.B. 6—This bill repeals a sales and use tax exemption for certain sprays and insecticides because those sprays and insecticides are exempt from sales and use taxation under a provision exempting certain sales of tangible personal property used or consumed primarily and directly in farming operations; and repeals a provision exempting sales of irrigation equipment and supplies used for agricultural production purposes because those sales are exempt from sales and use taxation under the provision exempting certain sales of tangible personal property used or consumed primarily and directly in farming operations (page 91).

UTAH TECHNOLOGY COMMISSION

Economic Development Incentives, H.B. 11—This bill provides tax incremental financial incentives to attract new commercial projects in economic development zones; provides definitions related to the creation of economic development zones and tax incentives for establishing new commercial projects in those zones; provides requirements for the establishment of economic development zones; allows the Department of Community and Economic Development to enter into agreements providing for partial rebates of new state revenues generated by new commercial projects within an economic development zone; provides qualification criteria for partial rebates and establishes payment procedures; provides that projects qualifying for partial rebates under the Economic Development Incentives Act are ineligible for additional financial assistance from the Industrial Assistance Fund; and provides for a report to the Legislature's Workforce Services and Community and Economic Development Interim Committee on the success of the program and its economic impact on the state (page 96).

WORKFORCE SERVICES AND COMMUNITY AND ECONOMIC DEVELOPMENT INTERIM COMMITTEE

Aerospace and Aviation Development Zone Modifications, S.B. 9—This bill removes the requirements that an airport have an instrumental landing system and a manned air traffic control tower to qualify for an Aerospace and Aviation Development Zone at or around the airport (page 97).

Department of Workforce Services - Access to Financial Records, S.B. 16—This bill provides that the Benefit Payment Control Unit and the Payment Error Prevention Unit of the Department of Workforce Services are exempt from certain financial information privacy provisions of the Judicial Code when conducting an examination of financial records as part of an official investigation (page 97).

Department of Workforce Services - Work Experience and Training Programs, H.B. 23—This bill provides that a customer who participates in a work experience or training program funded by the Department of Workforce Services is considered to be a volunteer government worker of the department for the purpose of receiving workers' compensation medical benefits. This bill provides that receipt of those benefits is the exclusive remedy for all injuries and occupational diseases incurred as a volunteer government worker of the department (page 99).

Department of Workforce Services Amendments, S.B. 12—This bill modifies the name of the Division of Employment Development to the Employment Development Division and the name of the Division of Workforce Information and Payment Services to the Workforce Development and Information Division and the Unemployment Insurance Division and modifies the membership of the Child Care Advisory Committee (page 99).

Economic Development Incentives, H.B. 11—This bill provides tax incremental financial incentives to attract new commercial projects in economic development zones; provides definitions related to the creation of economic development zones and tax incentives for establishing

SUMMARY OF RECOMMENDED LEGISLATION

new commercial projects in those zones; provides requirements for the establishment of economic development zones; allows the Department of Community and Economic Development to enter into agreements providing for partial rebates of new state revenues generated by new commercial projects within an economic development zone; provides qualification criteria for partial rebates and establishes payment procedures; provides that projects qualifying for partial rebates under the Economic Development Incentives Act are ineligible for additional financial assistance from the Industrial Assistance Fund; and provides for a report to the Legislature's Workforce Services and Community and Economic Development Interim Committee on the success of the program and its economic impact on the state (page 98).

Employment Security Act Amendments, H.B. 10—This bill conforms state law to newly enacted federal law aimed at prohibiting state unemployment tax avoidance; defines taxable wages and unemployment experience for purposes related to an employer's overall basic contribution rate, including the acquisition of the unemployment experience of another employer; provides for assignment of rates and unemployment experience transfers upon the transfer or acquisition of a trade or business; provides penalties for a person who violates or attempts to violate provisions related to determining the assignment of a contribution rate; and provides that a violation may be prosecuted for unemployment insurance fraud (page 98).

Funding for Tourism, S.B. 7—This bill modifies the duties, membership, and powers of the Board of Travel Development within the Division of Travel Development; modifies provisions of the Tourism Marketing Performance Fund to establish a budget base and provide a set-aside of a percentage of the increase in tourism-generated tax revenue as a funding source for increased tourism promotion; provides for the creation and funding of a Cooperative Program with cities, counties, and nonprofit destination marketing organizations to advertise and promote tourism; and provides for sunset review of the Board of Travel Development. This bill appropriates \$10,000,000 as an ongoing appropriation subject to future

budget constraints and with an automatic \$1,000,000 reduction in each fiscal year following fiscal year 2005-06 (page 98).

Motion Picture Incentive Fund, H.B. 17—This bill creates a restricted account within the General Fund known as the Motion Picture Incentive Fund. Two-thirds of the fund shall be used to provide incentives for within-the-state production of television series and made-for-television movies and one-third shall be used to provide incentives for within-the-state productions of motion pictures. This bill provides for administration of the fund by the executive director of the Department of Community and Economic Development or the director's designee under the direction of the Board of Business and Economic Development; provides for the executive director to determine the structure, amount, and nature of the incentive given to a motion picture company, subject to ratification by the board; provides conditions upon which incentives may be granted and establishes caps on the incentives to be awarded; and provides for an annual report to Legislative committees on the economic impact of the incentive awards program. This bill appropriates as an ongoing appropriation subject to future budget constraints, \$3,000,000 from the General Fund for fiscal year 2005-06 to the Motion Picture Incentive Fund (page 99).

ADMINISTRATIVE RULES REVIEW COMMITTEE

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 (until 11/03/04)
Rep. Greg J. Curtis
Rep. James R. Gowans
Rep. Merlynn T. Newbold

Staff

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

OVERVIEW

The Administrative Rules Review Committee was established by the Legislature in the 1983 General Session. 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 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 met the definition of a rule but that had not gone through the required rulemaking process that includes notice, publication, and public comment. In the 2003 General Session, legislation passed clarifying that an agency's written statement that conformed to the definition of a rule is, in fact, a rule, but is only enforceable if it has gone through the statutorily required rulemaking process, including publication and public comment.

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 rule changes to 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 raised by legislators and the public.

ADMINISTRATIVE RULES REVIEW COMMITTEE

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.

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 2005 meeting and is scheduled to discuss and likely recommend draft legislation "Administrative Rules Reauthorization."

CHILD CARE LICENSING AND INSPECTIONS

Background

Some child care centers have encountered problems with regulation by the Department of Health. Most complaints focus on both the licensing regulations and the manner in which they are enforced by department inspectors. The Committee requested that the Department review the concerns expressed and return with recommendations regarding how rulemaking procedures and enforcement consistency can be modified to address these concerns. Department representatives presented recommendations at a Committee meeting.

Action

The Committee urged the Department of Health to implement the recommendations that it presented to the Committee. No further action was taken. The Committee

discussed this issue at its October 4 and October 26, 2004 meetings but did not recommend legislation.

CLARIFYING UTAH CODE LANGUAGE REGARDING "REVOKING" AND "REPEALING" RULES

Background

The Director of the Division of Administrative Rules observed that there are five places in the Utah Code where, instead of the phrase "make, amend, [and/or] repeal rules," the statute reads, "make, amend, [and/or] revoke rules" (emphasis added).

To ensure consistency, legislation was prepared to change "revoke" to "repeal" in those five locations in the Utah Code and to clarify in the Administrative Rulemaking Act that an agency authorized to make rules may also amend or repeal them.

Action

The Committee considered this issue at its November 30, 2004 meeting and will also consider this issue at its January 2005 meeting where final passage is expected of draft legislation "Utah Administrative Rulemaking Act Revision."

DEVELOPMENT OF SMALL POWER PRODUCTION AND COGENERATION FACILITIES

Background

The Committee expressed concern that administrative rules may be needed to implement state statute encouraging the development of small power production and cogeneration facilities. Public Service Commission representatives indicated that rates for qualifying small power production and cogeneration facilities are set according to avoided costs, which are the costs a utility avoids if it can buy energy from one of these facilities rather than build a facility. The Committee determined that the avoided cost process was not in rule and that, given the impact of avoided costs, a rule was needed.

ADMINISTRATIVE RULES REVIEW COMMITTEE

Action

The Committee voted to send a letter to the Public Service Commission indicating that the avoided costs process should be submitted as an administrative rule. The Committee considered this issue at its June 1 and June 22, 2004 meetings but did not recommend legislation.

EMERGENCY SERVICES AND HOMELAND SECURITY

Background

Committee members expressed concern with the lack of legislative involvement in homeland security issues within the state. Currently, the Division of Emergency Services and Homeland Security is authorized to write only one state rule and most of its functions are directed by the federal government.

Action

In the absence of a quorum, the Committee's House Chair directed staff to draft a letter to the Speaker of the House and the President of the Senate suggesting that the chairs of the Administrative Rules Review Committee and the representatives of the Division of Emergency Services and Homeland Security meet with the Legislative Management Committee to discuss legislative branch involvement in Homeland Security issues. The Committee considered this issue at its July 6, 2004 meeting but did not recommend legislation.

TAXING PAWN SHOP TRANSACTIONS

Background

A representative of pawn shops explained that currently a consumer who takes a loan at a pawn shop pays sales tax on the item used as collateral twice: first, when the item is purchased from the retailer, and second, when the consumer redeems or repurchases the item from the pawn shop upon payment in full of the loan.

Tax commission representatives explained that the language of the specific contract in question indicates that title is conveyed at the first transaction, and the terms of the contract alone make it a sale under the sales tax code.

A tax commission representative suggested that the definition of "sale" under the tax code needs to be reviewed.

Action

The Committee voted to send a letter to the Tax Commission requesting that the Commission's audit of a pawn shop be placed on hold until May 2005, giving the Legislature time to address the issue of defining the taxability of a redeemed product, and to indicate to the Tax Commission that it is not the intent of the Legislature to tax pawned items that are redeemed. The Committee considered this issue at its August 3 and September 21, 2004 meetings but did not recommend legislation.

VOTING PROCEDURES

Background

The Lieutenant Governor briefed the Committee on the state's opportunity to receive \$28 million from the federal government, as part of the Help America Vote Act, to purchase new voting machines. In order to qualify to receive the funding, the state must have certain rules in place. The discussion raised concerns about the legal precedent against elected state officials making rules.

It was suggested that legislation could be prepared to authorize the Lieutenant Governor and other elected state officials to take an action, other than by rule, in order to accomplish purposes that are appropriately within their scope of authority. Further legislation was suggested that would allow the State Elections Office to take necessary steps to qualify the state for Help America Vote Act funds. The Lieutenant Governor indicated that the state would have to seek funding before such a bill could pass.

Action

The Committee voted to have legislation prepared granting authority to the State Elections Office to take the steps required under federal law to qualify the state for Help America Vote Act Funds. The Committee considered this issue at its April 20 and November 30, 2004 meetings but did not recommend legislation.

ADMINISTRATIVE RULES REVIEW COMMITTEE

OTHER STUDIES

Outdoor Advertising

Representatives of an outdoor advertising company argued that a right-of-way rule of the Department of Transportation violated the meaning of the terms "interchange" and "point of widening" in the Utah Code. Agency representatives stated that two Utah District Court opinions uphold the Department's position as reflected in the rule and that the rule characterizes the terms in question in the only way that would not jeopardize \$18.5 million in federal funding annually. Concern was expressed that state agencies sometimes enter into agreements with the federal government without explaining why the agreement was established or even informing the Legislature, which forces the Legislature to determine whether to comply with the agreement or to oppose it on the federal level. The Committee discussed this issue in its June 22 and August 24, 2004 meetings but did not recommend legislation.

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. J. Stuart Adams
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

Mark B. Steinagel, Policy Analyst
Patricia Owen, Associate General Counsel
Tracey Fredman, Legislative Secretary

OVERVIEW

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

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

Issues addressed by the Committee in recent years include regulation of construction activities, use of credit

information for insurance purposes, consumer lending, business assistance and recruitment programs, consumer credit reporting, workers' compensation, anti-discrimination, regulation of financial institutions, consumer protection, and real estate activities.

CONSUMER SALES PRACTICES ACT AMENDMENTS

Background

A recent form of advertising has caused concern for some Utah consumers. Consumers receive checks from businesses that, when cashed or deposited, create a "contract for service" or "sale of a product." Sometimes consumers cash or deposit these checks without noticing or carefully considering the fine print agreements into which they enter. Some consumers believe it is a deceptive form of advertising that should be against the law.

Action

The Committee considered this issue at its October and November 2004 meetings and recommended draft legislation "Consumer Sales Practices Act Amendments."

CONVEYANCES OF PROPERTY

Background

Three types of deeds are commonly used for real estate transactions in Utah: the warranty deed, the quitclaim deed, and the special warranty deed. The warranty deed guarantees that a title to conveyed property is clear of any encumbrances. The quitclaim deed conveys whatever ownership an individual has to a new owner without any guarantee that the title is clear of encumbrances. Warranty deeds and quitclaim deeds are currently recognized by statute. A special warranty deed guarantees that a title to property is clear of encumbrances that arise during the time that the current owner has owned the property. Some real estate professionals have expressed the desire to statutorily recognize a special warranty deed which is already used in some real estate transactions.

BUSINESS AND LABOR INTERIM COMMITTEE

Action

The Committee considered these issues at its August and September 2004 meetings and recommended draft legislation "Conveyances of Property."

LIMITATION OF LIABILITY FOR PROPANE PROFESSIONALS

Background

Propane dealers provide a service to citizens of this state in remote areas where the transmission of natural gas does not reach every home. Because of the volatile nature of the product they transport, propane dealers have liability insurance to cover accidents that may happen. A problem occurs when citizens alter the propane distribution system after the dealer has safely delivered the product or performed the service. Because of liability concerns, insurance companies that insure propane dealers have increased rates to cover claims and other insurers no longer insure propane dealers. Propane dealers believe legislation is needed to protect them from claims for accidents that arise out of situations when they are not at fault.

Action

The Committee considered this issue in its October and November 2004 meetings and recommended draft legislation "Limitation of Liability Regarding Liquefied Petroleum."

OTHER STUDIES

Common Interest Ownership and Planned Unit Developments

Common interest ownership communities are developments where owners of individual portions of the development share joint obligations for maintenance, taxes, upkeep, and insurance of common areas. They are typically governed by an association that gets its authority from recorded governing documents. Utah has statutory provisions that govern condominium ownership and development and recently enacted the Community Association Act. But many real estate professionals agree that a more comprehensive statute is needed. The

Committee considered this issue at its August 2004 meeting but did not recommend legislation.

Health Provider Reimbursement Policies

Health maintenance organizations (HMOs) contract with health care providers to provide health care services to the HMO's members at a reduced cost in exchange for the right to be an HMO's listed provider. In some areas of the state, one insurance company may be the dominant insurer. In those areas it can be difficult for those who are not contracted providers for the HMO to obtain business. Some of those providers and consumers of health care would like to require an HMO to reimburse medical expenses even if the health care provider is not on the HMO's contracted provider list. The Committee considered this issue at its June and November 2004 meetings but did not recommend legislation.

Regulating Proprietary Postsecondary Schools

In 2002, the regulation of postsecondary proprietary schools was changed from the State Board of Regents to the Department of Commerce, Division of Consumer Protection. Since that time, the Division has realized the law needs to be modified to better protect consumers from bad business practices. The Committee considered this issue at its September 2004 meeting and recommended draft legislation "Regulating Proprietary Postsecondary Schools."

Restrictions on Competition

Some companies require their employees to sign agreements that restrict the employee's ability to compete against the company for a period of time after leaving employment. Because statute does not discuss the permissibility of these agreements or what they may include, the courts have had to define allowable agreements, and arguably they have done so inconsistently. The Committee considered this issue at its October and November 2004 meeting but did not recommend legislation.

CHILD WELFARE LEGISLATIVE OVERSIGHT PANEL

CHILD WELFARE LEGISLATIVE OVERSIGHT PANEL

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
Thomas R. Vaughn, Associate General Counsel
Wendy L. Bangarter, Legislative Secretary

OVERVIEW

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

H.B. 140 VETO

Background

During the 2004 General Session the Legislature considered 30 child welfare bills. Seventeen passed. One bill, H.B. 140 "Child and Family Services and Related Judicial Code Amendments," was vetoed by the governor. The Panel reviewed the reasons for the governor's veto and took testimony on the bill, including a report by the Judicial Council's Standing Committee on Children and Family Law outlining numerous issues that would likely be raised if the mature minor concept in H.B. 140 was implemented.

Action

The Panel considered this issue at its May, June, and September 2004 meetings but did not recommend legislation.

PUBLIC ACCESS TO CHILD WELFARE PROCEEDINGS

Background

H.B. 90 "Access to Child Welfare Proceedings" 2004 General Session, moved up statewide public access to child welfare proceedings from July 1, 2005 to July 1, 2004. The Panel reviewed a study of two pilot districts which found that out of 417 hearings reviewed, only five included attendees that would not have been present prior to the open access pilot program. The study also found no negative impact to children. The courts are considering whether the public should also be given access to the petition filed with the court alleging abuse or neglect.

Action

The Panel considered this issue at its June 2004 meeting but did not recommend legislation.

STATUS OF FEDERAL COURT OVERSIGHT

Background

Utah's child welfare system continues to operate under federal court oversight begun in 1994 as a result of the legal challenge brought by the National Center for Youth Law in *David C. v. Leavitt*. Currently, oversight is scheduled to end when the state meets the operational objectives of the Performance Milestone Plan adopted by the court in 1999.

According to one tool used to measure outcomes, the Qualitative Case Review, the state is making significant progress toward exiting federal court oversight. However, another tool, the Case Process Review, does not indicate the same magnitude of progress. The state is negotiating with plaintiffs on whether the Case Process Review should be modified to more accurately reflect the state's efforts. The federal judge has given some indication that her oversight could end as early as 2006.

Since 1994, the state has paid over \$5 million in attorneys fees and court monitor costs related to the settlement agreement.

The Panel received an update from the Office of the Attorney General on the status of federal court oversight.

CHILD WELFARE LEGISLATIVE OVERSIGHT PANEL

Action

The Panel considered this issue at its May and June 2004 meetings but did not recommended legislation.

