



KEY ISSUES — 2009 GENERAL SESSION

The Office of Legislative Research and General Counsel provides this compilation of some of the key issues that the Utah State Legislature may address during the upcoming session. This document is also online at <http://le.utah.gov>.

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ADMINISTRATIVE RULES

Criminal Penalties in Rule. Members of the Administrative Rules Review Committee have stated that the legislature should have the exclusive responsibility to specifically determine, by statute, what conduct is subject to a criminal penalty that includes jail time. However, some statutes delegate authority to state agencies to determine this conduct by administrative rule. Some of these statutory grants were eliminated in legislation passed in the 2007 and 2008 General Sessions, and the repeal of additional grants will be introduced.

BUSINESS AND LABOR

Alcoholic Beverage Control. Alcoholic beverage control continues to be a topic of interest. The legislature may address this issue.

Mortgage Licensing. A new federal law, the Secure and Fair Enforcement for Mortgage Licensing Act of 2008, provides for the states to establish a Nationwide Mortgage Licensing System and Registry for the residential mortgage industry and incorporates registration with this registry into state licensing. The legislature may consider legislation regarding this issue.

Reemployment. The Labor Commission administers the Utah Injured Worker Reemployment Act to assist in returning a disabled injured worker back to gainful employment. The legislature will consider legislation to reauthorize and modify the Act to reflect the voluntary efforts of Utah's employers related to the reemployment of workers.

Securities Regulation. The Utah Uniform Securities Act divides regulation of securities into three major categories: registration, licensing, and anti-fraud. The Utah Division of Securities registers securities to be sold in the state, licenses those offering or selling securities, and investigates anti-fraud violations that could result in administrative or civil action, or referral for criminal prosecution. The legislature may consider legislation that converts the Securities Advisory Board

to a commission with more extensive authority over the Division, securities, and licensees.

EDUCATION

Career and Technical Education. The Utah College of Applied Technology (UCAT) offers career and technical education programs to secondary school and post-secondary students that are designed to prepare the student for employment in a specific occupation. Unlike other higher education institutions, UCAT does not offer credit and degrees that may be transferred to other degree programs. Since its mission is different from other higher education institutions, some have argued that UCAT should not be governed by the State Board of Regents. The legislature established the Higher Education and Applied Technology Governance Committee to study the roles, mission, and governance of higher education institutions in the state. The Committee has approved proposed legislation that addresses the governance, organization, and roles of institutions that offer career and technical education.

Mathematics Education. Many Utah students graduating from high school are not ready for college level math or have the math skills demanded by employers. Mathematics achievement tests administered to students worldwide show that the average test performance of U.S. students is below the average score of students in many other countries. A group of legislators, educators, and parents has been developing a proposal to improve mathematics education in Utah. It is expected that legislation will be introduced to provide an incentive for schools to adopt a more rigorous math curriculum.

Performance-based Compensation for Teachers. Teacher compensation is typically based upon years of experience and educational level. To improve teacher performance and student achievement, many states and school districts are introducing compensation plans that base a portion of a teacher's compensation on performance. The Education Interim Committee and a task force of the State Board of Education have been studying how to design performance-based compensation plans for teachers. It is expected that legislation addressing performance-based compensation for teachers will be introduced.

School Funding Sources. See Revenue and Taxation, page 3.

ENERGY

Carbon Reduction. The governor has proposed, via the Western Climate Initiative, a cap and trade program for reducing the emission of carbon and other greenhouse gases, and has proposed a task force that includes legislative members. The legislature may consider legislation that provides policy directives to the governor for addressing the issue of carbon reduction.

Electric Energy Fuel Sources. Development of new fuel sources such as wind, solar, oil shale and the expansion of natural gas production for the generation of electrical energy is necessary to meet Utah's future growth. The legislature may consider a number of policy tools, including tax credits, streamlining the permit process, and providing new transportation and utility infrastructure access to meet new electrical energy demands.

GOVERNMENT OPERATIONS

Campaign Finance. Across the country states are discussing transparency on financial disclosure statements by requiring more expenditure detail to allow the public to better determine how campaign money is spent and who receives the money. Issues include requiring electronic filing, adding restrictions on filing amended reports, auditing of campaign finance statements, and personal use of campaign contributions.

