

Key Issues for the 2004 General Session

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BUSINESS, LABOR, AND ECONOMIC DEVELOPMENT

- **Construction Law Amendments**—The Business and Labor Committee has studied several issues in the area of construction law amendments with an emphasis on issues related to lien filings. Potential legislation may address several aspects of lien filings.

- ▶ **Social Security Offset to Unemployment Insurance**—Individuals receiving Social Security income in Utah who apply for unemployment benefits have their weekly benefit amount reduced by 100 percent of their Social Security income. If an individual is eligible to receive \$200 per week in unemployment benefits, they receive nothing if their Social Security weekly income is \$200 or more. Utah is one of three states with this 100 percent offset. The Workforce Services and Community and Economic Development Interim Committee has recommended draft legislation to reduce the offset to 50 percent and sunset the change in three years.

- ▶ **Use of Credit or Loss Histories for Insurance Rates and Eligibility**—Insurers may use several factors when evaluating whether to offer insurance to a potential customer or for certain properties and also when evaluating how much to charge for that insurance. The Business and Labor Committee has studied, more specifically, whether credit information and loss histories are predictors for future loss and whether insurers should use those tools when determining insurance coverage and rates. Potential legislation may prevent insurers from using any credit information as a basis for decisions related to personal lines insurance and may also restrict insurers' use of loss histories or inquiries as factors regarding certain insurance decisions.

- ▶ **Venture Capital Amendments**—During the 2003 General Session, the Legislature passed H.B. 240 to create a venture capital fund to be used by Utah start up companies as they grow. Since its passage, the bill has not been implemented because of concerns raised by the State Auditor and others. Those concerns will most likely be addressed in either a special session or the 2004 General Session.

- ▶ **Workers' Compensation Fund**—The WCF (Workers' Compensation Fund) is a nonprofit quasi-public corporation originally created by the Utah Legislature in 1917 to provide workers' compensation insurance to Utah employers. WCF is charged with being the "insurer of last resort" for those who cannot obtain insurance in the private market. Recently, WCF has sought independence from the State primarily to continue its out-of-state business. At its July and September meetings, the Business and Labor Interim Committee heard extensive testimony from private Utah and out-of-state insurers, the Insurance Department and other executive branch representatives, the public, and WCF. Potential legislation may authorize WCF's independence from the state. In October, WCF filed a declaratory judgment lawsuit seeking a ruling that the state has no ownership interest in WCF or its assets other than as a policy holder.

EDUCATION

- ▶ **School Funding**—How much additional money should be allocated to the public education system and how should any new monies be used are key questions the Legislature will grapple with in the 2004 General Session. Before funding new programs, the State Board of Education would like the Legislature to restore monies cut in previous years due to tight budgets and cover the costs of inflation and enrollment growth. Legislators may want to begin funding the costs of implementing competency-based education. Charter schools would like additional funding to bring their revenues up to the same level as other public schools.
- ▶ **Modifications to S.B. 154, "Public Education Amendments"**—The State Board of Education has suggested a number of modifications to S.B. 154, "Public Education Amendments," which was enacted in the 2003 General Session. Those modifications include changing the process for nominating and recruiting State Board members, delaying the implementation of new curriculum and graduation requirements, and clarifying potential conflicts with existing law.
- ▶ **Tuition Tax Credits**—Legislation may be introduced again to provide a tax credit for tuition payments to private elementary or secondary schools or for donations to scholarship-granting organizations that award scholarships for students attending private elementary or secondary schools.

HEALTH AND HUMAN SERVICES

- ▶ **Medicaid Funding**—Medicaid funding will loom large over budget considerations during the 2004 General Session. Spending on pharmaceuticals continues to escalate much faster than other areas of the program.
- ▶ **Child Welfare**—The 2004 General Session will likely feature various proposals addressing the balance between protecting children from harm or abuse and protecting the rights of parents.