OTHER STUDIES

Child Protection Team Meetings

The Panel considered draft legislation "Child Protection Team Meetings." The bill provides that in the case where the Division of Child and Family Services files a petition for protective supervision services and the child is not at immediate risk of removal, a child protection team meeting is not required for 28 days, rather than 24 hours. The Panel considered this issue at its November 2004 meeting and recommended draft legislation "Child Protection Team Meetings."

Child Welfare Outcomes

The Panel received reports on case outcomes, case compliance with statutory court deadlines, case compliance with other statutory requirements, and how Utah's child welfare outcomes compare to those of other states. The Panel considered this issue at its October 2004 meeting but did not recommend legislation.

Foster Care Citizen Review Board

The Panel considered draft legislation "Foster Care Citizen Review Board." The bill eliminates the requirement that foster care citizen review boards review cases within 12 months from when children are taken into the custody of the state. This allows boards to focus on cases in the system longer than 12 months. The bill is a response to recent budget reductions and evolving court practice. The Panel considered this issue at its November 2004 meeting and recommended draft legislation "Foster Care Citizen Review Board."

Office of Child Welfare Parental Defense

The Panel reviewed the implementation of this newly created function within the child welfare system designed to enhance the quality of legal representation provided to parents of children taken into state custody. The Panel considered this issue at its August 2004 meeting but did not recommend legislation.

Pilot Program for Differentiated Responses to Child Abuse and Neglect Reports

The Panel conducted a sunset review of Section 62A-4a-202.7 *Utah Code*, "Pilot program for differentiated responses to child abuse and neglect reports," which is scheduled for repeal July 1, 2005. The Panel considered this issue at its October 2004 meeting and recommended that Section 62A-4a-202.7 be allowed to sunset July 1, 2005 as scheduled.

Revisions to Warrantless Removal of a Child

The Panel considered a proposal by the Judicial Council's Children and Family Law Standing Committee to clarify the conditions under which a child may be taken into custody without a warrant, with a warrant, or following a hearing on a petition filed with the court. The Panel considered this issue at its September and November 2004 meetings and voted to support the proposal in concept.

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. 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
Phillip V. Dean, 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.

LONG-RANGE FUNDING OF PUBLIC EDUCATION

Background

Demographic projections indicate Utah is in the midst of another baby boom which may have a significant impact on financing public education. As the grandchildren of the post-World War II baby boom generation become of school age, public school enrollment will rapidly increase. As shown in Figure 1 (page 24), public school enrollment through the last decade was relatively flat, but in the next decade an additional 150,000 students are projected to enter the public school system.

Will Utah be able to adequately fund public education in the next decade? To address this question, the Committee studied Utah's historical experience in funding public education and the factors that may affect education financing.

During the previous school enrollment boom in the 1980s, per pupil spending in constant dollars actually declined slightly, see Figure 2. That period was also marked by a relatively poor economy. Average annual real personal income growth in Utah was only 3.28 percent in the 1980s, compared to 6.07 percent in the 1970s and 5.16 percent in the 1990s, see Figure 3. It is evident that personal income growth in the future will have a very substantial impact on per pupil spending.

By looking at enrollment projections and various scenarios for personal income growth, and assuming that future public education spending as a percent of personal income is similar to historical levels, future per pupil spending can be estimated. Figure 4 shows real per pupil expenditures under three different personal income growth scenarios, assuming that total public education spending is 5.82 percent of personal income, which is the average level for the period 1980-2003. As shown in Figure 4, real total per pupil expenditures, which include spending for operations and capital facilities, will be stable or increase if real personal income growth exceeds 3 percent annually.

Action

The Committee considered this issue at its April 2004 meeting but did not recommend legislation.

NO CHILD LEFT BEHIND

Background

Legislation introduced in the 2004 General Session prohibited the State Board of Education and school districts from participating in the federal No Child Left Behind program unless adequate federal funding is provided. Although the bill failed to pass, it caught the attention of the federal government and federal administrators pledged to provide more flexibility to states in implementing the No Child Left Behind Act.

EDUCATION INTERIM COMMITTEE

The State Board of Education subsequently requested flexibility in administering a plan developed in conformance with the No Child Left Behind Act that assesses the academic progress of students and holds schools accountable for student progress. The Board reported that the U.S. Department of Education approved some amendments to the state's plan, rejected some amendments, and others are under consideration.

If the state or a school district were to withdraw from participation in the No Child Left Behind program, they would lose some federal education funding. At the request of the Committee, the Utah State Office of Education reported on Title 1 expenditures of school districts. Title 1 is a federal program that provides money for the education of disadvantaged children. Title 1 expenditures generally account for 1.5 percent to 3.5 percent of a school district's total spending with one school district and one charter school relying more heavily on Title 1 funds.

To understand the additional burdens imposed by the No Child Left Behind Act, the Committee compared the assessment and accountability requirements of the federal act with U-PASS (Utah Performance Assessment System for Students) which is Utah's assessment and accountability program. A key difference is that under No Child Left Behind schools are held accountable for assuring that all children are proficient in reading and math by 2014. Under U-PASS, the annual progress of each student will be measured and each student will be expected to make a certain amount of progress annually.

Action

The Committee considered this issue at its August, October, and November 2004 meetings but did not recommend legislation.

TEACHER SUPPLY AND DEMAND

Background

The Utah State Office of Education commissioned a study with USU (Utah State University) to examine teacher supply and demand in Utah. The findings showed that in the 2003-04 school year, 9 of 40 school districts had unfilled positions. The positions in most critical shortage

were speech pathology and special education. Math and science positions were the next most difficult to fill. The USU study projects a future shortage of 1,175 teachers annually due to increasing student enrollment and a higher rate of teacher retirement.

The Committee reviewed two existing programs designed to reduce critical teaching shortages. The Public Education Job Enhancement Program provides signing bonuses, higher pay, and scholarships for math, science, and information technology teachers in secondary schools. The Terrill H. Bell Teaching Incentive Loans Program provides loans to undergraduate students pursuing teaching degrees. The loan repayments are forgiven in proportion to the number of years therecipient teaches in Utah, with the loans entirely forgiven after four years of teaching. The loans are awarded in accordance with prioritized critical areas of need.

The Legislature appropriated a total of \$10.5 million to the Public Education Job Enhancement Program in the first three years of the program, but appropriated no funds in the 2004 General Session. Unexpended program funds are available to pay for scholarships in fiscal year 2004-05, but if funding is not restored in the 2005 General Session, no additional assistance can be offered. The program is scheduled to sunset on July 1, 2005.

The Public Education Job Enhancement Committee, comprising members of the State Board of Education, State Board of Regents, and the general public, recommended that the Public Education Job Enhancement Program be reauthorized and funding restored. The Utah State Office of Education suggested that the program be expanded to provide assistance to special education teachers.

Due to a concern that an expansion of the Public Education Job Enhancement Program may result in diminished aid to math, science, and information technology teachers, the Committee investigated whether the Terrill H. Bell Teaching Incentive Loans Programs may be targeted to meet the demand for special education teachers. The Committee's study revealed that only one-half of the loan recipients currently teaching in public

schools hold positions in critical or moderate demand. When awarding the loans, greater weight could be given to prospective special education teachers.

Action

The Committee considered this issue at its August, September, October, and November 2004 meetings and recommended that the Public Education Job Enhancement Program be reauthorized.

OTHER STUDIES

Higher Education Remedial Classes

Many students entering college are not prepared to do college level work and need to take remedial English or math courses. Currently, community colleges receive state funding to pay for the costs of remedial education. Although some remedial courses are offered at the state's 4-year institutions, those institutions are not entitled to state funds for remedial courses. A resolution adopted in the 2004 General Session requested the Utah System of Higher Education to investigate strategies to minimize remedial education costs. In a report to the Committee, the Commissioner of Higher Education recommended that:

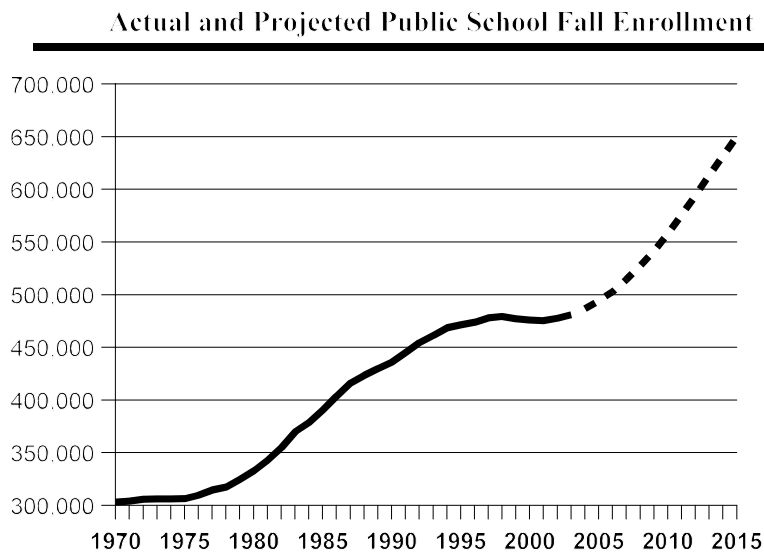
- 1) higher education institutions adopt a system-wide placement test to ensure more uniform placement for students who transfer among institutions;
 - 2) the Office of the Commissioner of Higher Education develop a method to evaluate the results or benefits of remedial classes;
 - 3) the Office of the Commissioner of Higher Education and the Utah State Office of Education work to better align secondary and post-secondary academic requirements; and
 - 4) the State Board of Regents should revise a policy to specify that students age 21 and under in remedial courses at community colleges should be excluded from enrollment counts for state funding purposes.
- The Committee considered this at its August 2004 meeting but did not recommend legislation.

U-PASS (Utah Performance Assessment System for Students)

Utah law requires the State Board of Education to identify schools not achieving state-established acceptable levels

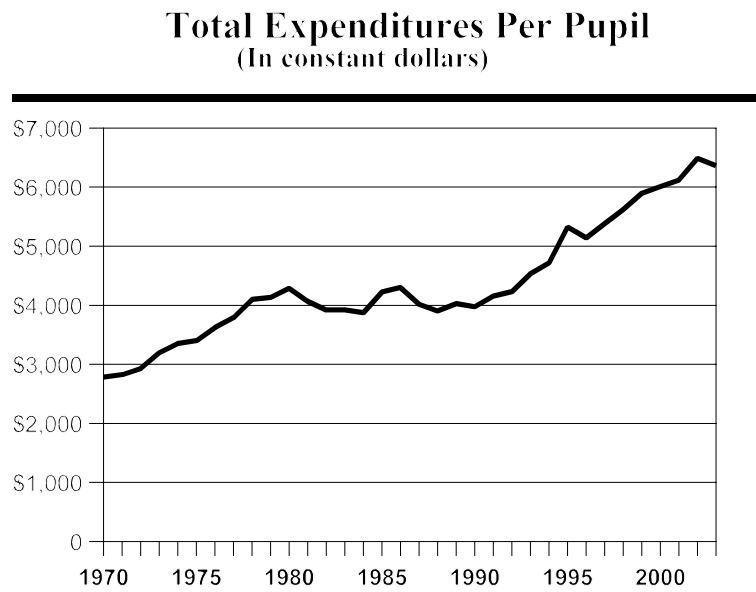
of student performance in order to assist those schools in raising their student performance levels. The Board is required to establish school performance standards and identify schools not meeting the standards beginning with the 2003-04 school year. Due to the great amount of time and personnel resources required to comply with the No Child Left Behind Act, the Board was delayed in defining school performance standards and requested a one year extension. The Committee considered this issue at its August 2004 meeting and approved a motion requesting the Board to report by February 15, 2005 on schools not meeting school performance standards based on school performance in the 2003-04 school year.

Figure 1



Source: Enrollment data, Utah State Office of Education

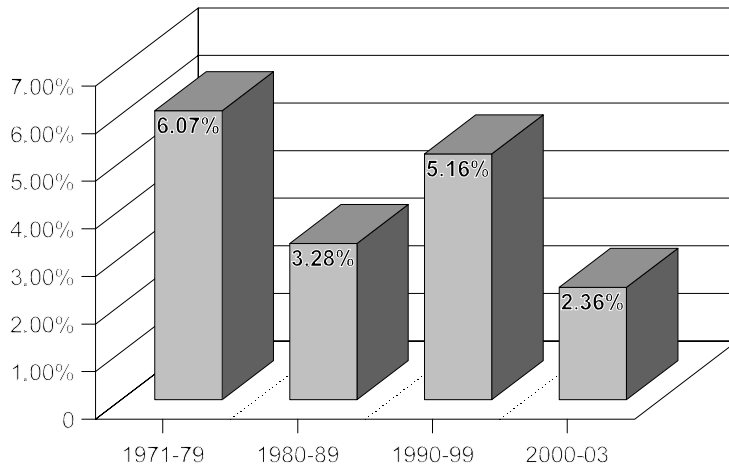
Figure 2



Source: Total expenditures and enrollment: Utah State Office of Education

Figure 3

Average Annual Real Personal Income Growth

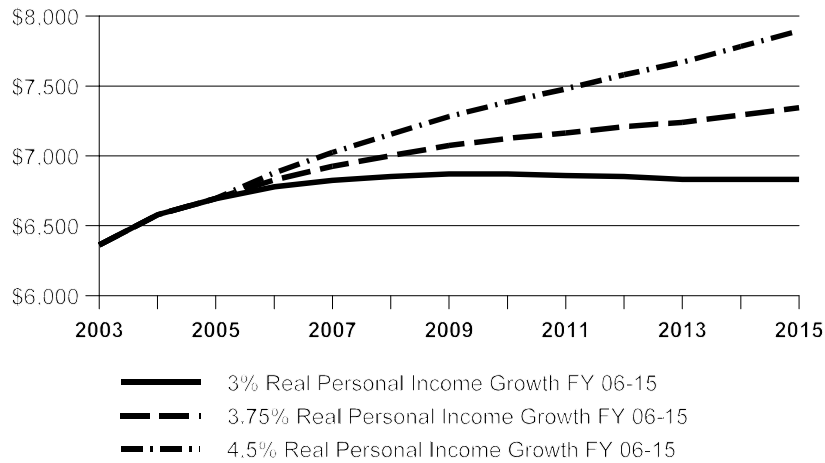


Source: Governor's Office of Planning and Budget

Figure 4

Projected Real Total Expenditures Per Pupil

Assuming total public education expenditures = 5.82% of personal income, the historical average for 1980-2003



Source: Office of Legislative Research and General Counsel

ENERGY POLICY TASK FORCE

Membership

Sen. Leonard M. Blackham, Senate Chair
Rep. Sheryl L. Allen, House Chair
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. Darin G. Peterson
Rep. David Ure

Staff

Mark B. Steinagel, Policy Analyst
Patricia Owen, Associate General Counsel
Wendy L. Bangertter, 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, that 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.

ACQUISITION OF NEW ELECTRIC GENERATION IN UTAH

Background

In 2003, PacifiCorp began issuing a series of RFPs (Request for Proposal) for new electric generation as outlined in its Integrated Resource Plan. As the RFPs

have proceeded, entities have raised questions about the adequacy of the process. Some entities are concerned that a utility has an incentive to award a design/build contract for a new power plant to itself or its affiliate even if another group could build the plant as cheap or cheaper. Some also believe that because of the nature of the bidding process, they would always be at a disadvantage in bidding because they don't have as much information as the utility while they are designing a bid.

Action

The Task Force considered this issue at its August, September, October, November 16, and November 30, 2004 meetings and recommended draft legislation "Public Utilities Amendments."

ENERGY SECURITY AND THE ENERGY EMERGENCY PLAN

Background

Energy security is an important component of a society's physical and economic well-being. Running short of a key energy resource can threaten the business and economic climate of the state and cause concern for the physical safety of individuals or even death if the shortage occurs at a crucial time of the year or for prolonged periods of time.

Utah's governments have a role in protecting the state's energy resources and responding to emergencies when they occur. Task force members agreed that the Legislature needs to give statutory guidance of the state entities' responsibilities in case of an emergency.

Action

The Task Force considered this issue at its May, June, September, and October 2004 meetings and recommended draft legislation "Emergency Related Amendments."

OTHER STUDIES

Background

During the 2004 Interim, the Task Force considered the following other study items: 1) impacts of the Federal

ENERGY POLICY TASK FORCE

Trade Agreement on public utilities, 2) the 2003 holiday storm report, 3) state policy to protect Utah oil refineries, and 4) the future of the Energy Policy Task Force. The Task Force was authorized through November 30, 2004.

Action

The Task Force considered these issues at its February, May, June, October, and November 30, 2004 meetings and recommended draft legislation "Reauthorization of the Energy Policy Task Force."

FINANCIAL INSTITUTIONS TASK FORCE

Membership

Sen. Dan R. Eastman, Senate Chair
Rep. Jeff Alexander, House 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. Wayne A. Harper
Rep. Michael E. Noel
Rep. Mike Thompson

Staff

Jami Momberger, Policy Analyst
Stewart E. Smith, Policy Analyst
Patricia Owen, Associate General Counsel
Phalin Flowers, Legislative Secretary

OVERVIEW

The Legislature created this 2-year task force during the 2003 General Session when it passed H.B. 162 "Amendments Related to Financial Institutions." The Task Force was authorized through November 30, 2004 and was directed to study a wide variety of issues related to financial institutions and to report to the Business and Labor Interim Committee. The Task Force met twice in 2003 and five times in 2004.

BANKS AND CREDIT UNIONS

Background

During its 2-year existence, the Task Force studied: 1) the history of banks and credit unions in Utah and the evolution of public policy regarding credit unions; 2) the operational and structural differences in banks and credit unions; 3) the differences in state and federally chartered credit unions; 4) the types and levels of capital that credit unions must maintain; 5) the structure, role, duties, and policies of the National Credit Union Administration and the structure and duties of the Office of the Comptroller of the

Currency; 6) the origin, operation, and taxation of cooperatives; 7) state and local government revenue losses due to credit union conversions to a federal charter; 8) the state of the financial institution industry in Utah; 9) the legislative history of the state income tax exemption for credit unions; 10) the history and public policy issues relating to commercial credit; and 11) the role the federal government plays in the taxation and regulation of financial institutions. The Task Force also requested that groups that advocated reconsideration of the tax exempt status of credit unions and those groups that opposed it voluntarily submit a written summation of supporting information and authority to the Task Force. Three groups submitted documents: the Utah League of Credit Unions, the Utah Bankers Association, and the Council for Sound Tax Policy.