Election Law Changes. County clerks and representatives from the lieutenant governor's office have made several recommendations to make changes in the Election Code ranging from technical amendments to changing voter challenge provisions. Based on these recommendations, the Government Operations Committee has studied and recommended several pieces of legislation for consideration.

Public Officer Ethics. The scope and clarity of current ethics laws have been tested in recent months in Utah resulting in calls for ethics reform. The legislature may consider ways to improve Utah's ethics and conflict of interest laws.

HEALTH AND HUMAN SERVICES

Abortion. Abortion continues to be a topic of interest. Legislation may be introduced to change public policy related to abortion.

Health Care Reform. In response to 2008 legislation calling for the development of a strategic plan for health care reform, the Health System Reform Task Force has

worked to identify proposals that will continue to move the state along a path of consumer-oriented, market-driven reform. The Task Force has sought and relied heavily upon the input of consumers, practitioners, hospitals, insurers, employers, and the governor. Legislation resulting from this work may be introduced.

Tobacco Tax. Last year legislation was introduced that would have increased Utah's 69.5 cents per pack cigarette tax by 50 cents per pack. According to press reports, legislation may be introduced to increase cigarette tax to as much as \$2 per pack.

IMMIGRATION

Role of Federal, State, and Local Governments. Federal courts have established that the federal government has jurisdiction over immigration laws. However, S.B. 81, "Illegal Immigration," passed in the 2008 General Session, addresses some immigration challenges, including legal status determination, at the state and local level. The Immigration Interim Committee held meetings in Logan, Park City, Richfield, and St. George to bring its study of immigration closer to the citizens of the state, and to hear their views on the subject through public comment. The legislature may consider whether any adjustments are needed to the provisions of S.B. 81 prior to its effective date, July 1, 2009.

INTERNATIONAL TRADE

International Gambling. In 1995, via the General Agreement on Trade in Services, the U.S. agreed to allow trade in international gambling. In 2003, the U.S. reneged on that treaty commitment. The U.S. State Department is attempting to withdraw from the treaty commitment, and the legislature may consider a resolution supporting that effort.

JUDICIARY

Harboring a Runaway. It is currently a crime, under certain circumstances, to knowingly and intentionally harbor a runaway. For a variety of reasons, the homeless minor youth population is on the rise. It is expected that legislation will be introduced to clarify the conditions under which an individual or temporary homeless youth shelter may harbor a minor who is runaway.

Material Harmful to Minors. Some minors use digital images, email, or cell phone technology to send inappropriate pictures of themselves to one another. The current penalty for the distribution of pornographic material is a felony, giving some prosecutors pause when faced with charging a minor with the same penalty as an adult producer and distributor of pornographic materials. It is expected that legislation will be introduced providing that the penalties for a minor who sends or distributes pornographic material to another will be determined by the age of the minor, and will increase with each subsequent offense.

Wrongful Death Amendments. State law currently allows certain persons standing to sue in a court of law when a close relative of theirs has died due to the negligence or wrongdoing of someone else. It is expected that legislation will be introduced to modify the definition of "heirs" to include a person who had a mutually supportive and dependent relationship with the decedent, if the decedent, at the time of death, had no spouse and had designated the person as the sole wrongful death heir in the decedent's will, trust, or other notarized written directive.

LAW ENFORCEMENT AND CRIMINAL JUSTICE

Gang Activity. Gang violence is part of a dangerous lifestyle that has become attractive to some members of our society. Gang activity crosses all ethnic and socioeconomic boundaries. Legislation will be introduced that provides new tools for prosecutors and law enforcement officers to prevent and reduce violent gang activity.

Sex Offender Treatment. Utah's sex offender population has increased to nearly one-third of our inmate population. Many studies have shown that treatment is effective in reducing returns to prison, specifically for the commission of a new sex offense. The legislature has not provided new funding for sex offender treatment for nearly 12 years. Expanding treatment programs is an issue that will be discussed.

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENT

Collection and Use of Rainwater. Certain homeowners and businesses want to collect and use rainwater on site in an effort to conserve water. Downstream water rights owners are concerned about the effect of rainwater collection on their water rights. The legislature will consider ways to reconcile the concerns of both parties.

Water Right Amendments. Demand for the use of Utah's limited water supply is growing as the state's population increases. The legislature is expected to address issues related to water right applications, records, priority, transfer, and judicial review.

