

KEY ISSUES - 2007 GENERAL SESSION

*The Office of Legislative Research and General Counsel is pleased to provide this compilation of some of the key issues that the Utah State Legislature may address during the upcoming session.
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ADMINISTRATIVE RULES

Criminal Penalties Established by Rule. A citizen expressed concern that the criminal penalty set by the Division of Forestry, Fire, and State Lands for violation of one of its rules was too harsh. Representatives of the Division explained that state law not only requires the criminal penalty, but also requires that the penalty be set by administrative rule. A search of all state statutes revealed that many agencies have similar statutory grants to determine what conduct carries a criminal penalty. It is expected that legislation will be introduced to repeal the statutory authority of several agencies to determine what specific conduct carries a criminal penalty.

BUSINESS AND LABOR

Disaster Recovery Funding. Natural disasters are costly for governments to respond to and manage. Legislation creating funding sources for state and local governments has been discussed by the Business and Labor Interim Committee and will be introduced to the Legislature.

Payday Lending. Check cashers often provide "deferred deposit loans" commonly known as payday loans, where a customer postdates a check in exchange for cash. Check cashers are required to register with the Utah Department of Financial Institutions. The Legislature may consider legislation related to the regulation of the check cashing industry.

EDUCATION

Charter Schools. The rapid growth of charter schools and the cost to the state to fund charter schools prompted the Legislature to conduct a broad study of charter schools in 2006. The Legislature is expected to consider legislation addressing charter school funding and facilities, their legal status, and other issues.

Class Size Reduction. Class sizes in Utah are relatively high compared to other states. Parents and teachers have a strong interest in lowering class sizes to facilitate individualized instruction of students. Public schools currently receive money for class size reduction under the

Minimum School Program. The Legislature may consider increasing the amount appropriated.

Higher Education Tuition. College is becoming prohibitively expensive for many students. Experts believe it is a factor contributing to the decline in the percentage of the young adult population graduating from colleges and universities in Utah. Legislators may examine various ways of minimizing the cost of higher education for students, including increasing the state contribution toward the cost of tuition and implementing tax credits.

Teacher Compensation. As Utah's school-age population swells in the next decade and the rate of teacher retirements increase, the state may face a shortage of public school teachers. To ensure that sufficient numbers of people enter the profession and to compete with salaries offered in surrounding states, the Legislature may consider modifying teacher compensation. Higher pay for teachers in high demand positions, challenging schools, or for superior performance are proposals that the Legislature may examine.

JUDICIARY

Child Support Guidelines. Child support guidelines are intended to establish child support payment schedules for divorcing parents based on the respective income of the parties and the number of dependent children. It is expected that legislation will be introduced to increase child support obligations.

LAW ENFORCEMENT AND CRIMINAL JUSTICE

Concealed Weapon Permit Processing. The number of concealed weapon permits issued in 2006 has exceeded 16,138 where in 2005, 10,767 were issued. Fifty-eight percent of the permits issued by BCI (Bureau of Criminal Identification) were issued to residents of other states. The appropriation for this program has not anticipated its growth and as a result, a staffing crisis has occurred within the BCI. The fees BCI charges for weapons permits are deposited into Utah's general fund and are not available for the growing needs. As a result BCI has not been able to meet the statutory deadline for issuing new permits. Legislation will be introduced to put the

fees into a dedicated credit to be used only for the purpose the fees were charged.

Drug Offender Treatment. The number of drug offenders sentenced to Utah's prisons since 1998 has increased by 903 percent. Drug offenders now comprise 42 percent of all inmates entering Utah prisons. The use of methamphetamine and other drugs in Utah is increasing and is also increasing the problems and criminal behavior caused by their use. The Legislature may consider expanding education and treatment as tools in limiting the negative effects of this trend.

Growing Inmate Populations. Utah's inmate population is currently 6,399. The inmate population continues to grow at a rate of 225 to 250 per year. The female inmate population is growing faster than the male inmate population and the rate of growth has increased substantially in the last two years. Nationally, a record 7 million people - one in every 32 U.S. adults - were behind bars, on probation, or on parole by the end of last year, according to a Justice Department report. Utah's incarceration rate is less than half of the national rate but is growing. The criminal penalties and enhancements specified in Utah law have a direct effect on the need for prison beds, treatment programs, and other costs of incarceration. The Legislature may consider this issue during the upcoming session.

