

**MINUTES OF THE
REVENUE AND TAXATION INTERIM COMMITTEE**
Wednesday, August 16, 2000 -- 9:00 a.m. -- Room 223 State Capitol

Members Present:

Sen. Howard Stephenson, Senate Chair
Rep. Raymond W. Short, House Chair
Sen. Ron Allen
Sen. Mike Dmitrich
Sen. John L. Valentine
Rep. Loretta Baca
Rep. Ralph Becker
Rep. Judy A. Buffmire
Rep. Margaret Dayton
Rep. Kevin S. Garn
Rep. Wayne A. Harper
Rep. Loraine T. Pace
Rep. Tammy J. Rowan
Rep. Jack A. Seitz
Rep. Richard L. Walsh

Members Excused:

Sen. Robert F. Montgomery
Sen. L. Steven Poulton
Rep. David M. Jones

Staff Present:

Mr. Bryant R. Howe,
Research Analyst
Ms. Rebecca L. Rockwell,
Associate General Counsel
Mr. Ian Douglas,
Law Clerk
Ms. L. Kaye Clark,
Secretary

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

1. Committee Business – Chair Short called the meeting to order at 9:00 a.m.

MOTION: Rep. Buffmire moved to approve the minutes of the July 12, 2000 meeting. The motion passed unanimously. Sen. Valentine and Reps. Baca, Harper, Rowan, and Walsh were absent for the vote.

2. Utah Steam Coal Tax Credit – Legislation Extending Sunset Date – Ms. Rockwell explained that during its July interim meeting the committee requested that she provide additional information related to potential challenge to Utah’s coal tax credit under the World Trade Organization/General Agreement on Tariffs and Trade (WTO/GATT) or the North American Free Trade Agreement (NAFTA). She explained that it is not possible to predict with certainty the likelihood or outcome of a challenge under WTO/GATT or NAFTA. She noted that the proposed legislation “Reauthorization of Utah Steam Coal Tax Credit” does not make the existing coal tax credit any more or less consistent with WTO/GATT or NAFTA.

Ms. Rockwell reviewed information about other states found in the handouts “Selected State Statutes: Corporate Franchise or Income Tax Credits For In-State Mined Coal” and “State Coal Profile Index Map.” She also outlined the dispute resolution processes under WTO/GATT and NAFTA as contained in the handout “WTO/GATT & NAFTA Dispute Resolution Processes.” Ms. Rockwell commented that the federal government is reluctant to bring a formal

action against a state, and prefers to work informally with a state to bring into compliance state statutes that are inconsistent with WTO/GATT or NAFTA.

Tom Bingham, Utah Mining Association, reported that the National Mining Association stated that Utah's steam coal tax credit could be out of compliance with GATT, but does not think an enforcement action is likely.

Sen. Dmitrich commented that the steam coal tax credit has never been challenged as violating a trade agreement.

Ms. Rockwell discussed the following legislative options listed in the handout "Utah Steam Coal Tax Credit Legislative Options": (1) pass the bill out favorably, making no further changes; (2) amend the bill to remove language that potentially violates WTO/GATT, NAFTA, or both; (3) contact the United States Trade Representative to evaluate the tax credit; (4) offer an alternative tax incentive for coal mining; (5) take no legislative action, allowing the tax credit to be repealed in accordance with current sunset provisions; (6) repeal the tax credit; (7) a combination of the above options; and (8) other options.

MOTION: Rep. Seitz moved to pass draft legislation "Reauthorization of Utah Steam Coal Tax Credit" as a committee bill. Sen. Dmitrich spoke in favor of the motion and stated that he would prefer a sales and use tax exemption for purchases of manufacturing equipment used in coal mining. The motion passed unanimously. Reps. Becker, Garn, Harper, and Walsh were absent for the vote.

MOTION: Sen. Stephenson moved to have staff prepare draft legislation extending the manufacturing sales and use tax exemption to equipment used in coal mining. Sen. Dmitrich declared a conflict of interest. The motion passed unanimously. Reps. Becker, Garn, Harper, and Walsh were absent for the vote.