JUDICIARY, PUBLIC SAFETY, AND CRIMINAL JUSTICE

- ▶ **Divorce Issues**—The Judiciary Interim Committee created a subcommittee which is studying the outcomes of mediated divorces to divorces settled by litigation. The subcommittee has reviewed data that indicates that the current process of litigating divorce issues may be more harmful to the future relationships of divorced parents with their children than ever before realized. The subcommittee may recommend that parties to a divorce in Utah must first attempt a mediated settlement before litigation may begin.
- ▶ **Drug Treatment Policy Reform**—The Law Enforcement and Criminal Justice Committee discussed the nexus between drugs and criminal activity and value of providing effective substance abuse treatment for offenders both in prisons and in the community. The Committee may recommend legislation in one or both of the following areas. These recommendations provide cost-savings to the state and reduced recidivism rates.
 - **Incarcerated Offenders:** Modifications may include increasing drug treatment and education in prisons, expanding Utah's Drug Board, and implementing a Post-adjudication Drug Court and/or re-entry system for imprisoned drug offenders upon their release.
 - **Pre-Incarceration:** Modifications may include expanding Utah's Drug Court system, increasing substance abuse treatment options, and implementing an intermediate sentencing

option of delaying jail time as a condition of probation while an offender receives substance abuse treatment.

- ▶ **Emergency Services Management: E911**—The Law Enforcement and Criminal Justice Committee may recommend legislation funding expanded 911 Emergency Services to include the capability of geographically locating a wireless telephone user's location in an emergency.
- ▶ **Marriage Preparation Education**—The Judiciary Interim Committee recommended draft legislation "Marriage Preparation Course" that requires a reduction in marriage license fees for couples who voluntarily undergo marriage education taught by psychologists, marriage and family therapists, social workers, and licensed or ordained ministers.
- ▶ **Trust Law Amendments**—The Judiciary Interim Committee recommended draft legislation "Trust Law Amendments" that provides for the creation of spendthrift trusts in which the settlor of the trust is also a beneficiary, defines resident trusts as trusts administered in this state and allows for the administration of foreign trusts, and provides for the enforcement of the trust regardless of the initial validity under Utah law.

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENT

- ▶ **Land Use Planning**—Land use management plans created by counties with state assistance could be used to influence federal land use planning such as regional resource management plans and wild and scenic rivers designation.
- ▶ **Radioactive, Hazardous, and Solid Waste Issues**—The Hazardous Waste Regulation and Tax Policy Task Force has been studying waste tax and fee policy, regulatory adequacy and compliance, and waste facility closure and maintenance.
- ▶ **Water Issues**—The Water Development Commission and the Gubernatorial and Legislative Task Force on Alternative Revenue Sources for Water Funding have considered various water related issues including: water development funding; instream flow; groundwater management; water conservation; multi-jurisdictional projects; water reuse; and watershed improvement and protection.

PUBLIC UTILITIES AND TECHNOLOGY

- ▶ **Capital Outlay Authority**—This issue involves amending the Budgetary Procedures Act to lapse an internal service fund agency's unused capital acquisition authority at the end of each fiscal year.
- ▶ **Identity Theft**—Due to the increasing numbers of identity theft cases and the high victim costs associated with this type of crime, it is likely that legislation will be introduced to address this high profile issue.
- ▶ **Information Technology Governance**—This issue focuses on modifying existing legislative policy to improve the management of state information technology resources. Included within this issue is proposed legislation to modify the state Rate Committee and state procurement policies. Also related to the governance issue is whether a statewide assessment of information technology resources should be conducted.

- ▶ **Technology Industry Initiatives**—Three issues have been identified by the Utah Technology Industry Council for legislation in the 2004 General Session. Those issues are: (1) Flexibility in administering the Division of Business and Economic Development funds; (2) Economic and administrative incentives to encourage technology business development; and (3) Creation of economic development engines such as the issuance of revenue bonds.
- ▶ **Unsolicited Commercial and Sexually Explicit Email**—This issue involves "spam" email and the need for precise policy to prohibit the practice without blocking legitimate business email. Existing Utah law provides legal remedies including damages for violations.