Action

The Task Force considered these issues at its April and May 2003 meetings and at its June, August, October, November 4, and November 30, 2004 meetings. The Task Force recommended draft legislation "Joint Resolution Related to Financial Institutions."

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. Fred R. Hunsaker (as of 8/18/04)
Rep. Eric K. Hutchings
Rep. Roz McGee
Rep. Karen Morgan
Rep. Loraine T. Pace (until 7/22/04)
Rep. Peggy Wallace

Staff

John Q. Cannon, Managing Policy Analyst
John L. Fellows, Deputy General Counsel
Eric N. Weeks, 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 2004 Interim, many of these issues are still expected to be debated, and legislation affecting these areas may be introduced during the 2005 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. The Committee also has primary responsibility for the following titles of the *Utah Code*: Title 20A, Election Code; Title 36, Legislature; Title 63, State Affairs in General; Title 63A, Administrative Services; Title 63B, Bonding; and Title 67, State Officers and Employees.

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 advisory boards. The Committee completed a survey of all advisory boards in Utah and identified several advisory boards for further review.

The Committee considered these issues at its April, May, June, August, and September 2004 meetings and recommended draft legislation "Repeal of State Debt Collection Advisory Board" and "Repeal of Vehicle Equipment Safety Commission."

BOND ELECTION PROCESSES

Background

In 2002, Congress passed the "Help America Vote Act of 2002." In response to this federal legislation, the

GOVERNMENT OPERATIONS INTERIM COMMITTEE

Legislature has modified certain provisions of the state's election code. Because of these changes, certain bond election processes were inconsistent with general election provisions or otherwise needed to be revisited.

The Committee discussed specific provisions including changing the dates by which a legislative body must approve bond election resolutions and bond proposition language to meet ballot preparation and mailing requirements; implementing provisional ballot procedures for challenged ballots in bond elections; providing that bond elections comply with the general voter registration and voting procedures contained in the Election Code; modifying election administration and canvassing procedures for bond elections to provide consistency with general election procedures; clarifying procedures for challenging bond elections and for publishing requirements for notice of bond elections by newspaper; and modifying the Election Code to provide consistent procedures for recounts of bond election results and challenges to bond elections.

Action

The Committee considered these issues at its September, October, and November 2004 meetings and recommended draft legislation "Bond Election Process Amendments."

SIGNATURE VERIFICATION ON INITIATIVE PETITIONS

Background

The Utah Supreme Court issued an opinion, *Page v. McKeachnie*, during the summer of 2004 regarding signature verification for an initiative petition to be placed on the November ballot. The court raised two primary issues for potential legislative review and action: 1) the need to uniformly apply evaluation methods; and 2) the need to establish clearer standards for verifying signatures on initiative petitions.

Action

The Committee worked with the State Elections Office to see how the requirements for signature verification might be modified and evaluation methods made consistent. The Committee discussed how to determine whether a signer's

signature on an initiative petition is valid or not, and also discussed providing for the placement of birth date information on initiative petitions.

The Committee considered this issue at its August, October, and November 2004 meetings and recommended draft legislation "Initiative Petition Amendments."

OTHER STUDIES

DFCM Rules Review

During the 2004 General Session, the Legislature passed H.B. 217 "Changes to Division of Facilities and Construction Management Contract Procedures and Requirements." This legislation required the Division to draft rules for resolving contract disputes and present the draft rules to the Committee for its review, comments, and recommendations. The Committee considered this issue at its August 2004 meeting but did not recommend legislation.

Election Law

In 2002, Congress passed the "Help America Vote Act of 2002 (HAVA)." This legislation continues to have a significant impact on Utah's elections processes. The State Elections Office reported to the Committee several times during the interim about changes taking place in response to HAVA. Much of the Committee discussion focused on the state's request for proposal for new voting equipment and the security of that equipment. The committee considered this issue at its May, August, and October 2004 meetings but did not recommend legislation.

Government Records

The Committee examined several issues related to GRAMA (Government Records Access and Management Act). Some of the GRAMA issues discussed included the Legislative Auditor General's access to information, records relating to energy security, and issues raised by H.B. 287 "Government Records Access and Management Act Revisions," introduced during the 2004 General Session. The Committee considered this issue at its June 2004 meeting and recommended draft legislation "Office of Legislative Auditor General - Access to Information."

Legislative Process Committee - Sunset Review

The Legislative Process Committee is scheduled to be repealed July 1, 2005. The Committee conducted a sunset review of the Legislative Process Committee to consider whether the sunset date should be extended. The Committee considered this issue at its May 2004 meeting and recommended that the Legislative Process Committee be removed from the Sunset Act, meaning that the Legislative Process Committee would not be subject to sunset. This recommended statutory change is expected to be included in the omnibus sunset legislation, "Sunset Reauthorizations."

Procurement Code Renumbering

The Committee considered draft legislation that renumbers the Procurement Code to make it consistent with the Legislature's standards for numbering. The Committee considered this issue at its October and November 2004 meetings and recommended draft legislation "Procurement Code Renumbering."

Resource Development Coordinating Committee - Sunset Review

The RDCC (Resource Development Coordinating Committee) is scheduled to be repealed July 1, 2005. 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 April 2004 meeting but made no recommendation to extend the sunset date.

State Appropriations and Tax Limitation Act - Sunset Review

The State Appropriations and Tax Limitation Act is scheduled to be repealed July 1, 2005. The Committee conducted a sunset review of the Act to consider whether the sunset date should be extended. The Committee considered this issue at its November 2004 meeting and recommended that the State Appropriations and Tax Limitation Act be removed from the Sunset Act, meaning that the Act would not be subject to sunset. This recommended statutory change is expected to be included in the omnibus sunset legislation, "Sunset Reauthorizations."

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. Roger E. Barrus
Rep. Eli H. Anderson
Rep. Craig A. Frank
Rep. David L. Hogue
Rep. Patricia W. Jones
Rep. M. Susan Lawrence
Rep. Joseph G. Murray
Rep. Merlynn T. Newbold

Staff

Bryant R. Howe, Assistant Director
J Brian Allred, Policy Analyst
Robert H. Rees, Associate General Counsel
Shannon C. Halverson, 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 was authorized through November 2004.

HAZARDOUS WASTE REGULATION AND TAX POLICY TAX FORCE

Background

In 2004, the Task Force met 17 times. Public hearings were held in Tooele, Blanding, Price, and Salt Lake City. Site visits were conducted at Envirocare, Clean Harbors Aragonite, Clean Harbors Grassy Mountain, East Carbon Development Corporation, and International Uranium Corporation.

The Task Force study in 2004 focused primarily on:

- class B and C low-level radioactive waste;
- closure, post-closure, and perpetual care of waste facilities;
- waste tax and fee policy; and
- a legislative audit of the Department of Environmental Quality's regulation of waste facilities.

The Task Force considered legislation addressing: the adequacy of closure; post-closure and perpetual care funding; waste taxes, fees, and penalties; and the disposal of class B and C low-level radioactive waste.

Action

The Task Force considered this issue at its September and October 2004 meetings and recommended draft legislation "Waste Amendments."

The Task Force also adopted the following conclusions, findings, and recommendations:

- Class B and C LLRW should not be accepted.
- Based on information received and visits to waste facilities and subject to the implementation of the process established by DEQ to resolve issues identified in the legislative audit:
 - ▶ waste facilities regulated by DEQ appear to be in substantial compliance with DEQ regulations; and
 - ▶ DEQ is providing effective oversight and monitoring of waste facilities to ensure compliance.

HAZARDOUS WASTE REGULATION AND TAX POLICY TASK FORCE

- In order to implement legislative policies relating to waste management, additional statutory requirements may be necessary. Building block funding requested by DEQ for file management and fee auditing should be approved in the 2005 General Session.
- Legislation regarding radioactive waste facility site ownership during the perpetual care time period should be deferred.
- The Task Force concurs with the process established by DEQ to resolve the issues in the audit report relating to inspection plans, split groundwater sampling, and treated waste sampling.
- In regulating or licensing waste disposal facilities in the state, DEQ should consider any contingent liabilities such as bonding or any other obligation that might impact any governmental entity in the state. DEQ's findings should include an analysis of any potential risk.
- DEQ should implement measures necessary to detect improper reporting.
- The followup audit to be performed by the Legislative Auditor General in 2005 should be carefully reviewed by the Natural Resources, Agriculture, and Environment Interim Committee in the 2005 Interim.
- Based on testimony from the Rocky Mountain Center for Occupational and Environmental Health at the University of Utah and Rocky Mountain Environmental Consultants, LLC on comparative risk analysis, the Task Force finds that LLRW operations in the state pose a lower risk than many other chemical and mining facilities that currently operate in the state.

HEALTH AND HUMAN SERVICES INTERIM COMMITTEE

HEALTH AND HUMAN SERVICES INTERIM COMMITTEE BLEEDING DISORDERS

Membership

Sen. James M. Evans, Senate Chair
Rep. Mike Thompson, House Chair
Sen. Scott K. Jenkins
Sen. Paula F. Julander
Sen. Sheldon Killpack
Sen. David L. Thomas
Rep. Calvin G. Bird (until 6/30/04)
Rep. Judy Ann Buffmire (until 11/03/04)
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 (until 9/30/04)
Rep. Jack A. Seitz
Rep. Aaron Tilton (as of 7/23/04)
Rep. Mark Walker (as of 10/20/04)

Staff

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

OVERVIEW

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

Background

Persons with hemophilia and other bleeding disorders face the challenge of obtaining, maintaining, and using health insurance coverage for their very expensive medical treatments. Cost sharing provisions, payout limits, and lack of available coverage create a real possibility that some may eventually end up on Medicaid. Several states have taken steps to help people who have bleeding disorders obtain coverage in the private health insurance market.

The Committee considered draft legislation that helps persons enrolled in the state's comprehensive health insurance pool for the uninsurable obtain supplies at a lower cost. The legislation also creates a grant program to provide insurance premium assistance and other financial help to people with bleeding disorders.

Action

The Committee considered this issue at its June, October, and November 2004 meetings and recommended draft legislation "Assistance for People With Bleeding Disorders."

BLOOD-BORNE PATHOGEN TESTING

Background

In the past, the Legislature enacted laws addressing the testing of emergency medical providers, public safety personnel, and first aid volunteers for exposures to blood-borne pathogens. The Committee considered draft legislation that conforms these laws to current medical practice guidelines and federal law, adds hepatitis C to the list of diseases for which a significant exposure is presumed for purposes of workers compensation or for which a court may order testing, and shortens the time for responding to court ordered testing.

Action

The Committee considered this issue at its October 2004 meeting and recommended draft legislation "Disease Testing of Individuals Exposed to Blood Borne Pathogens."

HEALTH AND HUMAN SERVICES INTERIM COMMITTEE

CHILD WELFARE LEGISLATIVE OVERSIGHT PANEL

Background

The Child Welfare Legislative Oversight Panel is a permanent oversight body created in 1995 to study and recommend improvements to Utah's system for responding to allegations of child abuse and neglect. The Panel reports annually to the Health and Human Services Interim Committee. The Committee received the Panel's report.

Action

The Committee considered this issue at its November 2004 meeting and recommended draft legislation "Child Protection Team Meetings" and "Foster Care Citizen Review Board."

DIRECT-ENTRY MIDWIVES

Background

During the 2004 General Session the House passed and a Senate committee considered H.B. 227 "Midwife Certification Act." The Committee considered revised versions of the bill and received public testimony.

Action

The Committee considered this issue at its September and November 2004 meetings and recommended draft legislation "Direct-entry Midwife Act."

GROUP HOMES

Background

Over the years, various communities have raised concerns about the proposed locations or operations of various types of residential treatment facilities providing substance abuse, behavioral, or other treatments. Earlier this year, an employee of a residential treatment facility was allegedly murdered by two residents of a group home in Cedar City.

The Committee considered draft legislation that requires the Office of Licensing within the Department of Human Services to create categories of residential treatment licenses based on differences in the types of programs

rather than issue a single type of license to all programs. The bill also expands the Office's regulatory responsibilities for programs and modifies license suspension and revocation provisions.

Action

The Committee considered this issue at its June and November 2004 meetings but did not recommend legislation.

HEALTH CARE ASSISTANTS

Background

H.B. 70 "Geriatric Care Managers," 2004 General Session, directed the Division of Occupational and Professional Licensing to study the need for registered health care assistants. The Division reported that the registration of health care assistants working for regulated health care facilities is redundant and recommended eliminating registration. The Committee considered draft legislation to implement the Division's recommendation.

Action

The Committee considered this issue at its August and September 2004 meetings and recommended draft legislation "Health Care Assistants."

HEALTH INSURANCE MARKETING

Background

The Committee considered draft legislation that requires insurers to disclose to enrollees, prior to enrollment, information designed to facilitate plan comparison, as designated by the Insurance Department through administrative rule.

Action

The Committee considered this issue at its November 2004 meeting and recommended draft legislation "Health Insurance Fair Marketing Standards."

HEALTH AND HUMAN SERVICES INTERIM COMMITTEE

MEDICAID FUNDING

Background

In response to the revenue constraints of the past several years, the Legislature has reduced or eliminated funding for some of the optional medical services provided by Medicaid. During the 2004 General Session a portion of the funding for dental services was restored.

The Committee considered two pieces of draft legislation that would appropriate \$6.8 million to restore Medicaid vision and dental benefits.

Action

The Committee considered this issue at its November and October 2004 meetings and recommended draft legislation "Dental Services for Adults on Medicaid" and "Vision Care for Medicaid Recipient."

MENTAL HEALTH INSURANCE COVERAGE

Background

During the 2000 General Session, the Legislature passed H.B. 35 "Catastrophic Mental Health Insurance Coverage," which required health insurers to offer specified types of mental health coverage to large and small employers. H.B. 35 also charged the Health and Human Services Interim Committee with reviewing the impact of the legislation and recommending whether the cost-sharing requirements for mental health conditions should be the same as for physical health conditions.

The Committee received a report from the Insurance Department and testimony from representatives of consumers, providers, insurers, and purchasers of health insurance on the effects of H.B. 35.

Action

The Committee considered this issue at its April and May 2004 meetings but did not recommend legislation.

PHARMACEUTICALS—GENERIC SUBSTITUTION

Background

For several years, pharmaceuticals have been the fastest growing element of health care spending increases. This has been attributable to several factors, including increased drug consumption, the substitution of newer more costly drugs for older drugs, and increases in drug prices. Public and private insurers have tried various approaches to control spending increases, including encouraging or requiring substitution of generic drugs for brand name equivalents.

The Committee considered draft legislation "Pharmaceutical Cost Reduction Amendments" which requires a pharmacist to dispense a generic drug in place of another drug if the generic is less expensive and therapeutically equivalent to the brand name drug.

Action

The Committee considered this issue at its May 2004 meeting but did not recommend legislation.

SUNSET REVIEWS

Background

The Committee conducted sunset reviews of the Digital Health Service Commission, the Health Facility Administrator Act, and the Nurse Practice Act. The Committee also reviewed why some professions, including health professions, are included in the Sunset Act and others are not. The Division of Occupational and Professional Licensing recommended the removal of 16 professional licensing acts from the Sunset Act.

Action

The Committee considered this issue at its June, August, and September 2004 meetings and recommended draft legislation "Occupational and Professional Licensing Sunset Amendment."

HEALTH AND HUMAN SERVICES INTERIM COMMITTEE

The Committee also recommended that the Legislature:

- reauthorize the Nurse Practice Act for 10 years;
- reauthorize the Health Facility Administrator Act for 10 years;
- reauthorize the Digital Health Service Commission for 10 years;
- appropriate adequate funds for the continuation of the Digital Health Service Commission;
- ask the Department of Health to consider including a representative of the Division of Occupational and Professional Licensing on the Digital Health Service Commission;
- direct the Occupational and Professional Licensure Review Committee to recommend criteria for determining which occupations and professions to include in the Legislative Oversight and Sunset Act; and
- through the Legislative Management Committee, study the overall process for sunset reviews and recommend criteria for determining what to include in the Legislative Oversight and Sunset Act.

OTHER STUDIES

Aging

The Committee received a briefing from the Division of Aging and Adult Services on the rapid growth in Utah's senior population and its various policy implications. The Committee considered this issue at its April 2004 meeting but did not recommend legislation.

Involuntary Commitment Report

In 2003 the Legislature passed S.B. 27 "Susan Gall Involuntary Commitment Amendments." S.B. 27 replaced the "immediate danger" standard with a "substantial danger" standard for committing a person to the care of a mental health facility. The bill also required the Division of Substance Abuse and Mental Health to report to the Committee on the effects of the change. The Division reported that following passage of the bill, involuntary civil commitments to Valley Mental Health, the public mental health facility in Salt Lake County, increased by 48 percent (119 persons) at a cost of approximately \$493,000. Other public mental health centers in the state did not report

significant increases in commitments. The Committee considered this issue at its November 2004 meeting but did not recommend legislation.

Medical Education Council

In 1997 the Legislature created the Medical Education Council to advise the Legislature on the training of specified medical professionals—physicians, physician assistants, advance practice nurses, and pharmacists. The Council reported on the status of Utah's physician workforce and indicated that \$300,000 will be requested during the 2005 General Session to expand physician residencies in Utah. The Committee considered this issue at its October 2004 meeting but did not recommend legislation.

Medical Reserve Corps

The Committee received a briefing on legislation that will be drafted for the 2005 General Session to create a Medical Reserve Corp, a group of active and retired medical professionals and lay people recruited to supplement existing emergency medical services personnel in times of disaster. The Committee considered this issue at its October 2004 meeting but did not recommend legislation.

Public Mental Health Report

The Committee received a report from the Division of Mental Health on the impact of various funding changes on LMCHs (local mental health centers). LMCHs are projecting a 5 percent reduction in total funds (\$7 million) for the current fiscal year (FY 2005). As a result, centers are planning to reduce services by 10 percent (about 4,300 cases). The Committee considered this issue at its November 2004 meeting but did not recommend legislation.