Sen. Dmitrich encouraged the committee to tour the coal mines during the September legislative site visit to Carbon and Emery Counties.

Ms. Rockwell noted that a legislative review note will appear on the legislation "Reauthorization of Utah Steam Coal Tax Credit" raising potential WTO/GATT, NAFTA, and commerce clause issues. She agreed to provide a draft of the legislative review note at the October meeting.

Chair Short turned the chair over to Sen. Valentine for the following item.

3. Income Tax Deduction for Interest Income – Sen. Valentine acted as committee chair for the discussion of this item. Chair Short explained that draft legislation “Individual Income Tax - Deduction for Taxable Interest and Limits on Deductions” provides an individual income tax deduction for certain taxable interest. He stated that the purpose of the legislation is to provide an incentive for people to contribute to savings accounts.

Ms. Rockwell reviewed the proposed legislation including examples of the types of interest that would be deductible under the legislation.

James Eldridge, Utah Education Association, expressed concerns about the impact of the bill on funding for public education.

Greg Fredde, Utah Taxpayers Association, discussed alternative individual income tax reductions including indexing Utah’s income tax brackets for inflation.

MOTION: Chair Short moved to pass draft legislation “Individual Income Tax - Deduction for Taxable Interest and Limits on Deductions” as a committee bill.

SUBSTITUTE MOTION: Rep. Pace moved to move to the next agenda item and reconsider this item at a future meeting. She requested that staff prepare additional information providing examples of what types of interest would be deductible under the legislation and that the committee consider putting a cap on the amount of the deduction. The motion passed with Sens. Stephenson and Valentine and Reps. Short, Dayton, and Harper voting in opposition. Reps. Baca, Becker, and Garn were absent for the vote.

Chair Stephenson took over as committee chair for the remainder of the meeting.

4. Transient Room Tax Issues – Mr. Howe reviewed the information contained in the handout “Airport Hilton Ventures, Ltd. v. Utah State Tax Comm’n.” He reported that in that case, the Utah Supreme Court held the Utah State Tax Commission’s (Tax Commission) administrative rule to be impermissibly broader than the statute, finding that the period of occupancy is the relevant determinant of taxability. Mr. Howe then discussed areas that potentially might be impacted by the court’s ruling including: (1) the Olympic Winter Games of 2002 (Olympics); (2) hotel brokers including Internet hotel brokers; (3) block purchasers of accommodations such as airlines or trucking companies; and (4) counties, cities, and towns.

Mayor Leavitt, Town of Alta, urged the committee to amend the statute to require that taxes be distributed to the communities where the tax is generated. Sen. Stephenson recommended Mayor Leavitt provide comments on this issue to the Legislative Auditor General to be considered as part of an audit.

Tim Osterstock, Legislative Auditor General's Office, stated he would include Mayor Leavitt's concerns in the current audit. He commented that he expects the audit will be completed by November.

Bob O'Neil, Accommodation Manager for the Salt Lake Organizing Committee (SLOC), discussed the potential impact of the Olympics on transient room tax revenues. He reported that less than 5% of the rooms booked through SLOC will be used for at least 30 nights. Mr. O'Neil and Commissioner Rod Marelli, Tax Commission, responded to questions from the committee.

Gary Thorup, Holme Roberts and Owen, discussed residency and Internet hotel broker issues related to SLOC. He reviewed information contained in the handout "priceline.com." He pointed out that the language on the website informs its customers that they will be charged appropriate state and local taxes at the time the customer checks into the hotel.

Ann Gambrino, Utah Hotel Lodging Association, provided data regarding room reservations in Utah. She reported that the potential to block rooms for 30 or more nights is minimal because of the limited number of rooms available in Utah. She urged the committee not to change Utah's laws to accommodate the Olympics.

Ms. Rockwell commented that the court was careful to rely on the plain language of the statute in the Airport Hilton case, and therefore, if the Legislature intends that certain purchases be taxed, the Legislature may want to clarify that intent in statute.

5. Other Business – The next meeting will be held on Wednesday, October 18, 2000.

6. Adjournment

MOTION: Chair Short moved to adjourn the meeting at 11:50 a.m. The motion passed unanimously.