RETIREMENT

- ▶ **Retirement Contribution Rates**—Approximately \$50 million will be needed to fund an increase in the contribution rates required to keep the state retirement system on an actuarially sound basis. For FY 2005 the Retirement Board is recommending an increase of 1.68 percent of salary to 13.38 percent. Contribution rates are a percentage of salary that are contributed by agencies to the Retirement Fund for each public employee. This obligation is in addition to the salary paid to each employee. The contribution rate is currently 11.7 percent, but was 10.4 percent in FY 2002 and FY 2003.

REVENUE AND TAXATION

- ▶ **Amendments to the Streamlined Sales Tax Agreement**—During its 2003 General Session, the Legislature adopted amendments that brought the State into conformity with the Streamlined Sales and Use Tax Agreement. The model act is a joint effort of several states to make uniform and simplify the collection of state and local sales and use taxes. The proposed amendments include equalizing the vendor discount, providing a penalty for failing to file certain information returns, and ensuring that local government sales and use tax revenue is held harmless under point of delivery sourcing.
- ▶ **Restoring the Exclusion of Sales of Satellite and Cable Television Services from the Sales and Use Tax Base**—During the 2003 General Session, the Legislature broadened the sales and use tax base to include sales of satellite and cable television services. The Revenue and Taxation Interim Committee found that federal law prohibits the imposition of local sales and use taxes on sales of satellite television services. This federal law means that a higher sales and use tax would be imposed on cable television services than on satellite television services. The Committee believes that it is unfair to impose different tax rates on similar services, and adopted legislation to restore the exclusion.
- ▶ **State Government Tax Revenues**—By the end of FY 2003, the state of Utah experienced no growth or declines in two major revenue sources: the state sales and use tax and the individual income tax. Together, these taxes comprise 89 percent of the revenues of the General Fund and Uniform School Fund. State sales and use tax revenues for FY 2003 were 0.2 percent higher than in FY 2002. State individual income revenues were 2.2 percent lower. Corporate income tax revenues increased by 28 percent, but revenues from this tax were 13 percent lower than they were in FY 2001. Beer, cigarette, and tobacco excise tax collections shrank by 9.6 percent. For the first quarter of FY 2004, sales and use tax revenues are below target and individual income

tax revenues are slightly above target. Better than expected collections of corporate income taxes, beer, cigarette, and tobacco taxes, and severance taxes have put combined General Fund/Uniform School Fund collections at \$10 million above target.

STATE AND LOCAL AFFAIRS

- ▶ **Committee Procedure**—Proposed legislation would modify rules in the House of Representatives relating to standing committee procedure. The legislation would establish a process for the public to submit written comments on proposed bills, substitutes, and amendments; require the committee chair to include guidelines about testifying before a standing committee with the agenda; require that each person testifying before a standing committee complete a form disclosing identification information; and clarify the process for administering oaths to persons testifying before the committee.
- ▶ **Election Law**—As in recent sessions, there will likely be legislation aimed at reforming or making other changes to Utah's Election Code. Specifically, the Legislature may choose to make changes to election law in response to the federal election legislation, "Help America Vote Act of 2002." Election issues that may be addressed include no-excuse absentee voting, statutory changes to accommodate the transition to electronic voting machines, other voting administration issues, and funding for these changes.
- ▶ **Eminent Domain**—The Political Subdivisions Interim Committee discussed at length proposed changes to the eminent domain statutes. Draft legislation would modify provisions relating to rights and procedures in eminent domain proceedings and other disputes between a property owner and a governmental entity.
- ▶ **Governmental Immunity**—The Legislature may choose to make changes to statutes governing governmental immunity. This issue may be of interest to the Legislature because of the impact of the Utah Supreme Court's *Laney v. Fairview City* decision. A working group meeting during the 2003 Interim under the auspices of the Utah League of Cities and Towns and the Utah Trial Lawyers Association is expected to propose legislation to the Legislature. Legislation impacting governmental immunity passed last year by the Legislature is repealed as of December 31, 2004.
- ▶ **Land Use Planning for Critical Regional Facilities**—The Political Subdivisions Interim Committee discussed issues relating to conflicts between governmental entities in the siting of critical regional facilities. Elements of draft legislation might include: 1) a process that provides some kind of up-front notification and coordination with respect to critical regional facilities; and 2) an appeal/conflict resolution process if negotiations and coordination efforts break down.
- ▶ **Session Scheduling**—Without reducing the number of meetings or the time spent in meetings, the Legislative Process Committee has recommended that appropriation subcommittee meetings held on Friday during the General Session be moved to Thursday afternoons, and the Thursday afternoon standing committee meetings be moved to Friday so that legislators who have previously been in Friday afternoon's standing committees can leave the hill. All legislators serve on appropriations subcommittees but the standing committees rotate so that not all legislators are involved at one time.