INDIVIDUAL INCOME TAX AND CORPORATE FRANCHISE AND INCOME TAX TASK FORCE

INDIVIDUAL INCOME TAX AND CORPORATE FRANCHISE AND INCOME TAX TASK FORCE

Membership

Rep. Wayne A. Harper, Co Chair
Sen. Lyle W. Hillyard, Co Chair
Sen. Ron Allen
Mr. Gayle Anger
Sen. Gregory S. Bell
Rep. Stephen D. Clark
Rep. James A. Dunnigan
Sen. Karen Hale
Sen. John W. Hickman
Rep. Gregory H. Hughes
Comm. Marc Johnson
Rep. Patricia W. Jones
Rep. Carol Spackman Moss
Mr. Larry Newton
Mr. Bruce Olson
Rep. LaWanna "Lou" Shurtliff
Mr. Joe Zeidner

Staff

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

OVERVIEW

H.B. 168 of the 2004 General Session created the Individual Income Tax and Corporate Franchise and Income Tax Task Force with a charge to study Utah's individual income tax and corporate franchise and income tax systems and to recommend appropriate changes to the Legislature. The Task Force held eight meetings between May and October 2004 to study Utah's individual income tax and corporate franchise and income tax systems.

CORPORATE FRANCHISE AND INCOME TAX

Background

Various tax experts and members of the public provided testimony on Utah's corporate franchise and income tax system. The Task Force discussed the following issues: dedication of revenues to the education system, volatility of corporate franchise and income tax revenues, linkage with the federal corporate income tax system, apportionment of income for multi-state businesses, effect of policy changes on economic development, applicability of corporate franchise and income tax to different types of business entities, appropriate level of minimum corporate franchise and income tax, tax credits, replacement of the current corporate income tax with a tax on corporate gross receipts, and various perspectives of inequities under the current system.

Action

A majority of Task Force members voted to make the following changes to the corporate franchise and income tax: 1) increase the minimum corporate franchise and income tax from \$100 to \$250; and 2) adjust the income apportionment formula for multi-state corporations from the existing formula which equally weights a corporation's property, payroll, and sales to a formula that double-weights the corporation's sales. The Task Force considered this issue at its May, June, July, August 16, and October 18, 2004 meetings but did not recommend legislation.

The Revenue and Taxation Interim Committee received the Task Force's recommendations at its November 2004 meeting. The Committee did not take action on the recommendations.

INDIVIDUAL INCOME TAX

Background

Various tax experts and members of the public provided testimony on Utah's individual income tax system. The Task Force discussed the following issues: dedication of revenues to the education system, tax burdens borne by

INDIVIDUAL INCOME TAX AND CORPORATE FRANCHISE AND INCOME TAX TASK FORCE

those of different income levels, linkage with the federal individual income tax system, various deductions, additions, and exemptions in determining state taxable income, flat and graduated tax rates, indexing of tax brackets for inflation, tax credits (including a state earned income tax credit), check-off contributions, and various perspectives of inequities under the current system.

Action

The Task Force considered this issue at its May, August 16, August 30, September, October 4, and October 18, 2004 meetings but did not make any recommendations on the individual income tax. An additional task force meeting was requested to further study and finalize individual income tax recommendations, but the request was not approved.

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. Stuart Adams
Rep. Chad E. Bennion
Rep. Katherine M. Bryson
Rep. Scott Daniels
Rep. Neal B. Hendrickson
Rep. David L. Hogue
Rep. Eric K. Hutchings
Rep. M. Susan Lawrence
Rep. Roz McGee
Rep. J. Morgan Philpot (until 9/30/04)
Rep. Mike Thompson
Rep. Mark Walker (as of 10/20/04)

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.

DIVORCE MEDIATION PROGRAM

Background

The Committee received testimony comparing the impact of traditional divorce actions to outcomes of mediated divorce actions. It became apparent to the Committee that mediation was indeed a viable alternative to a traditional divorce. After receiving testimony from state agencies, mediators, and interested parties regarding the benefit of mediated divorces, the Committee approved legislation creating a mandatory domestic mediation program which allows the court to excuse parties from the program for good cause.

Action

The Committee considered this issue in its May and October 2004 meetings and recommended draft legislation "Divorce Mediation Program."

INTERCOUNTRY ADOPTION ACCREDITATION

Background

With respect to countries that are parties to the Hague Convention on Protection of Children and Co-operation in Respect to Intercountry Adoption, the State Department is authorized to establish rules for the adoption of children born outside of the United States. The Committee heard testimony on the importance of accrediting agencies within the State to provide for intercountry adoption services.

Action

The Committee considered this issue in its November 2004 meeting and recommended draft legislation "Intercountry Adoption Accreditation."

LIABILITY REFORM ACT AMENDMENTS

Background

In an effort to more fully inform juries about liability, Utah law allows nonparties of litigation to be listed on a jury verdict form. Although originally intended to assist juries establish more just verdicts, the Committee heard testimony on the abuse of this practice. The Committee decided to limit the addition of nonparties to a lawsuit

JUDICIARY INTERIM COMMITTEE

within 90 days of the answer to a complaint, to require a request to add these parties to the litigation to include specific information about the parties, and allow the court to permit such parties to be added after the 90-day period for good cause.

Action

The Committee considered this issue in its August and September 2004 meetings and recommended draft legislation "Liability Reform Act Amendments."

OTHER STUDIES

Drug Offenders Reform Act

The Committee discussed S.B. 21 "Drug Offenders Reform Act" as introduced in the 2004 General Session. The Committee heard testimony on the benefits of treating drug offenders whose crimes were a direct result of their drug use. The Committee considered this issue in its September 2004 meeting and unanimously supported the concept, but expressed concern for the initial funding of the program.

DUI and Child Endangerment

The Committee received recommendations from the Commission on Criminal and Juvenile Justice to reduce the risk of child endangerment from DUIs without statutory changes. The Committee heard this issue at its October 2004 meeting but did not recommend legislation.

Equitable Distribution of Property in Divorce

Utah law allows the court to distribute marital property in a manner deemed by the court to be equitable. The Committee received testimony that an equitable distribution of marital property does not necessarily mean an equal distribution of property. As a result, the Committee was urged to require the court to equally distribute marital property in divorce actions. The Committee discussed this issue at its May 2004 meeting but did not recommend legislation.

Foster Care Citizen Review Board Report

The Committee heard testimony from the Foster Care Citizen Review Board on the progress of child welfare

cases. The Committee considered this issue at its October 2004 meeting but did not recommend legislation.

Parent-Time Assistance Office

The Committee discussed the possible impacts of the creation of a Parent-Time Assistance Office to assist in enforcing parent-time for noncustodial parents. The Committee discussed this issue at its June 2004 meeting but did not recommend legislation.

Performance Audit of the Administrative Office of the Courts

The Committee received a report from the Office of the Legislative Auditor General on its audit of the Administrative Office of the Courts. The Committee discussed this issue at its May and June 2004 meetings but did not recommend legislation.

Provisions for Emancipation of a Minor

The Committee heard testimony on proposed legislation which would allow children 16 years of age and older to apply to the court for emancipation which would allow them to enter into contracts to obtain housing and other services, such as health care. The Committee considered this issue at its November 2004 meeting but did not recommend legislation.

Public Access to Child Welfare Hearings

The Committee reviewed information from the Utah Judicial Council on the opening of child welfare cases to the public. The Committee was informed that an insufficient number of people were attending the open court sessions to determine what impact, if any, the open hearings are having on children. The Committee discussed this issue at its October 2004 meeting but did not recommend legislation.

LAW ENFORCEMENT AND CRIMINAL JUSTICE INTERIM COMMITTEE

LAW ENFORCEMENT AND CRIMINAL JUSTICE INTERIM COMMITTEE

Membership

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

OVERVIEW

The Law Enforcement and Criminal Justice Interim Committee was established in 1997 to study issues related to law enforcement, criminal law, illegal drug activity, weapons, corrections, public safety, and the criminal justice system. In studying these issues, the Committee 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 improving 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.

DEPARTMENT OF CORRECTIONS SEX OFFENDER TREATMENT PROGRAMS

Background

There are currently 1,400 sex offenders on probation and parole and an additional 1,450 sex offenders in Utah's prison system. Sex offenders are required to pay for their treatment; however, most sex offenders need some assistance. Many must pay large amounts of restitution for treatment of the victims. They may also have child support obligations, court fines and fees, supervision fees, and attorney fees.

In the Adult Probation and Parole programs, if all the offenders could provide their own \$50 a month co-pay, \$2,100,000 would still be needed to provide enough funding to assist with outpatient treatment for all of these offenders. Adult Probation and Parole's budget building block request for fiscal year 2006 will include \$500,000 for treatment contracting which will treat an estimated 167 additional probation and parole offenders each year.

For those incarcerated in the prison itself, the Committee was told that the current funding levels allow the prison to treat approximately 440 offenders each year. Sex offenders generally have long prison stays and so funding is not needed to treat all sex offenders at the same time. Treatment can be staged to focus on offenders close to release who are amenable to treatment. The financial building block requested in the prison is an additional \$512,900 for fiscal year 2006.

Action

The Committee considered this issue in its September, October, and November 2004 meetings and

LAW ENFORCEMENT AND CRIMINAL JUSTICE INTERIM COMMITTEE

recommended to the Executive Offices and Criminal Justice Appropriations Subcommittee that priority be given to funding these sex offender treatment program needs, but did not recommend legislation.

DRUG OFFENDER TREATMENT POLICY

Background

The Commission on Criminal and Juvenile Justice and others have expressed serious concern that incarcerated drug offenders have very limited treatment options. The Committee was told that the treatment system is currently so overcrowded that offenders may not be monitored adequately or placed appropriately. The Committee considered legislation that requires all drug offenders to have a Substance Abuse Severity Index screening as part of the presentence investigation. The legislation would eventually require all felony offenders to receive the same screening as part of their presentence investigation. Offenders needing further consideration would also 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 November 2004 meeting and recommended draft legislation "Drug Offender Reform Act."

UNIFORM PARENTAGE ACT

Background

Medical science has made possible new ways to conceive children in recent years that are not provided for in current Utah law. Surrogate parenting, assisted reproduction, and gestational agreements have become options used by couples who are not able to have children. In such cases where the egg and sperm donors are not related to the gestational parent carrying the unborn child, there has been a need for greater clarity on issues of parental rights, duty of support, paternity disputes, and handling of vital records.

Action

The Committee considered this issue in its April, August and November 2004 meetings and recommended draft legislation "Uniform Parentage Act."

OTHER STUDIES

Automobile Crime Prevention

The Committee received a proposal from the Department of Public Safety to establish an Automobile Crime Prevention Board within the Department of Public Safety and impose a \$1.00 fee on vehicle registration to fund the program. The Board would provide aid to state and local law enforcement agencies' automobile crime prevention programs. The Committee considered this issue at its November 2004 meeting and recommended draft legislation "Automobile Crime Prevention."

Children's Justice Center

There are 15 Children's Justice Centers in Utah with a stated purpose of decreasing secondary trauma to victims of sexual abuse or serious physical abuse and coordinating agencies to work together for the "best interest of the child." They provide a comfortable, child-friendly atmosphere for children to receive coordinated services during the investigative process. The Committee received a recommendation that the statutory language be amended to include any criminal offense committed against a child or in the presence of a child. The Committee considered this issue at its November 2004

LAW ENFORCEMENT AND CRIMINAL JUSTICE INTERIM COMMITTEE

meeting and recommended draft legislation "Children's Justice Center Amendments."

Juvenile Justice Recodification

The Division of Juvenile Justice Services explained to the Committee the need to revise Title 62A, Chapter 7, Youth Corrections, to more appropriately organize the operations of the Division and to update language. The Committee requested legislation and considered this issue at its May, August, and November 2004 meetings and recommended draft legislation "Juvenile Justice Recodification."

MOTION PICTURE TASK FORCE

Membership

Rep. Sheryl L. Allen, House Chair
Sen. James M. Evans, Senate Chair
Sen. Ron Allen
Ms. Alesia Bischoff
Mr. Roger Browne
Mr. David Buhler
Mr. Bryan Clifton
Sen. Parley G. Hellewell
Mr. Al Henderson
Rep. Dana C. Love
Rep. Karen W. Morgan
Mr. Jim Olsen
Mr. Jeff Simpson
Ms. Katy Sine
Ms. Leigh Von Der Esch
Mr. Steve White

Staff

Jami Momberger, Policy Analyst
Stewart E. Smith, Policy Analyst
James L. Wilson, Associate General Counsel
Glenda S. Whitney, Legislative Secretary

OVERVIEW

The Legislature created the Motion Picture Task Force in the 2004 General Session by passing S.B. 240 "Motion Picture Task Force." The Task Force was directed to review and make recommendations on the necessary financial incentives the state should adopt to enhance the state's ability to retain and expand the existing motion picture, television, and commercial industries, and to attract additional production to the state. In conducting this review the Task Force was further directed to consider issues including: economic development, sales and use tax exemptions, investment tax credits, payroll tax credits, enterprise zones, production expense funds, county and municipality revenue sources, and tax commission audit experience.

FINANCIAL INCENTIVES FOR THE MOTION PICTURE INDUSTRY

Background

Financial incentives are offered to the motion picture industry by a number of states. The primary focus of the Task Force was on Louisiana, Mississippi, New Mexico, New York, Pennsylvania, and South Carolina. The incentives offered include: 1) sales tax exemptions, 2) employment tax credits, 3) transferable tax credits, and 4) tax rebates. The Task Force also looked at the issue of withholding taxes for live performances by entertainers or professional athletes who are periodically in the state for sports competitions.

Action

The Task Force considered these issues at its May, June, August, September, and October 2004 meetings and made the following recommendations:

- 1) recommended draft legislation "Motion Picture Incentive Fund";
- 2) use the DCED Industrial Assistance Fund to bridge the gap between the effective date of the proposed "Motion Picture Incentive Fund" legislation and the July 1, 2005 effective date of the appropriation;
- 3) request that the Utah Tax Review Commission define and clarify what constitutes "machinery and equipment" as it relates to the sales and use tax for the purchase, lease, or rental of motion picture production equipment as used in Section 59-12-104 (61)(a) UCA; and
- 4) provide state funding for a feasibility study for renovation at the State Fair Park, so it can be used, if appropriate, for film industry production.

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENT INTERIM COMMITTEE

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENT INTERIM COMMITTEE

Membership

Sen. Beverly Evans, Senate Chair
Rep. Craig W. Butters, 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. Fred R. Hunsaker (as of 8/18/04)
Rep. Bradley T. Johnson
Rep. Michael E. Noel
Rep. Loraine T. Pace (until 7/22/04)
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: the Department of Natural Resources, the Department of Agriculture and Food, and the Department of Environmental Quality.

AIR QUALITY

Background

The Committee discussed air quality in Utah, focusing on the Cache Valley and St. George areas due to recent air quality concerns in those parts of the state. Although air quality in Utah is better today than 10 years ago, new research indicates that it takes less pollution to harm human health.

Part of the air quality problems in the St. George area are due to pollution generated outside of Utah. Much of Cache Valley's air quality problem is due to the area's meteorology and topography.

Action

The Committee considered this issue in its June 2004 meeting but did not recommend legislation.

ANIMAL DISEASE PREVENTION AND CONTROL/ ACCREDITATION OF THE UTAH VETERINARY DIAGNOSTIC LABORATORY

Background

The State Veterinarian reviewed actions being taken by various agencies to protect livestock and wildlife from

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENT INTERIM COMMITTEE

animal diseases such as chronic wasting disease, spongiform encephalopathy, and West Nile virus.

The Committee also discussed accreditation for the Utah Veterinary Diagnostic Laboratory. The laboratory provides testing for animal related agricultural exports, disease occurrences/outbreaks, food safety, public health, wildlife, and regulatory agencies. Accreditation would allow assays performed by the laboratory to be recognized as valid by regulatory officials in other states and foreign countries. Although the Utah Veterinary Diagnostic Laboratory Funding is a state of the art facility, additional funding in the amount of \$237,000 was requested to hire personnel required for accreditation.

Action

The Committee considered this issue at its May and August 2004 meetings but did not recommend legislation.

SUNSET REVIEW - WASTE TIRE RECYCLING ACT

Background

The Committee considered whether to reauthorize the Waste Tire Recycling Act. The Division of Solid and Hazardous Waste, which administers the act, indicated that the program has been a success. Utah tire recyclers are converting approximately 2,000 tires a day into crumb rubber for playgrounds, sports tracks, football fields, and other areas.

Action

The Committee considered this issue in its April meeting and recommended that the Waste Tire Recycling Act be reauthorized for 5 years.

OTHER STUDIES

Funds Expended for Species Protection

The Recovery Program Director in the Department of Natural Resources discussed the Endangered Species Act, the purpose of which is to conserve endangered and threatened species and the ecosystem upon which they depend. He reviewed the expenditures and benefits of the Upper Colorado River Endangered Fish Recovery

Program, the Virgin River Program, and the June Sucker Recovery Implementation Program. The Committee considered this issue at its October 2004 meeting but did not recommend legislation.

Hazardous Waste Regulation and Tax Policy Task Force Report

The Committee received a report from the Hazardous Waste Regulation and Tax Policy Task Force. The Committee received this report at its November 2004 meeting and recommended draft legislation "Waste Amendments."

Petroleum Storage Tank Trust Fund

The Utah Underground Petroleum Storage Tank Program was established to protect human health and the environment from leaking underground storage tanks. Funds for the program are anticipated to be depleted in 2008. The Committee reviewed short-term actions currently being taken and possible long-term options. The Committee considered this issue at its August 2004 meeting but did not recommend legislation.

Predator Control

The Division of Wildlife Resources and Utah Wildlife Services discussed depredation losses from predators and funding of predator control. The Committee was asked to consider increasing General Fund appropriations to the program to fully compensate livestock owners for livestock loss due to cougar and bear. The Committee considered this issue at its June 2004 meeting but did not recommend legislation.

Use of Eminent Domain for Recreation Purposes

The Committee discussed the use of eminent domain for fishery mitigation associated with the Central Utah Project. The Committee considered this issue at its May 2004 meeting but did not recommend legislation.