POLITICAL SUBDIVISIONS

Affordable Housing. Local government regulations, among other factors, affect the availability of affordable housing. It is expected that legislation will be introduced attempting to address affordable housing concerns.

Townships. A township is an area within the unincorporated part of a county and has authority to have a planning commission that makes land use recommendations to the county legislative body. Additionally, Utah law provides a township with some protection against annexation into an adjacent municipality unless the entire township is annexed. Currently, this annexation provision has a sunset date of July 1, 2010. It is expected that legislation will be introduced eliminating the sunset date.

PUBLIC UTILITIES AND TECHNOLOGY

Utility Service Connections. Ownership of lateral pipes from utility main lines in the street or right of way to private property is not clear in regard to mobile home parks. The legislature may consider proposals to clarify ownership and for that ownership to be clearly stated in lease-type contracts.

Utility Transmission Corridor Siting. A recent utility transmission corridor siting has raised questions about how locally elected officials and citizens can participate in a siting process. The legislature may consider statutory changes or create a task force.

REVENUE AND TAXATION

Income Tax. A pass-through entity is an entity which, with some exceptions, is generally not subject to income tax at the entity level. Rather, the income, gain, loss, deduction, or credit of the pass-through entity is passed through to owners. An owner's share of these amounts is then included in determining the owner's income tax liability. Legislation will be introduced to address the income tax treatment of pass-through entities, including general partnerships, limited partnerships, limited liability partnerships, limited liability companies, and S corporations. The legislation will also address the income tax treatment of owners that receive a share of the income, gain, loss, deduction, or credit of a pass-through entity.

Property Tax. Over the past several years, property taxes have been highly visible to taxpayers. Reasons for the heightened visibility include rapid home value increases, assessor valuation practices, significant new residential and commercial development, tax shifts under the existing truth in taxation process, and property tax increases by local entities. Legislation may be introduced to change various components of Utah's property tax system, including changes to property tax administration, local entity taxing authority, the current constitutional valuation standard of fair market value, truth in taxation advertisements, redevelopment agency procedures, and property tax relief programs.

School Funding Sources. Although both revenues (basic levy) and expenditures (WPU allocations) are equalized statewide under the basic program, other portions of school district budgets (such as capital outlay, debt service, voted leeway, and board leeway programs) are supported predominantly by local property

taxes. Charter schools cannot impose property taxes, so they must rely on other funding sources. Because property tax wealth and student populations vary widely throughout the state, some school districts have a greater ability than others to raise revenue with the local property tax. Legislation may be introduced to further equalize school finances among school districts and charter schools, including through freezing or increasing the basic levy and reducing other school property tax levies, and through shifting various school funding sources from the property tax to the sales/use tax.

providing cash rebate incentives for smaller budget productions and refundable tax credits for larger budget productions using newly developed eligibility criteria.

TRANSPORTATION

Air Quality. There are 25 to 75 air quality alert days in Utah per year. Air pollution, some of which is caused by motor vehicles and other components of transportation, is a public health concern. A study group has been formed to develop, evaluate, and produce a comprehensive program for improving air quality. The study group is expected to provide an update to the legislature.

REAL ID Act of 2005. The REAL ID Act of 2005 was enacted by Congress to improve security of identification. Eventually, citizens may not use state-issued identification at federal facilities, including commercial airliners, Social Security offices, etc., unless the identification is issued in accordance with the Act and Department of Homeland Security rules. Earlier this year, Utah was granted an extension to comply that is effective until December 31, 2009. If the state shows material compliance, it can apply for an additional extension that is effective until May 10, 2011. Utah has also received federal grant money that can be used for compliance costs.

Transportation Funding. There is a projected funding gap in the funds needed to sustain current maintenance levels for state roads. Moreover, maintenance and construction costs for roads and bridges have skyrocketed over the past several months. The legislature may consider what the state's road construction and maintenance priorities are and funding options for these priorities.

WORKFORCE SERVICES AND COMMUNITY AND ECONOMIC DEVELOPMENT

Motion Picture Incentives. Current financial incentives offered by the state to encourage motion picture companies to film in Utah have fallen behind those of many states, leading several companies to decide to film elsewhere. The legislature may consider whether to alter the state's motion picture incentives by