Mortgage Fraud. Identity theft, kickbacks, and other buyer/lender fraud have continued to increase in recent years. The FBI has identified many cases in Utah but faces a shortage of prosecutors. Additional staff within the Office of the Attorney General could be used to investigate and prosecute the many known cases of fraud. Legislation will be introduced to increase the number of prosecutors available for these crimes.

Registering, Rehabilitating, and Supervising Sex Offenders. There are currently 6,908 registered sex offenders in Utah, 3,150 of whom are under the supervision of the UDC (Utah Department of Corrections), and 3,758 who are no longer under the Department's supervision. Over 400 of this number have moved to Utah from other states. There will be a number of bills in the 2007 General Session relating to penalties, supervision, and treatment of sex offenders. New legislation passed on the federal level including the "Adam Walsh Child Protection Act of 2006" will also require changes in Utah's law to come into compliance. As the number of sex offenders continues to grow, additional staff and funding will be required to effectively treat and supervise these offenders.

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENT

Hazardous and Radioactive Waste Disposal. Legislation may be introduced to modify the requirements for commercial hazardous and low-level radioactive waste disposal at Utah facilities. Proposals could change perpetual care funding at disposal facilities and modify requirements for legislative and gubernatorial approval of disposal.

POLITICAL SUBDIVISIONS

Implementation of H.B. 77, "School District Boundaries." H.B. 77, "School District Boundaries," passed in the 2006 General Session, allows the governing body of certain cities and counties to submit a proposal for voter approval to establish a new school district which meets certain requirements. State statute is unclear or silent on several issues regarding the implementation of H.B. 77. The Political Subdivisions Interim Committee is recommending legislation that will clarify and resolve many of the implementation questions.

Special Districts Rewrite. For several years, the Special Districts Subcommittee of the Political Subdivisions Interim Committee has been rewriting and moving Title 17A, "Special Districts," into Title 17B, "Limited Purpose Local Government Entities." The Political Subdivisions Interim Committee is recommending legislation that completes the rewrite of independent special district statutes.

PUBLIC UTILITIES AND TECHNOLOGY

Energy Policy. The Legislature may consider multi-faceted energy policy legislation covering energy efficiency in state fleets and buildings, energy efficient revolving loan funds, and broadening the Electrical Facility Review Board.

Four-year Biotechnology Degree. Utah has a growing biotechnology industry which is going out of state to recruit employees. Salt Lake Community College has developed a national award-winning two-year program that can, in conjunction with four-year degree granting institutions such as Utah Valley State College, offer a four-year degree in biotechnology. Legislative funding may be considered to create this new program.

Renewable Energy Tax Credit. The Legislature may consider legislation that reauthorizes Utah's renewable energy tax credit for residential uses until 2012 and expands the credit to include some geothermal energy sources.

Utah International Trade Commission Re-authorization. The commission's twofold statutory responsibilities are to promote Utah business in International Trade and to provide state input/review of treaties to ensure they do not prevent state government from regulating within its borders. The commission's authority will expire December 31, 2007 unless re-authorized.

RETIREMENT

Defined Benefit vs. Defined Contribution Retirement System for Public Employees. The Utah Retirement Systems offer a defined benefit (DB) plan as the primary retirement system for its members. A defined contribution (DC) plan is also offered as a supplement where members can make optional deposits into a 401(k) or 457(b) account. In recent years some states have been exploring the option of adopting a DC plan as a primary retirement plan for employees where the employer makes contributions into the employees individual accounts. Under a DB plan an employee gets a defined amount, per month, starting at retirement and ending at death of the employee and the employee's spouse. Under a DC plan an employee gets a defined amount, towards retirement, during employment until retirement. There are a number of advantages and disadvantages to using each plan as the primary retirement system and each plan has far reaching cost and personnel related issues. This issue was studied and several materials were prepared by the Retirement and Independent Entities Committee during the 2006 interim and may be considered by the Legislature during the 2007 General Session.

Public and Higher Education Post Retirement Health Insurance Costs. Audits of Public Education Retirement Benefits (released July 2005) and Higher Education's Post-Retirement Benefits (released December 2005) were conducted by the Legislative Auditor General. The audits recommended actuarial studies and the development of plans to fund post-retirement obligations. The studies and plans are to be reported to the Legislature during the 2007 General Session.

Restrictions on Post-Retirement Employment. Retirement benefits are usually intended as income replacement to be paid after an employee has finished the employee's working career. Post-retirement restrictions on employment are tools to implement that policy and to control the costs of providing retirement benefits. Under Utah law if a retiree is re employed on a full-time basis (20 or more hours per week) by the "same agency" within six months of retirement, the retiree must have the retirement allowance canceled. In December 2006 the Legislative Auditor General released an audit which identified abuses in certain agencies. Two issues have

been factors in the recent studies of post-retirement restrictions: 1) reports of noncompliance with the restrictions in some cases; and 2) difficulty in filling certain job positions with qualified persons. The Legislature will have to decide what measures, if any, are appropriate to address this issue.

