

**MINUTES OF THE  
UTAH CONSTITUTIONAL REVISION COMMISSION**  
Friday, June 8, 2001 - 9:00 a.m. - Room 405 - State Capitol

**Members Present:**

Mr. Alan L. Sullivan, Chair  
Ms. Jean B. White, Vice Chair  
Rep. Patrice Arent  
Rep. Afton B. Bradshaw  
Mr. Michael E. Christensen  
Ms. Christine M. Durham  
Sen. David L. Gladwell  
Mr. Byron Harward  
Mr. Dallin W. Jensen  
Mr. Morris D. Linton  
Mr. Robin L. Riggs  
Sen. John L. Valentine  
Mr. Kevin J. Worthen

**Members Absent:**

Speaker Martin R. Stephens

**Members Excused:**

Sen. Mike Dmitrich  
Mr. W. Craig Jones

**Staff Present:**

Mr. Jerry D. Howe,  
Research Analyst  
Mr. Robert H. Rees,  
Associate General Counsel  
Ms. Cassandra Bauman,  
Legislative Secretary

**Note:** A list of others present and a copy of handouts distributed in the meeting are on file in the Office of Legislative Research and General Counsel.

**1. Call to Order and Approval of Minutes**

Chair Sullivan called the meeting to order at 9:05 a.m.

**MOTION:** Mr. Linton moved to approve the minutes of the May 11 , 2001 meeting. The motion passed unanimously with Rep. Arent, Mr. Christensen, Sen. Gladwell, and Sen. Valentine absent for the vote.

**2. Revenue and Taxation – Article XIII**

Chair Sullivan gave background on the clarification draft of Article XIII.

Mr. Harward inquired about a possible substantive change on page 4 of the draft, Subsection 5(7). Mr. Roger Tew clarified that the fees are not distributed solely to the taxing districts.

**MOTION:** Mr. Harward moved that a proportional distribution clause be included under Subsection 5(7). The motion passed unanimously.

Mr. Linton inquired about a technical change, dealing with punctuation, on page 2 of the draft.

**MOTION:** Sen. Valentine moved that Subsection 3(2)(c) read ". . . in the state, which exemption shall accrue to the benefit. . ." The motion passed unanimously.

Mr. Linton also inquired about singularity consistency in the draft.

**MOTION:** Sen. Valentine moved that the sentence from Subsection 3(2)(f) read "property owned by a disabled person who was disabled. . ." The motion passed unanimously.

Comm. Bruce Johnson, Utah State Tax Commission, inquired whether the language on page 2 of the draft could be interpreted in such a way as to include property that is used for reasons other than pumping water.

**MOTION:** Mr. Harward moved to change Subsection 3(2)(c) to read ". . . deliver electrical power used for pumping water to . . ." The motion passed unanimously.

**MOTION:** Rep. Arent moved that Subsection 3(3) read "The legislature may, by statute, provide for the remittance or abatement of taxes for the poor." The motion passed unanimously.

Chair Sullivan stated that he and Vice Chair White would present the draft of Article XIII to the Tax Review Commission on Friday, July 13, 2001.

### **3. State and Local Government Sale/Leaseback Exemption – Article XIII, Section 2**

Mr. Kent Michie, Vice President, Zion's National Bank, distributed handouts "Proposed Property Tax Exemption for Property of State or Local Government Subject to Sale/Leaseback Financing Transaction" and "Examples of Government Agencies Using Innovative Financing to Generate Revenue." He explained the concept of sale/leaseback exemptions. He requested that the Commission further research and study the proposal.

Rep. Arent inquired about the number of states that are currently using sale/leaseback exemptions. She also asked about policy issues concerning the transfer of ownership of public property to private entities. Mr. Worthen asked if tax exemption is necessary for the transaction to occur. Justice Durham asked whether or not there was a difference in the transaction with new assets compared to old, and possibly depreciated, assets. Rep. Arent asked about the Government Immunity Act relating to sale/leaseback exemptions. Staff was asked to look into these issues.

Mr. Harward inquired about consequences for assets acquired by a loan, in which the building was the object of securement for the debt, if the building was used in a sale/leaseback exemption. He also inquired about events when the asset might lead to problems for the state,

such as catastrophic events and bankruptcy. Mr. Michie stated that the Commission would benefit by having experts address them on the legal and business aspects of the proposal.