- ▶ **Two-day Interim**—The Legislative Process Committee has recommended that the third-Wednesday interim be expanded to two days to accommodate one day of meetings for the appropriations subcommittees.
- ▶ **One-week Session Break**—In order to provide a greater opportunity for legislators to discuss proposed budgets and bills with constituents before the conclusion of the legislative session, a constitutional amendment has been recommended by the Legislative Process Committee to provide a one-week non-paid break after the 28th day of the General Session.

TRANSPORTATION

- ▶ **Clean Special Fuel Tax Certificate**—The owner of a vehicle powered by propane, natural gas, electricity, or other clean fuel is required to purchase an annual clean special fuel tax certificate for that vehicle in lieu of paying the 24½ cents per gallon state special fuel tax. The Utah State Tax Commission has reported that it has not found a good method to enforce the purchase of the certificates. In addition, the cost of the certificate is \$82 per year for a passenger vehicle compared to an average of \$162 paid in fuel taxes for all other registered vehicles. The \$82 includes a \$35 surcharge that is repealed after 2005. Excluding the surcharge, if the fee were originally linked with the fuel tax rate, the fee today would be \$126. The issue facing the Legislature is whether the rate should be adjusted and how enforcement can be improved.
- ▶ **Driving Under the Influence**—Identifying repeat DUI offenders to impose enhanced penalties remains a difficult problem. Prosecutors have found that a defendant may enter a plea of guilty or no contest for a first DUI offense before a thorough check of the defendants prior conviction histories can be made. Courts are required to electronically report convictions so that repeat offenders can be identified and prosecutors are required to examine the criminal history of the defendant prior to agreeing to a plea. A judge may allow a plea to be held in abeyance pending the defendant's completion of an education or treatment incentive program. If completed, the defendant's conviction may be reduced or dismissed. Legislation could eliminate loop holes that currently exist in the system.
- ▶ **Local Highway Authority Participation in Transportation Solutions**—Much of the need to add highway capacity in particular areas of the State results from local land use decisions. Local participation on funding state highway improvements is not expected and therefore low. Local governments have financial incentives in the form of sales tax revenue to attract retail sales to their communities, while increase in traffic on state highways is considered the state's problem.
- ▶ **Transportation Funding**—Funding in the amount of \$17.9 billion in highway needs through the year 2030 have been identified by the Department of Transportation and the Metropolitan Planning Organizations within the state. The CHF (Centennial Highway Fund) Program is underfunded requiring an additional 10 years to pay off under current revenues and an additional \$517 million in interest and bonding costs. This jeopardizes a growing list of other needed highway projects that are not funded under CHF. At the same time Utahns are paying less fuel taxes per vehicle today than they have in 17 of the last 18 years. This is because fuel tax revenues are relatively flat and do not grow with inflation. Fuel taxes are the primary means of funding highways in Utah and account for 85 percent of the Transportation Fund. The Transportation Planning Task Force will report to the Transportation Interim Committee in November 2003 regarding this issue.