Water Conservation Plans

H.B. 71 "Water Conservation Plans," passed in the 2004 General Session, required the Board of Water Resources to report regarding its compliance with H.B. 71 and on the overall quality of water conservation plans in the state. The Committee considered this issue at its

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENT INTERIM COMMITTEE

November 2004 meeting but did not recommend legislation.

Water Issues Task Force Report

The Committee received a report from the Water Issues Task Force. The Committee received the report at its November 2004 meeting and recommended draft legislation "State Engineer's Powers and Duties Amendments."

Watershed Management

The Committee discussed how healthy watersheds provide water, forage and habitat for wildlife and livestock, cleaner air, recreation, solitude, timber, energy and mineral resources, and a productive food supply. The Department of Environmental Quality, Department of Agriculture and Food, and the Department of Natural Resources are all engaged in watershed protection and management initiatives. The Committee considered this issue at its April 2004 meeting but did not recommend legislation.

Wildfires

The Division of Forestry, Fire and State Lands, discussed wildland fire potential in 2004 and reviewed the recommendations of the Utah Wildland Fire Task Force. The Committee considered this issue at its April 2004 meeting but did not recommend legislation.

OCCUPATIONAL AND PROFESSIONAL LICENSURE REVIEW COMMITTEE

OCCUPATIONAL AND PROFESSIONAL LICENSURE REVIEW COMMITTEE

Membership

Sen. David L. Gladwell, Senate Chair
Rep. J. Morgan Philpot, House Chair (until 9/30/04)
Rep. Gregory H. Hughes, House Chair
Sen. Gene Davis
Sen. John L. Valentine
Rep. Carl W. Duckworth
Rep. Michael T. Morley (as of 08/19/04)
Mr. Brian Allen
Mr. Dee Bangerter
Mr. Phil Hancock
Mr. Reed Mackley
Mr. Bert Smith
Mr. Brent L. White
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.

LICENSURE AND TRAINING OF CHIROPRACTORS TO PRACTICE ACUPUNCTURE

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 Senate but removed prior to passage by the Legislature.

In 1998, the Division of Occupational and Professional Licensing expanded, by administrative rule, the scope of practice of chiropractors to include acupuncture. In the 2004 General Session, the Legislature passed S.B. 249 "Defining Practice of Chiropractic Physician," which granted chiropractors explicit authority to practice acupuncture.

Acupuncturists claimed that the rule's training requirements are inadequate to protect public health and safety and urged that passage of a nationally accredited acupuncturist exam be required of all chiropractors who wish to practice acupuncture. Chiropractors claimed that present levels of training required by licensing rules of the Division of Occupational and Professional Licensing are sufficient.

Action

Motions to adopt recommendations to the Legislature, including passage of a national exam, a 5-year sunset, and increased hours of training, failed to pass. The Committee considered these issues at its May 26, 2004 meeting but did not recommend legislation.

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 Bangarter, 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. The Political Subdivisions Interim Committee has statutory responsibility in the *Utah Code* for: Title 10, Utah Municipal Code; Title 11, Cities, Counties, and Local Taxing Units; Title 17, Counties; Title 17A, Special Districts; and Title 17B, Limited Purpose Local Government Entities.

GIS DATA ACCURACY IN THE STATE GEOGRAPHIC INFORMATION DATABASE

Background

GIS (Geographic Information Systems) is used to facilitate information sharing, decision-making, and policy formulation by many users. Having accurate and up-to-date GIS data is critical to effectively using the GIS tools. An ad hoc workgroup of the Political Subdivisions Interim Committee was formed to discuss ways to improve the accuracy and currency of GIS data in the SGID (State Geographic Information Database).

The workgroup made recommendations for legislative action to: 1) establish a management structure for the development, maintenance, and administration of a statewide GPS (Global Positioning System) Reference Network that would enable the collection of more positionally accurate GIS data; and 2) update and standardize statutory provisions regarding the process for reporting governmental boundary changes reported to the SGID.

Action

The Committee considered this issue at its April, May, August, September, and November 2004 meetings but did not recommend legislation.

LAND USE DEVELOPMENT AND MANAGEMENT ACT REVISIONS

Background

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. During the 2004 interim a Committee member, in cooperation with the Utah League of Cities and Towns, organized a group of interested parties to discuss revisions to the Municipal and County Land Use Development and Management Acts.

The group's recommendations would enable local governments to establish locally-relevant processes,

POLITICAL SUBDIVISIONS INTERIM COMMITTEE

minimize state barriers to streamlined local land use processes, provide flexible appeal options, and codify clearly established common law principles.

Action

The Committee considered this issue at its June, August, October, and November 2004 meetings but did not recommend legislation.

OTHER STUDIES

Associations of Governments in State Statute and Funding Sources

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. Also, AOGs desire a more stable funding source, potentially from state funds. The Committee examined this audit recommendation and other questions such as: What are the origins of AOGs? How were they created? What are the purposes of and services provided by the AOGs? How have AOGs been funded in the past? What are the AOGs' options for more stable funding?

The Committee considered this issue at its May 2004 meeting but did not recommend legislation.

Changing the Utah and Nevada State Boundary

Wendover, Utah and West Wendover, Nevada are separated by the Utah/Nevada state boundary. For several years, a proposal has been discussed that would change the state boundary to merge Wendover, Utah into West Wendover, Nevada. Recent developments have renewed interest in the proposal.

The Committee considered this issue at its November 2004 meeting but did not recommend legislation.

County Recorder Fees

State statute outlines fees that county recorders may charge for recording various documents. S.B. 116 "County Recorder Amendments," introduced in the 2004 General

Session, would have increased the fees. The level of the fees and other county recorder issues were discussed.

The Committee considered this issue at its August 2004 meeting but did not recommend legislation.

Envision Utah Economic Development Toolbox

Envision Utah recently developed the "Economic Development Toolbox" to assist practitioners and policy makers in better promoting economic development. A representative of Envision Utah briefed the committee on the content of the toolbox and an upcoming educational forum.

The Committee considered this issue at its November 2004 meeting but did not recommend legislation.

Lobbyists for Cities and Counties

Concerns were presented to the Committee regarding whether or not tax dollars should be used to pay lobbyists hired by cities and counties.

The Committee considered this issue at its April 2004 meeting but did not recommend legislation.

Local Government Authority for Design-Build Construction

S.B. 141 "Local Government Capitol Projects," passed in the 2003 General Session, requires counties, municipalities, special districts, and local districts to request bids from the private sector rather than constructing a capitol project internally. This requirement applies to certain capital projects over \$125,000 adjusted for inflation. The governmental entity is required to contract with the lowest responsive responsible bidder.

S.B. 183 "Local Governments - Authority for Design-build Construction," passed in the 2004 General Session, allows a local government entity to award a bid to a responsible bidder that offers design-build services rather than to the lowest responsive responsible bidder. This provision in S.B. 183 was applicable only for a narrow window of time. S.B. 183 requires the Political Subdivisions Interim Committee to study the issue of design-build projects by local government and whether the provisions of S.B. 183

relating to design-build projects should be extended to future projects, modified, or eliminated.

The Committee considered this issue at its June and October 2004 meetings but did not recommend legislation.

Municipal Water Rate Variances

The Committee discussed the reasons for different water rates between county and city residents served by a city water utility, and options for county residents served by a city water utility to increase their representation.

The Committee considered this issue at its April 2004 meeting 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 2004 meeting but did not recommend legislation.

Redevelopment Agencies

The Committee received an overview of redevelopment agency statutes and a proposal to amend the statutes to encourage transit oriented developments.

The Committee considered this issue at its May, August, and November 2004 meetings but did not recommend legislation.

Sewer Service Outside a Local Government Entity

The Committee discussed whether to require local government entities that provide sewer service to allow property outside the entity to hook into sewer service without annexing, if the property to be served is uphill and it would be impractical to receive service from the entity in which the property is located.

The Committee considered this issue at its September 2004 meeting 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. John Dougall
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
Christopher R. Parker, Associate General Counsel
Phalin Flowers, Legislative Secretary

OVERVIEW

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

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

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

GENERAL AGREEMENT ON TRADE IN SERVICES

Background

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

The Committee received reports and heard testimony regarding the likely effects of the GATS treaty on their right to regulate certain services.

Action

The Committee considered this issue at its June and August 2004 meetings but did not recommend legislation.

RADIO FREQUENCY IDENTIFICATION DEVICES

Background

RFIDs (Radio Frequency Identification Devices) are the next-generation equivalent of the existing barcodes by which manufacturers, wholesalers, and retailers track their products. They are tiny electronic devices embedded in a product or packaging that serve as enhanced barcodes by their ability to electronically provide product information. This allows for more efficient product tracking and reduced inventory costs. Because each RFID contains a unique identification number for each product and can provide that product information when scanned, questions have been raised about consumer privacy. The Committee received testimony and reports on the advantages of RFIDs and on related privacy concerns.

Action

The Committee considered these issues at its April and September 2004 meetings but did not recommend legislation.

TELECOMMUNICATIONS

Background

Utah deregulated its telecommunications market in 1995 by requiring the regulated telephone carrier to provide access for competitors. The intent was to allow a competitive telecommunications market to develop, and once a certain level of consumer and business market penetration had occurred, the remaining regulations would be lifted. Because of rapid changes in technology and market penetration by both wireless and wireline carriers, completing the telecommunications market deregulation is necessary.

The Committee received reports and heard testimony regarding the need for a rewrite of the existing telecommunications laws.

Action

The Committee considered this issue at its November 2004 meeting and recommended draft legislation "Telecommunications Amendments."

OTHER STUDIES

Internet Authentication / Disclosure

The issue of Internet authentication focuses on the growing need to prevent spam and other types of deleterious software by requiring certain identification requirements be met in order to access the Internet. Disclosure also addresses the need for Internet users to provide certain information about their website or products they provide via the Internet. The Committee considered this issue at its April and June 2004 meetings but did not recommend legislation.

Multi-State Cost Allocation For Electric Power

The multi-state cost allocation for electric power is an ongoing process to determine how much each state should pay for their portion of infrastructure including new

PUBLIC UTILITIES AND TECHNOLOGY INTERIM COMMITTEE

generation capacity. The Committee heard testimony from the electric power industry and from utility regulatory entities. The Committee considered this issue at its May 2004 meeting but did not recommend legislation.

Spyware

Spyware is a type of software that has the capability of delivering unsolicited advertisements to a computer and to track consumer Internet website visits. In Utah, legislation passed during the 2004 General Session prohibiting these types of activities. The Committee heard testimony regarding the spyware legislation and whether any changes are needed in light of court challenges. The Committee considered this issue at its April 2004 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 Ann Evans
Sen. Paula F. Julander
Sen. Carlene Walker
Rep. Eli H. Anderson
Rep. Ron Bigelow
Rep. Judy Ann Buffmire (until 11/03/04)
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. 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

RETIREMENT SYSTEM DIFFERENCES

Background

The Utah State Retirement Systems consists of six different systems that include a total membership of 153,733 as of December 31, 2003. The systems and percent of total membership of each system are as follows:

- Non-contributory 83%
- Contributory 7.8%
- Public Safety 7.1%

RETIREMENT AND INDEPENDENT ENTITIES COMMITTEE

- Firefighters 1.7%
- Governors and Legislators 0.3%
- Judges 0.1%

Based on actuarial projections a contribution rate is calculated each year and approved by the Retirement Board. The contribution rate is the percent of eligible employee salary that the employer is required to pay into the retirement fund each year. This contribution is required to keep retirement systems funded on an actuarially sound basis.

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

Action

The Committee considered this issue at its August 26, 2004 meeting but did not recommend legislation.

STATE EMPLOYEE BENEFITS

Background

There are a total of 25,096 state employees; 23,508 in the Executive branch, 331 in the Legislative branch and 1,257 in the Judicial branch. The number of state employee FTEs (Full-time Equivalents) has increased 33.2 percent in the last 13 years. During the same period the state's population grew approximately 32.4 percent. Approximately 42 percent of state employee jobs are considered professionals; the next highest category is office and clerical at 11.9 percent. On average state employees have been with the state for 8.37 years.

The state spent \$769.4 million in fiscal year 2004 for total salaries, wages, and other compensation from all funds, up \$12.4 million from FY 2003 but down \$10.8 million from fiscal year 2002; the 10-year average is \$649.4 million. The average state employee salary is \$34,778 per year or \$16.72 per hour. The 51st percentile annual salary of state employees on the General Pay Plan is \$31,428 and 50 percent of all state employees on the General Pay Plan make between \$23,970 and \$41,239 per year. Salary increases for state employees have not kept up with inflation. Cost-of-living adjustments (COLAs) in the last 5 years have been about 1/3 of the inflation rate. Merit

increases allowed over the same period have also been lacking. In combination, merit increases and COLAs during this period have been about 2/3 of the inflation rate. When compounded over the last 9 years, merit and COLA increases for state employees have been roughly half of the increases given to employees of Davis, Salt Lake, and Washington counties. Based on the 2003 DHRM Salary Survey, state employee salaries are 18.1 percent lower than the market, and, based on benchmark jobs, 17.9 percent lower on aggregate than local governments and 15.3 percent lower on aggregate than the private sector.

The annual state costs for employee benefits are \$289.4 million in state paid benefits and \$65 million in state paid employment taxes for a total of \$354.3 million in fiscal year 2004; the 10-year average total is \$275 million. In addition to required benefits, the state provides the following benefits: Health Care, Dental Care, Retirement, Life Insurance, Long-term Disability, and Post-Retirement Health Care. The average state employee's benefits costs is \$20,198 which is 35.6 percent of total compensation and benefits costs paid by the state for a state employee who is making the state average salary and who has family health and dental care coverage. These costs are paid per employee each pay period. Health care, dental care, and life insurance are fixed costs per employee. Other benefits are provided based on a percent of the employee's salary. Total health and dental insurance premiums have increased 73.4 percent in the last 5 years and 96.3 percent in the last 10 years. For health care the state employee share for the PEHP Preferred Care premium was 0 percent in 1996 through 2000; 5 percent in 2001; and has been 7 percent since then. For dental coverage, the state employee share is 5 percent in 2004 and was 0 percent prior to that for PEHP Preferred Care Dental. Local governments largely provide the same benefits as state government (i.e., similar health and dental coverages and the same retirement). State employee benefits are 3.47 percent above on aggregate than the private sector based on the 2003 DHRM Salary Survey.

RETIREMENT AND INDEPENDENT ENTITIES COMMITTEE

The Committee heard presentations from staff and representatives of the Department of Human Resource Management.

Action

The Committee considered this issue at its August 27, 2004 meeting but did not recommend legislation.

STATE EMPLOYEE UNUSED SICK LEAVE

Background

Section 67-19-14.2 of the *Utah Code* provides that unused sick leave hours of state employees may be used to purchase health and life insurance benefits upon retirement. Under Administrative Rule R477-7-4, state employees earned sick leave at the rate of four hours for each two weeks worked. A total of 104 hours (13 days) are possible each year if zero sick leave is used ($4 \times 26 = 104$). The amount of accumulated sick leave is not limited but is forfeited if an employee leaves state employment before retirement. A state employee who retires with the state may participate in the Unused Sick Leave Retirement Option Program. The program allows that up to 25 percent of unused accumulated sick leave is paid at the retiring employee's current salary. Medical and life insurance is provided to all retiring employees for five years (or until the employee is eligible for Medicare whichever is first) Following the up to 25 percent cash out, 480 hours of unused accumulated sick leave is deducted from any balance for all retiring employees. Any remaining balance of unused accumulated sick leave can be used to purchase additional months of coverage (or supplemental coverage if the employee is eligible for Medicare) at 8 hours of sick leave for each month of insurance coverage. Because of escalating health care costs, the state cost to fund this program has become a concern.

The Committee received presentations from staff and heard testimony from representatives of the Division of Finance, and the Department of Human Resource Management. Committee members raised questions about alternatives that better control future costs and yet honor existing earned benefits.

Action

The Committee considered this issue at its August 27, 2004 meeting but did not recommend legislation.

OTHER STUDIES

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 following chart.

Noncontributory Retirement Contribution Rates	
Fiscal Year	Percent of Salary
1998	14.16%
1999	14.16%
2000	14.16%
2001	13.68%
2002	10.40%
2003	10.40%
2004	11.70%
2005	13.38%
*2006	13.38%
Average	12.82%
*Proposed	

For fiscal year 2006, the Retirement Board has recommended a contribution rate of 13.38 percent of salary. This is the same contribution rate paid for fiscal year 2005.

The Committee considered this issue at its August 27, 2004 meeting but did not recommend legislation.

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 (until 11/03/04)
Rep. Stephen D. Clark
Rep. Greg J. Curtis
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, Assistant Director
Rebecca L. Rockwell, Associate General Counsel
Phalin L. Flowers, Legislative Secretary

OVERVIEW

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

In addition to its regular policymaking emphasis, the Committee makes a special effort to focus on its revenue responsibility and regularly receives detailed updates from the Utah State Tax Commission on current state tax revenue collection trends.

The Committee also receives recommendations from the Utah Tax Review Commission, which is an independent study group. It consists of legislators, tax practitioners,

academics, and citizen representatives, and annually reports to the Committee.

CALLING LOCAL SPECIAL ELECTIONS FOR SALES AND USE TAX PURPOSES

Background

Utah law provides that a legislative body of a local political subdivision may call a local special election for a variety of purposes.

The Committee reviewed state laws governing when and how a legislative body of a local political subdivision may call a special election with regards to the imposition of local option sales and use taxes.

Action

The Committee considered this issue at its November 2004 meeting and recommended draft legislation "Calling Local Special Elections for Sales and Use Tax Purposes."

IMPLEMENTATION OF THE STREAMLINED SALES AND USE TAX AGREEMENT

Background

Utah is one of 45 states that imposes a sales and use tax on sales and leases of most tangible personal property and on selected services. Revenues from the state sales and use tax (about \$1.5 billion annually) pay for many services provided by state government such as public safety, water development, higher education, prisons, and medical care for the poor and elderly. The sales and use tax is also an important source of revenue for local governments, especially municipalities. Local governments in Utah collect about \$475 million annually in sales and use taxes.

While the sales and use tax is an important source of revenue for state and local governments, it is facing the dual challenges of a shrinking tax base and increasing administrative complexity.