REVENUE AND TAXATION

Amendments to the Individual Income Tax. During its Fourth Special Session, the 56th Legislature cut the state individual income tax by \$78 million by enacting S.B. 4001. Among other things, this bill allows taxpayers to elect to calculate individual income taxes using a single rate of 5.35% based on modified federal adjusted gross income. The Legislature may consider proposals to encourage more taxpayers to elect to use this single rate option.

Appropriations Limit. The State Appropriations and Tax Limitation Act limits the amount that the Legislature may appropriate by using a statutory formula that includes factors such as population and inflation. During the 2007 General Session, the Legislature may, for the first time, be restricted by the appropriations limit. This would mean that the Legislature would budget not to the amount of revenues the state receives, but to some lesser amount based on the statutory formula. This may become a significant issue during the 2007 General Session as the Legislature establishes its budget and discusses what appropriations should or should not be exempt from this statutory limit.

Business Personal Property Tax. The voters approved 2006 General Session H.J.R. 1 which amended the Utah Constitution to allow the Legislature to exempt from the property tax certain personal property that, if subject to tax, would generate an inconsequential amount of revenue. This amendment takes effect on January 1, 2007. Enabling legislation has already been enacted and the Legislature may consider additional implementation measures.

Disposition of Revenue from Mineral Production. Higher commodity prices have led to record amounts of revenue from the state's oil and gas severance taxes and mineral severance tax. Production royalty payments for production and state and federal owned lands are also seeing strong growth. Most severance tax revenues are deposited in the General Fund as free revenue and the state's share of most federal royalty payments are deposited into the Mineral Lease Account. The Legislature may consider proposals to change the disposition of some of these revenues, including placing of portion of severance tax revenues into the Permanent

State Trust Fund and redirecting some severance tax revenues back to impacted counties.

Sales and Use Tax on Food. During its 2006 General Session, the Legislature cut the state sales and use tax by \$70 million by cutting the state sales and use tax rate on food and food ingredients from 4.75% to 2.75 percent. The Legislature may consider additional proposals to further reduce the sales and use tax on food.

TRANSPORTATION

Driver License Fee Increases. Legislation will be introduced that increases 24 license fees in order to meet the following driver license program needs: 1) rebuilding a restricted account; 2) constructing a new building in Salt Lake County; 3) leasing additional facilities around the state; and 4) meeting additional staffing needs.

Transportation Funding Strategies. Transportation needs far outstrip revenue available through traditional funding mechanisms, such as the gas tax and registration fees. In order to meet the state's transportation needs, the Legislature has taken many actions including increasing general fund monies going to transportation projects and authorizing additional local option transportation funding mechanisms. Legislation may be introduced to allocate more revenues to transportation needs.

WORKFORCE SERVICES AND COMMUNITY AND ECONOMIC DEVELOPMENT

Misuse of Social Security Numbers. The misuse of Social Security numbers to obtain state benefits is of concern to many. Efforts to inform citizens whose numbers are being misused or to alert law enforcement have been stymied, in part, by state and federal privacy laws that protect private information. Legislation will be introduced that would allow disclosure of Social Security number misuse to affected citizens and to appropriate law enforcement agencies.

Rural Economic Development Funding. The Industrial Assistance Fund's purpose, in part, is to foster the development of industry in rural Utah. Due to concerns regarding the Fund's ability to meet this need, legislation will be introduced to create a rural fast track program mandating that 20% of the Industrial Assistance Fund's fiscal year balance be used for rural economic development.

Social Security Offset. The Social Security offset allows those who collect Social Security who still work, but then become unemployed, to collect unemployment benefits offset by 50 percent of their Social Security benefit. In

2006, the federal government advised the Department of Workforce Services that state law incorrectly identifies federal Reed Act monies as the funding source supplying the offset. Legislation will be introduced to clarify that offsets must be funded by the person's employer.

TANF (Temporary Assistance to Needy Families) Reauthorization. Congress reauthorized TANF in 2006, but added tougher standards, including a higher rate of participation in work activities by its public assistance clients. These new standards must be met if the state is to continue receiving federal government funding. Legislation will be introduced to amend the eligibility requirements of the Family Employment Program to help the state meet the higher standards.