Mr. Edward Alter, Utah State Treasurer, spoke in favor of the amendment. He stated that though the state has no immediate use for the sale/leaseback exemption, it might be of use in the future.

Mr. Ken Montague, Director of Finance, Utah Transit Authority, spoke in favor of sale/leaseback exemptions in Utah. He stated that the federal Innovated Transit Financing initiative encourages transactions such as this to help meet the financial needs of transportation agencies.

Mr. Jan Furner, Executive Director, Association of Special Districts, also spoke in favor of this amendment. He said that the association would like to be part of the research process on this issue.

Rep. Greg Curtis explained that Salt Lake County is interested in sale/leaseback transactions and, therefore, is supportive of looking into the concept.

Chair Sullivan read a letter that he received from Mr. Steve Allred, Salt Lake City Corporation, that was in favor of reviewing the proposal. The letter stated that the opportunity to employ resources more efficiently is an issue that should be addressed and implemented when appropriate.

Sen. Howard Stephenson, representing the Utah Tax Payers Association, explained how much revenue from property taxes go into education. He said that the exemption may contribute to a loss of revenue for Utah schools. He also noted that as more states take advantage of a tax avoidance program, such as this, it seems likely Congress would eventually "plug the loophole."

Comm. Johnson explained that some income will be accrued by the transaction that would be taxable and that it was an argument for entering the transaction under a municipal lease. He took no position on the amendment.

**MOTION:** Mr. Riggs moved that the Commission further study this item. The motion passed unanimously, with Chair Sullivan abstaining from and Mr. Jensen absent for the vote.

#### **4. Highway User and Motor Fuel Taxes – Article XIII, Section 13**

Mr. Jerry Howe, Research Analyst, Office of Legislative Research and General Counsel, distributed a handout "Annual Statistical Summary – Utah Department of Transportation," and reviewed the information provided.

Mr. Verdi White, Utah Department of Public Safety, explained the distribution of highway user revenue. He stated that the department planned to use this year's funds for their DRE (Drunk Recognition Experts) program.

Ms. Linda Hull, Director, Legislative and Government Affairs, Utah Department of Transportation, distributed a handout "FY2001 State Revenue Estimate," including "Current Major Highway Needs." She explained that no definite impact could be defined for the Department of Transportation should this proposed constitutional amendment be implemented without further information regarding: (1) who would have the Administrative and Jurisdictional authority over the funding in transit programs; (2) how much money would go to transit and how much to highways; (3) who would decide how much money will go to each fund; (4) what does "any public transportation system" mean in the legislation; (5) which types of projects would qualify under that definition; (6) who would set the priorities for funding of projects; and (7) should the State rely just on the State Highway User fees to fund all of the projects. She stated that the Department of Transportation would prefer to have these issues settled in statute prior to adopting the constitutional amendment.

Ms. Kathryn Pett, General Counsel, Utah Transit Authority, distributed a handout "Legacy Parkway Final Environmental Impact Statement and Section 4(f), 6(f) Evaluation." She explained that, given the air quality restraints and the geographical constraints the valley has, the impact from the legacy parkway will become the norm for highway projects. She stated that Utah needs more funding for transportation projects and that dividing up the tax on gas would help to fund some of the projects.

Mr. David Spatafore, Utah League of Cities and Towns, suggested that changes be made in statute first and then in the Constitution.

Mr. Chuck Larsen, Utah Department of Transportation, asked that the sponsor be contacted to discuss his intent of the legislation.

**MOTION:** Mr. Harward moved that the issue be put aside until statutory language is considered. Chair Sullivan added also that the issue be deferred until the Commission speaks with Rep. Scott Daniels. The motion passed unanimously with Mr. Jensen absent for the vote.

## **5. Vertical Revenue Sharing – Article XIII, Section 5**

This item will be discussed at a later date.

**6. Other Business**

Chair Sullivan recognized that Rep. Bradshaw and Mr. Jensen's appointments have expired. He thanked them for their service on the Commission.

The next meeting for the Constitutional Revision Commission will be held Friday, July 13, 2001 at 9:00 a.m. in room 405.

**7. Adjourn**

Chair Sullivan adjourned the meeting at 11:54 a.m.