In March 2000, a group of state tax administrators from 41 states began to lay the groundwork for a more uniform system of administering, collecting, and remitting sales and use taxes. The National Conference of State Legislatures also adopted a model act and called for delegates from states to develop a uniform sales and use tax agreement.

Beginning in November 2001, delegates from 35 states began to develop the model SST (Streamlined Sales and Use Tax Agreement) and governing structure. The final agreement was adopted on November 12, 2002. To date, 18 state legislatures in states with over 20 percent of the nation's population have enacted laws to conform with the agreement. Three additional states are close to conforming. Legislation has also been introduced in Congress to require a vendor to collect and remit sales taxes on remote sales to participating states.

During its 2003 and 2004 General Sessions, the Utah Legislature made changes to conform state tax laws to the agreement. Compared with other states, Utah's efforts to comply with SST have been relatively straightforward. For example, Utah has always had a single statewide base, state level administration, and very few caps or thresholds.

However, after the 2004 General Session, the Legislature became aware of two problems in implementing the new system. While large and medium sized businesses were ready to comply with the "destination based" sourcing requirements, small businesses, especially those without automated accounting processes, were not ready and found the new sourcing requirement to be very burdensome. Another problem involves changes to definitions of sales that include delivery charges and installation and repairs of certain tangible personal property. Because of these two problems, the Utah Legislature met in Special Session on June 28, 2004 and delayed the effective date of these and several other provisions.

The Committee held several hearings to review implementation of the Streamlined Sales and Use Tax Agreement in Utah. The Committee received public testimony on the difficulties that some businesses face to comply with destination based sourcing rules, software products to help businesses comply with these rules, and imposition of the sales and use tax on freight and installation of certain tangible personal property. The Committee also reviewed the effects the agreement on the printing and mass-mailing industry.

Action

The Committee considered this issue at its June, September, October, and November 2004 meetings but did not recommend legislation.

INDIVIDUAL INCOME TAX - CONTRIBUTIONS FOR EDUCATION

Background

Utah law provides that a taxpayer on his or her state individual income tax return may make a contribution for several specific purposes, including contributions to school district foundations.

The Committee reviewed current state law and proposed changes to update the statutory language to conform it to current practices and organizations and to clarify how certain contributions should be treated.

Action

The Committee considered this issue at its October 2004 meeting and recommended draft legislation "Individual Income Tax - Contributions for Education."

TAXING INCOME FROM MILITARY SERVICE

Background

Members of the Utah National Guard and armed forces' reserve units are currently serving in a full time military status in many places throughout the world, including in combat zones in Iraq and Afghanistan. Many of these persons serve at great personal and financial sacrifice, leaving full-time employment, businesses, and families to fight in the war against terror. The Committee wanted to find a way to provide tax relief for these persons in recognition of their sacrifices for their state and country.

The Committee reviewed recently enacted federal legislation that extends certain tax relief to members of the United States armed forces. Because Utah's individual income tax system is linked to the federal individual income tax system, these provisions are automatically incorporated in the Utah system. However, the Committee also desired to extend certain state tax individual income tax relief beyond what is available under federal law.

Legislation granting tax relief for the 2004 tax year was reviewed and approved by the Committee and then adopted by the Legislature during its 2004 Fourth Special Session. The Committee also desired that this provision be made permanent and recommended legislation to that effect for the 2005 General Session.

Action

REVENUE AND TAXATION INTERIM COMMITTEE

The Committee considered this issue at its May, June, and October 2004 meetings and recommended draft legislation "Individual Income Tax - Substation for Certain Military Income."

UNIFORM FEE STRUCTURE ON MOTOR HOMES, BOATS, OFF-HIGHWAY-VEHICLES, AND OTHER SIMILAR TYPES OF TANGIBLE PERSONAL PROPERTY

Background

Section 2, Article XIII of the Utah Constitution provides that the Legislature may exempt from the property tax tangible personal property required by law to be registered with the state before it is used on a public highway or waterway. The constitution further provides that if the Legislature exempts this tangible personal property from the property tax that it shall "provide for the payment of uniform statewide fees or uniform statewide rates of assessment or taxation on that property in lieu of the property tax."

For several years, tangible personal property of this type was subject to a statewide uniform tax equal to 1.5 percent of the property's fair market value. The Legislature later changed the property tax treatment of cars and light trucks to a fee system based on the age of the vehicle.

Adopting an age-based fee system instead of a market value system has simplified administration and compliance for both taxpayers and tax collectors. Because of the success of the age-based fee system, there has been interest in extending it to other types of motor vehicles.

The Committee considered the feasibility and desirability of extending the age-based fee system to boats, trailers, motor homes, off-highway vehicles, and snowmobiles. The Committee also received testimony on the extent to which Utahns are leaving the state to purchase and register high value motor homes in other states. After several hearings, the Committee decided to adopt an age-based fee system for certain types of personal property including outboard motors, certain boats and personal water craft, motorcycles, off-highway vehicles, snowmobiles, and trailers. The Committee decided to maintain the current

market value based system for motor homes and large house boats.

Action

The Committee considered this issue at its April, May, June, August, and October 2004 meetings and recommended draft legislation "Property Tax Treatment of Tangible Personal Property."

OTHER STUDIES

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 its 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 similar changes to their state corporate income tax laws.

The Committee considered this issue at its April 2004 meeting but did not recommend legislation.

Brine Shrimp Royalty Act

Utah imposes a royalty on brine shrimp eggs that are harvested from waters of the state. When this royalty was first imposed, the amount of payment was equal to 0.035 of the value of unprocessed brine shrimp eggs.

During its 2004 General Session, the Legislature changed the royalty system from a rate imposed on value to a flat royalty payment of \$550,000 that is apportioned equally among all persons who harvest brine shrimp eggs. A requirement that the royalty amount be reviewed by the Committee during the 2004 Interim and every 5 years thereafter was also adopted.

The Committee considered this issue at its April 2004 meeting but did not recommend legislation.

Land Value Taxation

Under Utah's property tax system, all tangible property not otherwise exempt from taxation is subject to the property tax. In most cases, "tangible property" includes both land and improvements that must be assessed for property tax purposes based on fair market value.

The Committee received a presentation on another method of imposing property taxes called "land value taxation" and to use the revenues from a land value tax to fund highway projects. A land value tax was first proposed over 100 years ago by Henry George, a nineteenth century American political economist, social philosopher, and author of the book *Progress and Poverty*. Land value tax systems are now in place all over the world. As proposed, the land value tax system would operate parallel to Utah's current property tax system. No changes would be made to the current system and taxing entities would still rely on current property tax revenue sources. However, to adopt a land value tax system in Utah would require an amendment to the Utah Constitution.

The Committee considered this issue at its November 2004 meeting but did not recommend legislation.

Oil and Gas Severance Tax Effective Rates

During its 2004 General Session, the Legislature adopted S.B. 191 "Oil and Gas Related Taxes and Fees." Among other things, this legislation provided for how the severance tax on oil and gas is calculated, severance tax rates, and how the value of oil and gas for severance tax purposes is established. The bill also directed the Utah State Tax Commission to conduct a study on effective severance tax rates on oil and gas from 1984 to 2004 and to report the results of that study to the Committee.

The Commission's report found that effective oil and gas severance tax rates have varied from a low of 1.94 percent of value in 1998 to a high of 3.21 percent of value in 1990.

The Committee considered this issue at its October 2004 meetings but did not recommend legislation.

Recent Changes to Federal Income Tax Laws

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

The Tax Commission reported that Congress enacted two laws in 2004 that will affect state revenues. The "Working Families Tax Relief Act of 2004" will result in a revenue reduction of about \$4.5 million in fiscal year 2006. The other tax legislation recently enacted by Congress, "The American Jobs Creation Act of 2004," may also affect state revenues but at the time the Tax Commission made its report, the magnitude of the effect had not yet been determined.

The Committee considered this issue at its October 2004 meeting but did not recommend legislation.

Single Statewide Sales and Use Tax Rate

Utah's sales and use tax system consists of a state rate and 13 separate local option sales and use taxes. Some of these local option sales and use tax rates are imposed for general government purposes while others are earmarked for specific purposes such as mass transit, highways, and health care facilities.

The Committee considered a proposal to combine most of these local option sales and use tax rates into a single rate. The goal of this proposal is to have a single sales and use tax rate that would be imposed statewide. It is hoped that such a feature will greatly simplify the collection and remittance of sales and use taxes.

The Committee considered this issue at its November 2004 meeting but did not recommend legislation.

Taxation of Multi-Channel Video or Audio Service

During its 2004 General Session, the Legislature enacted S.B. 195, "Taxation of Multi-Channel Video or Audio Service." This legislation repealed a sales and use tax imposed on multi-channel video or audio service and imposed a state tax of 6.25 percent of amounts paid or charged for these services. This bill also required the Committee to study this tax and recommend whether it should be modified.

REVENUE AND TAXATION INTERIM COMMITTEE

These types of services are delivered through either cable systems or individual satellite dishes and receivers. The Committee received testimony from the cable industry regarding what it perceives to be unfair tax treatment. In addition to the state tax of 6.25 percent, the cable industry must also pay franchise fees to most municipalities to access rights of ways. These municipal fees can be as high as 6 percent of gross receipts.

The Committee also received testimony from municipalities stating that franchise fees are an important source of revenue for services and that all utilities are subject to these fees.

The Committee considered this issue at its June 2004 meeting but did not recommend legislation.

Telecommunications Tax Rates

During its 2003 General Session the Legislature enacted S.B. 23 "State and Local Taxes, Fees, and Charges Related to Telecommunications." Among other things, this legislation required the Utah State Tax Commission to undertake a study to determine the effective tax rate imposed by each municipality in the state on telecommunications services.

This report was originally required to be submitted to the Legislature by February 16, 2004. However, because of challenges in collecting complete and accurate data, the report was never submitted by the Tax Commission. The Tax Commission reported to the Committee that the data required for the study are not readily available from either municipalities or the telecommunications industry. Therefore, the study required under S.B. 23 was not fully completed.

The Committee considered this issue at its May 2004 meeting but did not recommend legislation.

RURAL DEVELOPMENT LEGISLATIVE LIAISON COMMITTEE

RURAL DEVELOPMENT LEGISLATIVE LIAISON COMMITTEE

strategic plan on rural economic development, planning, and leadership training.

Membership

Sen. Thomas V. Hatch, Senate Chair
Rep. DeMar "Bud" Bowman, House Chair
Sen. Mike Dmitrich
Sen. Scott K. Jenkins
Sen. Ed P. Mayne
Rep. Douglas C. Aagard
Rep. Eli H. Anderson
Rep. James R. Gowans
Rep. Eric K. Hutchings
Rep. Brad King
Rep. R. Curt Webb

Staff

Joseph T. Wade, Policy Analyst
Susan C. Allred, Associate General Counsel
Joy L. Miller, Legislative Secretary

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

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

OVERVIEW

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

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

GOVERNOR'S RURAL PARTNERSHIP BOARD REPORT

Background

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

The Committee received recommendations from the Governor's Rural Partnership Board.

Action

The Committee recommended legislation "Funding for Tourism." The Committee also recommended:

- establishing a legislative interim task force to study the health insurance crisis in rural Utah;
- supporting an annual appropriation of \$100,000 to sustain the Utah Smart Site Program;
- designating Utah State University to assume the lead role in identifying rural economic "clusters" and convening entities to develop strategies for helping new and existing rural entrepreneurs in these economic clusters; and

RURAL DEVELOPMENT LEGISLATIVE LIAISON COMMITTEE

- asking the Utah Department of Agriculture and Food to explore the creation of a multi-institutional Agribusiness Innovation Center.

The Committee considered rural economic development issues in its August, October, and November 2004 meetings but did not recommend legislation.

SCHOOL BUILDING LEGISLATIVE TASK FORCE

SCHOOL BUILDING LEGISLATIVE TASK FORCE

Membership

Sen. Howard A. Stephenson, Senate Chair
Rep. James A. Ferrin, House Chair
Sen. Gene Davis
Sen. Karen Hale
Sen. Sheldon L. Killpack
Sen. David L. Thomas
Rep. Ralph Becker
Rep. D. Gregg Buxton
Rep. David N. Cox
Rep. David Litvak
Rep. Michael T. Morley
Rep. Carol Spackman Moss

Staff

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

OVERVIEW

The School Building Legislative Task Force was created by legislation enacted in the 2004 General Session. The Task Force was directed to study, in cooperation with the public education community, business, industry, employers, and parents:

- 1) school building needs in the state;
- 2) the school building costs within school districts in the state and in other states;
- 3) methods to minimize the costs of design, construction, and operation and maintenance of school buildings, including the use of model plans or other best practices;
- 4) the adequacy and equalization of state support for school district building needs; and
- 5) other issues related to school buildings that may be recommended by the task force.

At the request of the Task Force, an ad hoc committee comprised of architects, builders, and school district officials was formed to study and make recommendations on the issues assigned to the Task Force.

The Task Force along with the ad hoc committee visited eight newly constructed public schools in Utah including three charter schools.

PUBLIC SCHOOL CONFORMANCE WITH MUNICIPAL AND COUNTY LAND USE ORDINANCES

Background

Utah law exempts school districts from certain municipal and county land use ordinances, including requirements for landscaping, fencing, aesthetic considerations, and building materials. School districts are also exempt from building inspection fees, because school buildings are inspected by district-appointed inspectors.

In the past year, several charter schools were built and were not eligible for any land use exemptions because the exemptions currently extend only to buildings constructed by school districts. Representatives of charter schools requested that charter schools be treated like any other public school. Municipal representatives expressed that their primary interest is assuring the safety of school children and would like to consult with charter school developers on the siting of charter schools to avoid or mitigate potential traffic hazards.

Action

The Task Force considered this issue at its August 13, October, and November 2004 meetings and recommended draft legislation "Charter School Construction Amendments."

SCHOOL BUILDING COSTS

Background

A potential model for reducing school construction costs is charter schools. Schools built by charter schools cost considerably less than schools built by school districts. The Task Force contemplated whether school districts should adopt some of the building practices of charter schools as a strategy to control school building costs.

The primary reason for the lower cost of charter schools is that charter schools have less money available to build

SCHOOL BUILDING LEGISLATIVE TASK FORCE

schools and must find ways to reduce the cost of school construction. They do this by using different construction methods and materials, reducing square footage per student, and using less acreage.

A factor cited by school district officials for the higher cost of their schools is the intended life span of the school. Since school districts are relatively permanent institutions, they design schools for a 70-year life. Charter schools are designed for a much shorter life. Building a school for a 70-year life requires the use of more expensive construction methods and materials than building a school with a 30-year projected life.

Community pressures are another factor that may drive up the cost of schools built by school districts. Charter schools limit building costs by designing multipurpose spaces that function as a gymnasium, auditorium, and lunchroom. In contrast, school districts are often encouraged by their communities to build large auditoriums and recreation facilities that may be used by the general public during or after school hours. Similarly, charter school grounds are just large enough to accommodate the needs of the school, while other public school grounds are oftentimes designed to accommodate playing fields used by the community-at-large.

Action

The Task Force considered this issue at its August 31, September, October, and November 2004 meetings but did not recommend legislation.

STATE BUILDING AID

Background

School districts are responsible for the funding of school buildings in Utah. The state provides less than \$30 million annually to school districts for school building construction and renovation. State building aid is distributed to school districts based on a formula designed to partially equalize the funds available to school districts for school construction on a per pupil basis. The recipients of state building aid are school districts that generate a relatively low amount of property tax revenue per pupil.

Several years ago about 10 percent of the state building aid was segregated into a separate program known as the Enrollment Growth Program. The program monies were restricted to school districts that both generated a relatively low amount of property tax per pupil and had a net increase in enrollment over a three-year period. In the 2004 General Session, legislation was introduced to revise the Enrollment Growth Program to target the most rapidly growing school districts in the state.

The Task Force received testimony on the merits of both revising and retaining the existing formulas for the distribution of state building aid. Representatives of school districts with rapidly growing enrollments, high levels of debt, and high capital facility and debt service levies advocate amending the formulas to place a greater weight on enrollment growth and tax effort. School districts with relatively low property valuations advocate retaining the existing formulas.

Action

The Task Force considered this issue at its June 4, June 18, October, and November 2004 meetings but did not recommend legislation.

TASK FORCE STUDYING WATER ISSUES

TASK FORCE STUDYING WATER ISSUES

Membership

Sen. Peter C. Knudson, Senate Chair
Rep. Michael R. Styler, House Chair
Sen. Patrice M. Arent
Sen. Mike Dmitrich
Sen. Beverly Ann Evans
Sen. Thomas V. Hatch
Rep. David Clark
Rep. Greg J. Curtis
Rep. Ben C. Ferry
Rep. Brent H. Goodfellow
Rep. James R. Gowans
Rep. Bradley T. Johnson
Rep. David Ure

Staff

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

OVERVIEW

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

The Task Force Studying Water Issues is a 2-year task force, created in the 2004 General Session to address the following six water issues: 1) ground water management; 2) water right enforcement and penalties; 3) title for water rights; 4) administration of ground water and surface water; 5) instream flow; and 6) water conservation and reuse, including the recycling of treated municipal effluent. The Task Force met five times in 2004 and met in many more informal working group meetings to discuss proposed legislation.

WATER RIGHT ENFORCEMENT AND PENALTIES

Background

The Task Force decided to first study water right enforcement and penalties since one of the best ways to strengthen the existing water system is to ensure that water is not used illegally. Task Force members learned that little deterrent exists for those who violate water right laws because:

- The administrative process that the state water engineer must follow to enforce water right laws is cumbersome and an investigation/prosecution process usually will not be resolved until the agricultural season is over; and
- If the problem is resolved, the person who violated the water right laws is not punished sufficiently to deter them or to restore the harm done to other water users.

Action

The Task Force considered this issue at its May, June, August, September, and October 2004 meetings and recommended draft legislation "State Engineer's Powers and Duties Amendments" and "Water Law - Criminal Penalties Amendments."

The Task Force also prepared draft legislation "Water Enforcement Procedures and Penalties," but was not ready to recommend it at its last meeting. More working group meetings were held after the Task Force's last meeting to prepare the legislation for the 2005 General Session and to consider other issues that may need to be addressed in the three pieces of legislation.

OTHER STUDIES

Seminar and Field Trip

The Task Force held a groundwater seminar in October and a field trip in August to better understand key water rights issues in preparation for next year's studies.

TRANSPORTATION INTERIM COMMITTEE

Membership

Sen. Sheldon L. Killpack, Senate Chair
Rep. Joseph G. Murray, House Chair
Sen. Dan R. Eastman
Sen. John W. Hickman
President Al Mansell
Sen. Ed P. Mayne
Rep. Calvin G. Bird (until 6/30/2004)
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
Rep. Aaron Tilton (as of 7/23/2004)

Staff

Benjamin N. Christensen, Policy Analyst
Shannon C. Halverson, Associate General Counsel
Tracey Fredman, Legislative Secretary

OVERVIEW

The Transportation Interim Committee has responsibility for issues relating to the safe and efficient movement of people and property within Utah. 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.

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 approximately 80 percent of Utah's population. UTA is a special district formed by municipalities and counties by a vote of the people authorizing a 1/4 percent sales tax dedicated to the district (see Section 59-12-501, *Utah Code*). On November 7, 2000, voters in Salt Lake, Davis, and Weber counties approved an additional 1/4 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 1/2 percent in those counties. In Salt Lake County, 25 percent of the additional 1/4 percent sales tax must be used for improvements to I-15 (see Section 59-12-502, *Utah Code*). Other transit districts in the state include Cache Valley Transit District, Logan

TRANSPORTATION INTERIM COMMITTEE

Transit District, Park City Transit District, and Sun Tran Transit District (in St. George).

HIGHWAY FUNDING

Background

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 billion deficit at the end of fiscal year 2007. However, current projections show the deficit will be closer to \$1.2 billion at the end of fiscal year 2007. Under current revenue sources, the CHF debt will be paid-off in fiscal year 2017, 10 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 additional bonding and \$510 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 net interest and other bonding costs of \$200 million. Instead \$1.735 billion in bonding will be needed with net interest and other bonding costs projected to be \$710 million. The increased cost

associated with increased bonding and paying off 10 years later than originally planned will cost an extra \$510 million.

The STIP (Statewide Transportation Improvement Program) is a 5-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.

Total highway needs through the year 2030 exceed \$23 billion as shown in the Long Range Transportation Plans of UDOT, the WFRC (Wasatch Front Regional Council), the Mountainlands Association of Governments, the Cache MPO, and the Dixie MPO. These needs far exceed existing funding resources. The plans provide highway and transit alternatives based on different funding assumptions. Each funding assumption will require action by the Legislature.

The Transportation Planning Task Force, which was created during the 2003 General Session and reauthorized during the 2004 General Session, was assigned to study long range transportation funding needs and make its final report to the Committee by November 2004. The Committee received the Task Force's final report, including a written report, at its November 2004 meeting.

Action

The Committee considered highway funding issues at its April, September, and November 2004 meetings but did not recommend legislation.

TRAFFIC CODE RECODIFICATION

Background

Title 41, Chapter 6, Traffic Rules and Regulations, includes the primary traffic laws of the state. Citizens, law enforcement, and the judicial system rely daily on these traffic laws. Many of these state statutes have not been updated since 1979 and some are as old as 1955. This chapter includes 18 articles and some 247 sections. Periodic updates or recodifications of state statutes have been an ongoing effort in the Legislature for many years.

In its April 2004 meeting the Transportation Interim Committee unanimously voted to support, prioritize, and proceed with the recodification of this chapter. This effort was to update statutory language and was meant to improve organization and readability, and reduce ambiguities, inconsistencies, and conflicts. Several state and local agencies and industry representatives were involved in reviewing the changes and in making suggestions. These included:

- Driver License Division
- Utah Department of Transportation
- Utah State Tax Commission
- Statewide Association of Prosecutors
- Office of the Court Administrator
- American Automobile Association
- Utah Highway Patrol
- Utah Association of Counties
- Utah League of Cities and Towns
- Chiefs of Police Association
- Utah Sheriffs' Association
- State Farm Insurance

As part of the effort, four substantive issues were identified and prepared in separate legislation for consideration by the Committee.

Action

The Committee considered this issue at its April, September, and November 2004 meetings and recommended draft legislation "Traffic Code Recodification and Revisions" and "Traffic Code Amendments."

UNINSURED AND UNREGISTERED VEHICLES

Background

Under state law, both insurance and registration are required to operate a motor vehicle on a highway. The insurance requirement is to ensure that an at-fault driver can pay for damages in the event of a crash. The registration requirement is to allow identification of the vehicle for public safety purposes. Vehicle registration requirements also serve to ensure payment of vehicle property taxes, registration fees, driver education taxes, and compliance with safety and emissions inspection

requirements. The best ways to increase compliance and enforcement of these laws have been an ongoing issue in Utah and throughout the nation.

Based on legislation prepared for the 2004 General Session and input received from agencies, draft legislation was prepared and considered which: clarifies that vehicle registration is required only if the vehicle is used on a highway; allows the Motor Vehicle Division or a peace officer to impound a vehicle if the vehicle does not have a Utah registration and license plate after 60 days of the owner establishing residency in this state or the operator does not have evidence of owner's or operator's security; increases the reinstatement fee for registering a vehicle after the vehicle's registration is revoked for certain owner's or operator's security requirements; and reduces the number of consecutive months that a vehicle must show on the uninsured motorist database as being uninsured before the first warning letter is sent to the vehicle owner. No action was taken on this draft legislation. In addition, two members of the Committee had draft legislation prepared which allows an insurer to offer higher uninsured motorist property damage coverages at appropriate rates.

Action

The Committee considered this issue at its April and October 2004 meetings and recommended draft legislation "Uninsured Motorist Property Damage Coverage Amendments."

OTHER STUDIES

Annual State Highway System Changes

As required by Section 72-4-102 of the *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.

TRANSPORTATION INTERIM COMMITTEE

The Commission's 2004 recommendations include redesignating a portion of SR-89 in Draper, creating SR-222 from a portion of SR-224 in Midway, removing a portion of SR-235 near Pleasant View, providing a new alignment of a portion of SR-134 in Weber County, and creating SR-162 from a portion of SR-163 and SR-262 in San Juan County.

The Committee considered this issue at its October 2004 meeting and recommended draft legislation "Master Highway Designation Amendments."

Commuter Rail and Light Rail Update

UTA 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) on a Weber County to Salt Lake commuter rail line is complete. The EIS on the West Valley and Mid-Jordan light rail extensions are expected to be completed in late summer 2005. The EIS for the Salt Lake City to Provo Commuter Rail Line is included as part of the I-15 Utah County to Salt Lake County EIS which began in 2004 and is expected to be complete in the 2007.

The cost of constructing and equipping a commuter rail system from Salt Lake City north to Weber County is estimated to be between \$450 and \$500 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 \$15 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 rode TRAX from downtown to the Primary Children's Medical Center and received an update on this issue at its August 2004 meeting but did not recommend legislation.

DUI (Driving Under the Influence) Reports

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. The report recommended that:

- law enforcement agencies, court personnel, and driver license personnel provide the DUI database with complete and accurate information on offenders. Justice Courts, in particular, must improve their electronic reporting capabilities;
- law enforcement officers be trained on the use and availability of telephonic driver license hearings so that impaired drivers will lose their driving privileges;
- legislation be passed to consolidate and create categories of no alcohol restricted drivers;
- judges and prosecutors be trained on the use and application of ignition interlock devices; and
- the availability of ignition interlock devices be increased in rural areas.

Under H.B. 128 "Amendments to Operating Under the Influence," which passed during the 2004 General Session, the Commission on Criminal and Juvenile Justice is required to study child endangerment for driving under the influence and report its findings to the Transportation Interim Committee. The report estimates that there are over 300 DUIs each year where a child passenger is present in the vehicle and that three to four children die each year in Utah as passengers in vehicles where the driver was drunk. In most of these cases, the child was not restrained.

The Committee received these reports at its October 2004 meeting but did not recommend legislation.

Fund-Raising License Plates

Twenty-six specific types of special group license plates are allowed by Utah statute. Ten of these are fund raising license plates. During the 2004 General Session, seven bills authorizing new special group license plates were introduced but none passed. A recent court case has raised First Amendment concerns about authorizing special group license plates to private organizations without a viewpoint-neutral standard to determine which organizations qualify. In addition, legislating a fee for a private organization may also raise some legal concerns.

The Committee received a staff presentation on this issue and considered 1st Substitute H.B. 89 "Special Group License Plate Amendments" which was introduced but did not pass during the 2004 General Session.

The Committee considered this issue at its September 2004 meeting but did not recommend legislation.

Legacy Parkway Update

In March 1991, a WFRC (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 and a 2,098-acre nature preserve designed to preserve wetlands, buffer development, and ensure a habitat for wildlife. The cost of the project was estimated to be \$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. 10th Circuit Court of Appeals in Denver. On September 16, 2002, the court issued a decision which ordered further environmental analysis by the Federal Highway Administration and the U.S. Army Corps of Engineers. These agencies are preparing a SEIS (Supplemental Environmental Impact Statement) to respond to the Court. The SEIS will be available for public review and comment in late 2004, with a public hearing scheduled for early 2005. It is expected that the SEIS process will be completed, records of decision presented, and the project advertised for construction during the summer of 2005. Barring future legal complications, UDOT hopes to resume construction on Legacy Parkway in early 2006.

The north interchange work on Park Lane (formerly Burke Lane) is now complete and the work of Shepard's Lane is continuing. UDOT incurred \$17 million in suspension costs due to the court injunction.

Currently, the Legacy Parkway Project is approximately 33 percent completed. Work done to date includes:

- 90 percent of the right-of-way has been purchased or obtained;
- 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 took a site visit of the right-of-way of the Legacy Parkway Project and received an update at its May 2004 meeting but did not recommend legislation.

Motor Vehicles Division Performance Audit

The Utah Constitution requires "costs of collection and administration" to be paid from highway user revenue. As a result of budget short-falls and budget hearings during the 2002 General Session, a proposal was made to charge the Transportation Fund more for collection costs of transportation-related revenue. Subsequently, an audit titled "A Performance Audit of Collecting Transportation-related Revenue" was completed and presented to the

TRANSPORTATION INTERIM COMMITTEE

Committee during the November 2002 meeting. The Committee voted to request additional auditing of the collection costs of transportation-related revenue to gather more detailed information regarding the actual collection costs. The second audit titled "A Performance Audit of the DMV (Division of Motor Vehicles)" was completed and released in January 2004. Data from that audit indicates that for every dollar cost of collection, the DMV collects \$5.58 for registration fees and \$0.84 for titling fees. This means titling fees fail to cover the cost associated with collecting them.

The Committee received an audit presentation from staff of the Office of the Legislator Auditor General at its June 2004 meeting but did not recommend legislation.

Notice of Traffic Law Changes

Recently inquiries have been made on how the state informs the public about traffic laws and particularly new traffic law changes. New or frequently misunderstood Utah traffic laws include: left-lane restrictions, gore area restrictions, motor-assisted scooter restrictions, yielding to pedestrians, two-way left turn lane restrictions, traffic signal preemption devices, two license plates on vehicles, night driving restrictions, passenger limitations, covering of loads on vehicles, and requirements to move over for emergency vehicles. The driver license handbook and driver education classes attempt to keep up with the new laws. The Utah Highway Patrol also committed to help educate the public through the use of a web page that is strategically linked from a variety of places on the Internet.

The Committee received a staff report on this issue at its September 2004 meeting and heard from several agencies but did not recommend legislation.

Persons with a Disability Parking for Motorcycles

A person with a disability may be able to ride a motorcycle but may need help with parking and getting off the motorcycle. An accompanying motorcyclist often must park some distance away making assisting the disabled rider difficult.

The Committee considered this issue at its October 2004 meeting and recommended draft legislation "Person with a Disability Motorcycle Parking."

Transit Services and Funding

Beginning in 1974, voters within the UTA service area have approved a 0.0025 percent sales tax to fund the transit district. In 2000 voters of Salt Lake, Davis, and Weber counties approved an additional 0.0025 percent sales tax to fund additional light rail extensions, expanded bus service, and commuter rail. State statute provides that 25 percent of this second 0.0025 percent in first class counties (Salt Lake County) must be used for improving state highways in the county including I-15. This means the service areas in Utah, Tooele, and Box Elder counties pay a 0.25 percent sales tax for transit, Salt Lake County pays 0.4375 percent sales tax for transit, and Davis and Weber counties pay 0.50 percent sales tax for transit. In the next 27 years, UTA reports a need for \$5.4 billion to fund construction of commuter rail, light rail extensions, bus rapid transit lines, and other expansion systems. In addition \$1.7 billion will be needed to fund bus and rail car replacements through the year 2030.

The revenue contribution from municipalities and counties to fund UTA compared to the allocation of transit services in those areas has been questioned in recent months. Based on sales tax reported by the State Tax Commission and service mile reported by UTA:

- Utah County contributes 10.1 percent of the revenue and has 12.2 percent of the service miles;
- Salt Lake County contributes 63.3 percent of the revenue and has 65.4 percent of the service miles;
- Davis County contributes 13.1 percent of the revenue and has 10 percent of the service miles;
- Weber County contributes 12.2 percent of revenue and has 10.1 percent of the service miles;
- Tooele County contributes .74 percent of the revenue and has 1.4 percent of the service miles; and
- Box Elder County contributes .59 percent of the revenue and has 0.9 percent of the service miles.

UTA indicates that while it is possible to reasonably tailor operating costs with counties to approximately match revenues contributed from the counties, the same matching for capital cost is more difficult since the benefits of the capital construction accrue to all counties along the system.

The Committee received a presentation from UTA on this issue at its August 2004 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. Paula F. Julander
Sen. Sheldon L. Killpack
Sen. John L. Valentine
Rep. J. Stuart Adams
Rep. Craig W. Buttars
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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

The Transportation Planning Task Force was created by the Legislature during the 2003 General Session with H.B. 310 "Transportation Planning Task Force." In its first year, the Task Force produced a comprehensive report which, among other things, recommended reauthorization for an additional year. During the 2004 General Session the Legislature passed H.B. 28 "Transportation Task Force Reauthorization." The 2004 legislation added two members making a 14-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;

- alternative modes to meet transportation needs; and
- the reports from agencies as requested in the November 2003 Transportation Planning Task Force Report.

The final report, including proposed legislation, was presented to the Transportation Interim Committee in November 2004. The Task Force was repealed November 30, 2004.

TRANSPORTATION NEEDS

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. 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 capacity needs through the year 2030 exceed \$23 billion. Including projected revenue growth due to population and a continuation of annual General Fund contributions of approximately \$60 million through fiscal year 2017, current revenue streams will fund approximately 28.4 percent of the \$23 billion in highway needs or \$6.5 billion through the year 2030. That leaves approximately \$16.5 billion in identified highway needs that are not funded with current revenue streams. On an annual basis, that is \$634 million in unfunded highway needs for the next 26 years.

Through fiscal year 2005, only \$1.605 billion (or an average of approximately \$178.4 million annually in new state revenues) have been raised for the Centennial Highway Fund program which is now in its 9th year. These calculations do not include an estimated \$7.1 billion that will be needed in the next 26 years for capitol improvement and replacement needs for Utah's public transit districts.

TRANSPORTATION PLANNING TASK FORCE

2030 Utah Highway Capacity Needs	
*WFRC urban area	\$10,899,000,000
**MAG urban area	\$4,440,000,000
Cache urban area	\$427,000,000
Dixie urban area	\$800,000,000
#UDOT, Non-MPO areas	\$6,477,000,000
TOTAL CAPACITY NEEDS	\$23,043,000,000
***Current available highway revenue through 2030	\$10,644,000,000
****Less expected highway expenditures through 2030	\$4,105,000,000
Total highway revenues available for capacity	\$6,539,000,000
TOTAL UNFUNDED HIGHWAY CAPACITY NEEDS (needs less revenues available)	\$16,504,000,000
*WFRC (Wasatch Front Regional Council)	
**MAG (Mountainlands Association of Governments)	
# Includes reconstruction and major reconstruction	
***Highway revenue sources include available state transportation funds (less UDOT operations and maintenance costs), federal highway funds, ¼ of ¼ cent sales tax (Salt Lake County), and Centennial Highway Funds	
****Highway expenditures include roadway expenditures, pavement/bridge preservation, routine projects including traffic signals, roadway safety improvements, roadway lighting, and contingencies.	
Source: Utah Department of Transportation November 2004	

Action

The Task Force studied these issues, heard reports, studies, and testimony from key transportation representatives and prepared and adopted a report which includes Task Force Principles and recommended legislation. The Task Force Principles are as follows:

1) Funding Diversification—All citizens benefit from having viable transportation systems, and over-reliance on few traditional funding sources will not produce the revenue needed nor spread the tax burden fairly—the state must broaden the base for which transportation systems are funded. Reliance on fuel tax alone will never be adequate for highway needs.

2) New Revenue to Highways—In addition to the annual average of approximately \$251,818,000 over the next 10 years in new revenue included in the task force's recommended legislation, the Legislature should raise an additional \$80 to 100 million annually in new state revenue making a combined 10-year total, including local option funding, of approximately \$4.5 billion for highways. The revenue should come from the options in the following priority:

- Further direction and dedication of new revenue growth in the General Fund
- Re-prioritization of state expenditures
- 0.25 percent Statewide Sales Tax increase/\$80 million
- 5 cent Fuel Tax increase with annual fuel tax indexing/\$66 million

3) Partnership—Counties and municipalities are partners with the state in providing transportation systems and should be empowered to contribute to shared transportation solutions.

4) Accountability—Much of the need to add highway capacity in particular areas of the state results from the exercise of private property rights and local land use and economic development decisions—local governing bodies should be held accountable for the impact of these decisions. The Legislature should ensure that local governments have the appropriate tools to address mitigation of these impacts.

5) Auto Related Sales Tax—Approximately 16 percent of sales and use tax revenues can be attributed to the sale of automobiles and related products and services. A portion of these revenues should be used to pay for highways. (see recommended legislation)

6) Transit Funding—Transit is a necessary transportation option. Previously authorized revenue tools including sales tax and property tax should be exercised before new revenue sources are authorized.

7) Corridor Preservation—Acquisition of right-of-way is critical and essential for the future of Utah's transportation system. Local governments in cooperation with the Transportation Commission should be given increased authority and ability to preserve transportation corridors (see recommended legislation).

TRANSPORTATION PLANNING TASK FORCE

8) Centennial Highway Fund—When debt outstanding in the Centennial Highway Fund is paid off, all revenue sources from that fund should be redirected to the Transportation Investment Fund of 2005 (see recommended legislation).

9) Transportation Funding Stability—Multi-year transportation projects require stable and reliable long-term transportation funding that can be clearly identified by policy makers and transportation planners.

10) Local Funding Equity—The state should allow every county to enact equal local option sales taxes for transit and highway projects (e.g., up to a 1/2 cent sales tax for transit systems and a 1/4 cent sales tax for highway projects).

11) Local Matching Funding—The Transportation Commission should not consider any funds generated through any local option sales tax for a local leverage match until there is parity and opportunity statewide.

The Task Force considered these issues at its May, June, July, September, October 13, October 27, November 4, and November 5, 2004 meetings and recommended four pieces of draft legislation with subcategories covered under each bill shown in bullets below:

- "Transportation Amendments and Highway Jurisdictional Transfer Task Force"
 - ▶ Notification Requirements for Local Land Use Planning
 - ▶ Highway Jurisdictional Transfers
 - ▶ Highway Jurisdictional Transfers Task Force
 - ▶ Highway Project Selection Process
 - ▶ Authorization of Tollways
- "Transportation Investment Act"
 - ▶ Vehicle Fees and Penalties
 - ▶ Dedication of Certain Sales Tax Revenues to Highways
- "Local Corridor Preservation Funding"
- "Resolution Encouraging Managed Lanes Study"

UTAH TAX REVIEW COMMISSION

Membership

Mr. M. Keith Prescott, Chair
Mr. David J. Crapo, Vice Chair
Sen. Ron Allen
Mr. Lawrence R. Barusch
Rep. Katherine M. Bryson
Mr. Mark K. Buchi
Rep. Judy Ann Buffmire (until 11/03/04)
Mr. Gary Cornia
Ms. Janis A. Dubno
Sen. Lyle W. Hillyard
Ms. Kathleen Howell
Comm. Bruce Johnson
Mr. Bruce Jones
Mr. Dixie Leavitt

Staff

Bryant R. Howe, Assistant Director
Rebecca L. Rockwell, Associate General Counsel
Phalin L. Flowers, Legislative Secretary

OVERVIEW

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

AGRICULTURAL RELATED SALES AND USE TAX EXEMPTIONS

Background

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

The TRC spent considerable time during the 2003 and 2004 interims studying the following sales and use tax exemptions related to the agricultural industry:

- sprays and insecticides used in the commercial production of certain agricultural products;
- sales of tangible personal property used or consumed directly in farming operations; and
- exclusive sale of seasonal crops by the producer.

Action

As part of this review, the TRC reviewed the cost and effectiveness of these exemptions and received public testimony from representatives of the state, agriculture industry, and the Utah State Tax Commission.

The TRC considered this issue at its May and June 2004 meetings and recommended draft legislation "Sales and Use Tax - Sales of Seasonal Crops or Other Products," "Sales and Use Tax Agriculture Exemptions," and "Sales and Use Tax - Agricultural Exemption Vehicle Limitation."

OTHER SALES AND USE TAX EXEMPTIONS

Background

In addition to the agricultural related exemptions discussed above, the TRC also reviewed the following exemptions to the sales and use tax:

- property stored in the state for resale;
- property purchased for resale in this state, in the regular course of business, either in its original form or as an ingredient or component part of a manufactured or compounded product;
- sales of nonreturnable containers, nonreturnable labels, nonreturnable bags, nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor, wholesaler, or retailer for use in packaging tangible personal property to be sold by that manufacturer, processor, wholesaler, or retailer; and
- certain tangible personal property involved in a trade-in transaction.

As part of this review, the TRC reviewed the cost and effectiveness of these exemptions.

UTAH TAX REVIEW COMMISSION

Action

The TRC studied this issue at its November 2004 meeting but did not recommend legislation.

REVIEW OF CITIZEN'S INITIATIVE # 1 "THE UTAH CLEAN WATER, QUALITY GROWTH AND OPEN SPACE INITIATIVE"

Background

"The Utah Clean Water, Quality Growth and Open Space Initiative" was placed on the ballot through citizen initiative for the 2004 General Election. Among other things, the initiative authorized the issuance of \$150 million in bonds to be repaid through a increase in the state sales and use tax rate by 1/20th percent. Proceeds from the bond would have been used for various conservation projects and community projects. The initiative did not pass.

Action

The TRC did not take a formal position for or against the initiative. But because it raised many tax policy and public finance issues, the TRC did adopt a policy statement containing its observations and concerns regarding the initiative's tax policy and bonding provisions.

The TRC considered this issue at its October and November 2004 meetings but did not recommend legislation.

OTHER STUDIES

Exempting from the Sales and Use Tax All Tangible Personal Property Used in the Production of Goods and Services for Final Consumption

When most states began imposing sales and use taxes in the 1930s, it was originally conceived as a tax on personal consumption. But because the tax was imposed on sales of "tangible personal property," business inputs were included in the base and subject to tax. While most sales and use tax experts agree that the sales and use tax should not be imposed on business inputs, the broad exclusion of these inputs is difficult to accomplish for a variety of reasons.

The TRC received testimony from staff and the Utah State Tax Commission on this issue. Utah's sales and use tax system now excludes a variety of both general and specific production inputs. These exemptions include purchases of goods that become a component part or physical ingredient of the final product, nonreturnable containers, sales of natural gas, etc., for industrial use, and others.

Oil and Gas Severance Tax Rate Structure

The rates for the oil and gas severance tax are structured as follows:

- 3 percent of the value of the oil up to and including the first \$13 per barrel for oil;
- 5 percent of the value of the oil from \$13.01 and above per barrel for oil;
- 3 percent of the value of the natural gas up to and including the first \$1.50 per MCF for gas;
- 5 percent of the value of the natural gas from \$1.51 and above per MCF for gas; and
- 4 percent of the value of natural gas liquids.

During 2004, nominal prices for oil and natural gas rose to record levels. The TRC discussed whether this rate structure was still appropriate in light of current price levels.

The TRC reviewed data on prices, production, and revenues, and severance tax rates in other states. It also received testimony from the oil and gas production and exploration industry on this issue.

The TRC discussed this issue at its October and November 2004 meetings and did not recommend legislation but did ask the Utah oil and gas production and exploration industry to provide certain information.

Review of State Income Tax and Corporate Franchise and Income Tax Credits for Research and Development Activities and Equipment

Utah law provides for the following credits against a taxpayer's individual income tax or corporate franchise and income tax liability for the following:

- a 6 percent tax credit for qualified research expenses that exceed a base amount;

- a 6 percent tax credit for payments to a qualified organization for basic research if those payments exceed a base amount; and
- a tax credit equal to 6 percent of the purchase price of machinery, equipment, or both that is:
 - ▶ used primarily for qualified research in the state; or
 - ▶ donated to a qualified organization and is used primarily to conduct basic research in the state.

The TRC was required by law to conduct a review of these credits before October 1, 2004 and to recommend whether the credits should be continued, modified, or repealed.

The TRC reviewed the cost of these credits and the number of taxpayers who claim one or more of these each year. It also received testimony from business organizations that benefit from these credits.

The TRC discussed these credits at its August and September 2004 meetings but did not recommend legislation.

Review of State Individual Income Tax and Corporate Franchise and Income Tax Credits for Certain Vehicles Using Cleaner Burning Fuels

Utah law provides for a credit against a taxpayer's individual income tax or corporate franchise and income tax liability for the purchase or conversion of certain vehicles that use cleaner burning fuels. The credit is equal to: (a) 50 percent of the incremental cost of an original equipment vehicle, up to \$3,000 per vehicle; (b) 50 percent of the cost of conversion equipment for a registered motor vehicle, up to \$2,500 per vehicle; and (c) 50 percent of the cost of conversion of a special mobile equipment engine, up to \$1,000 per vehicle.

These credits are scheduled to sunset for taxable years beginning on or after January 1, 2006. The TRC reviewed the cost of these credits and the number of taxpayers who have claimed one or more of them for the past several tax years. It also received testimony from organizations that promote the use of clean fuel vehicles and the Utah State Tax Commission regarding these credits.

The TRC discussed this issue at its June and August 2004 meetings but did not recommend legislation.

State and Local Tax Revenues and the Utah Economy

In December of 2003, Governor Olene M. Walker announced that her administration would undertake a comprehensive study of Utah's state and local tax system. This study would be conducted for her by an informal group of advisors and tax experts. As part of this study, the tax advisors conducted research on how tax revenues respond to changes in the state's business cycle. The study focused on how the state's three major taxes (sales and use, individual income, and property) respond when the economy is growing or contracting. Using techniques commonly used to analyze investment risk, the TRC received a report that showed that the core base of most state taxes (after adjusting for economic growth) is shrinking.

The TRC discussed this issue at its May 2004 meetings but did not recommend legislation.

UTAH TECHNOLOGY COMMISSION

Membership

Sen. Beverly Ann Evans, Chair
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Sen. Karen Hale
Sen. David L. Thomas
Rep. Brad Dee
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Mr. Richard Siddoway
Dr. Gary S. Wixom

Staff

Richard C. North, Policy Analyst
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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.

INFORMATION TECHNOLOGY GOVERNANCE

Background

Sweeping changes in information technology since the mid-1990s have raised issues regarding how best to manage the delivery of information technology services. The primary concern focuses on a centralized versus a decentralized approach to providing effective, low-cost information technology services.

Utah's existing information technology governance infrastructure has its roots beginning in the 1970s. Over the 1980s and 1990s, consolidation of telecommunications and data processing resulted in the creation of the Division of Information Technology Services that provides centralized technology goods and services. The executive branch over that time period has, consistent with nationwide trends, migrated 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 governance for managing this process is being reviewed nationwide.

The Commission received reports and heard testimony regarding the existing governance model and the value of an enterprise (more centralized) approach to governing information technology infrastructure.

Action

The Commission considered this issue at its May, June, July, August, September, October, and November 2004 meetings but did not recommend legislation.

NETWORKS - WIDE AREA, LOCAL AREA, AND WIRELESS

Background

The Internet is essentially a global network that connects computers and other telecommunication devices together. With the development of the Internet, it became possible for any size organization to develop wide area and local area networks as well as wireless access to connect their employees at different locations. Utah's state and local governments have taken advantage of the benefits of

UTAH TECHNOLOGY COMMISSION

networking. However, with the development of wide area and local area networks and wireless access network failure and security issues are paramount.

The Commission received reports and heard testimony from the state's network providers and the private sector hosting company regarding single point of network failure, security, and wireless issues. These entities provided information on how the state has designed its networks and security to prevent failure and unauthorized access.

Action

The Commission considered this issue at its September, October, and November 2004 meetings but did not recommend legislation.

UTAH TECHNOLOGY INDUSTRY COUNCIL

Background

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

The Commission and the Council met jointly to hear reports and discuss how the State could assist Utah's technology industries. Three information technology related issues were considered: the "Custom Fit" training program, Economic Development Incentives, and the Small Business Innovation Research program. Each of these programs addresses different needs such as employee training, research and development grants, and tax incentives.

Action

The Commission considered these issues at its September, October, and November 2004 meetings and recommended draft legislation "Economic Development Incentives."

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 Commission provides an interactive network for the electronic transfer or exchange of medically related data.

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

Action

The Commission considered this issue at its November 2004 meeting but did not recommend legislation

OTHER STUDIES

MATRIX

The Commission reviewed the Multi-State Anti-Terrorism Information Exchange program to determine whether it was in compliance with legislatively authorized data collection systems and privacy laws. The program has been terminated and notification is now required prior to developing similar-type programs. The Commission considered this issue at its June 2004 meeting but did not recommend legislation.

Privacy

The Commission received reports and heard testimony on the use of bio-metrics such as fingerprints to authenticate user access. The use of bio-metrics would help insure that only authorized uses could access state provided services, telecommunication devices, and facilities. The Commission considered this issue at its July and September 2004 meetings but did not recommend legislation.

WORKFORCE SERVICES AND COMMUNITY AND ECONOMIC DEVELOPMENT INTERIM COMMITTEE

WORKFORCE SERVICES AND COMMUNITY AND ECONOMIC DEVELOPMENT INTERIM COMMITTEE

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Rep. Peggy Wallace

Staff

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

OVERVIEW

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

During the 2001 Interim, the Committee's area of responsibility was expanded to include the Department of Community and Economic Development. The change allows the Committee to comprehensively address business development programs and opportunities, as well as other issues facing Utah's workforce.

AEROSPACE AND AVIATION DEVELOPMENT ZONES

Background

The Department of Community and Economic Development is currently allowed by law to create an Aerospace and Aviation Development Zone at or around an airport if the airport has an instrumental landing system, a manned air traffic control tower, and land on or contiguous to the airport that is available for commercial development. The Committee discussed concerns with these requirements and whether they are responsive to the needs of rural economic development.

Action

The Committee discussed this issue at its August and September 2004 meetings and recommended draft legislation "Aerospace and Aviation Development Zone Modifications."

DEPARTMENT OF WORKFORCE SERVICES ACCESS TO FINANCIAL RECORDS

Background

In *Utah Code* Section 78-27-50, certain groups are exempted from financial privacy restrictions and may access otherwise private financial records when an examination of the records is part of an official investigation. The Department of Workforce Services explained that their Benefit Payment Control and Payment Error Prevention Units should be added to the list of exempted groups in the statute in order to detect benefit payment abuse and payment errors.

Action

The Committee considered this issue at its November 2004 meeting and recommended draft legislation "Department of Workforce Services - Access to Financial Records."

WORKFORCE SERVICES AND COMMUNITY AND ECONOMIC DEVELOPMENT INTERIM COMMITTEE

DEPARTMENT OF WORKFORCE SERVICES - SUNSET REVIEW

Background

When the Department of Workforce Services was established in 1997 to make the welfare and job training programs of Utah more efficient, many agencies providing these services were consolidated. They began delivering their services using a "one stop" model that allows welfare and employment clients to receive needed services at a single location. The Department reviewed the duties of its various agencies and explained the need to continue the services they currently provide.

Action

The Committee reviewed the Department at its April 2004 meeting and recommended draft legislation "Department of Workforce Services Amendments," which includes the reauthorization of the Department of Workforce Services for an additional 10 years.

ECONOMIC DEVELOPMENT INCENTIVES

Background

During the discussion of Aerospace and Aviation Development Zones, the Department of Community and Economic Development recommended that the department be authorized through legislation to create development zones for other industries. Requirements to be met prior to the creation of a development zone included the zoning of the land as commercial or industrial in a community approved master plan. The Department would be allowed to enter into agreements providing for partial rebates of new state revenues generated by new commercial projects that create new economic growth within a development zone.

Action

The Committee considered this issue at its August, September, and October 2004 meetings and recommended draft legislation "Economic Development Incentives."

FUNDING FOR TOURISM

Background

Concerned with the downturn in state revenue from tourism, the Committee discussed ways to increase funding for the advertising, marketing, and branding of tourism activities. Representatives of the lodging, restaurant, and ski industries and local governments offered their perspectives. Draft legislation was prepared that proposed legislative funding of economic development initiatives and included performance-based funding. The proposed funding structure and level of legislative funding was discussed and modified.

Action

The Committee considered this issue at its May, August, September, October, and November 2004 meetings and recommended draft legislation "Funding For Tourism."

SUTA DUMPING

Background

SUTA (State Unemployment Tax Act) Dumping, in which a corporation forms a new subsidiary to qualify for a lower unemployment tax rating and then moves many of its employees to the subsidiary, is currently legal. However, it circumvents the state's unemployment insurance experience rating system and can result in the state increasing unemployment insurance tax rates for all employers. In order for the state to maintain its compliance with federal unemployment compensation law, it is required to address this issue through state legislation. The Committee discussed the need to prohibit this practice.

Action

The Committee considered this issue at its April, September, and October 2004 meetings and recommended draft legislation "Employment Security Act Amendments."

WORKFORCE SERVICES AND COMMUNITY AND ECONOMIC DEVELOPMENT INTERIM COMMITTEE

WORK EXPERIENCE AND TRAINING PROGRAMS

Background

The Department of Workforce Services recommended clarifying the workers' compensation benefit status of their clients who are directed to participate in a work experience or training program. The department recommended that clients receive workers' compensation medical benefits.

Action

The Committee considered this issue at its October and November 2004 meetings and recommended draft legislation "Department of Workforce Services - Work Experience and Training Programs."

OTHER STUDIES

"Covered At Work" Program

A member of the Committee expressed concern with the lack of knowledge demonstrated by Workforce Services staff when he contacted the department on behalf of a constituent to learn about the benefits available in the "Covered at Work" program. It is a program administered by the Department of Health. Representatives of the Department of Health explained the program to the Committee and representatives of the Department of Workforce Services indicated that they will emphasize training of their employees to better assist public assistance clients regarding the program.

The Committee considered this issue at its October and November 2004 meetings but did not recommend legislation.

Division Restructuring

The Department of Workforce Services has divided the Division of Workforce Information and Payment Services into two divisions, called the Workforce Development and Information Division, now headed by one of the department's deputy directors, and the Unemployment Insurance Division, headed by the director of the former Division of Workforce Information and Payment Services. This change is included in the draft legislation

"Department of Workforce Services Amendments," previously discussed in this document.

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

Motion Picture Incentive Fund

The Motion Picture Task Force presented its final report and presented draft legislation "Motion Picture Incentive Fund." This act creates a restricted account within the General Fund known as the Motion Picture Incentive Fund, two-thirds of which shall be used to provide incentives for within-the-state production of television series and made-for-television movies and one-third of which shall be used to provide incentives for within-the-state productions of motion pictures. The fund is to be administered by the executive director of the Department of Community and Economic Development under the direction of the Board of Business and Economic Development.

The Committee considered this issue at its November 2004 meeting and recommended draft legislation "Motion Picture Incentive Fund."

