

2006 LEGISLATIVE INTERIM REPORT

A report to the 57th Legislature on recommended
legislation and studies from the 2006 Legislative Interim
Committees



OFFICE OF LEGISLATIVE RESEARCH AND GENERAL COUNSEL

Utah State Legislature

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INTRODUCTION AND ACKNOWLEDGMENTS

INTRODUCTION

The *Legislative Interim Report* is prepared each year by the Office of Legislative Research and General Counsel. The yellow pages contain summaries of legislation recommended by legislative committees for the upcoming legislative session. The Report also contains a summary of pertinent interim committee, commission, and task force studies. More information on these studies may be obtained from the Office of Legislative Research and General Counsel. Minutes and histories of meetings are available on the Utah State Legislature's website – <http://www.le.utah.gov>.

ACKNOWLEDGMENTS

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Each study item selected by an interim committee is approved for study by the Legislative Management Committee. Many of the items studied by interim committees are selected from the "Master Study Resolution" passed during the previous legislative session.

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SUMMARY OF RECOMMENDED LEGISLATION

The following is a summary of recommended legislation, listed alphabetically by committee. Further information on the legislation can be found on the page number provided after certain summaries.

ADMINISTRATIVE RULES REVIEW COMMITTEE

Filings of Administrative Rules, Orders, and Regulations, S.B. 32 - This bill deletes the reference to the Division of Archives and replaces it with a reference to the Division of Administrative Rules, to reflect statutory provisions regarding filings of orders, rules, and regulations of the governor or an entity of the executive branch (page 19).

BUSINESS AND LABOR INTERIM COMMITTEE

Deceptive Trade Practices Amendments, H.B. 55 - This bill makes technical changes related to defining when a deceptive trade practice occurs, including clarifying sentence structure.

Disaster Recovery Funding, H.B. 46 - This bill addresses emergency expenditures by local governments; transitions current loan programs for disasters to the Disaster Recovery Funding Act; modifies the duties of the Division of Emergency Services and Homeland Security; enacts the Disaster Recovery Funding Act including: enacting definitions; creating the State Disaster Recovery Reserve consisting of two funds; providing for transfers between the funds; directing the division to address state emergency disaster services; authorizing local governments to create local disaster funds; creating the local government disaster recovery loan program; and requiring reporting; addresses the governor's powers in cases of emergency; provides for deposits into the state disaster reserve; coordinates the state disaster reserve with funds outside the act; addresses limitations on spending; and makes technical and conforming amendments (page 21).

House Rules Resolution - Occupational and Professional Licensure Review Committee Summary Report, H.R. 1 - This resolution requires certain actions regarding a summary report related to newly regulating an

occupation or profession, including requiring a chair of a standing committee that receives a summary report from the House Rules Committee to ensure that the report is read in a meeting before the standing committee takes action on the related legislation; and makes technical changes (page 22).

Impact of Administrative Rules on Small Businesses, H.B. 64 - This bill defines "small businesses" under the Utah Administrative Rulemaking Act, and requires that state agencies, as part of filing a proposed administrative rule or an amendment to an existing administrative rule, provide an assessment of anticipated costs or savings regarding businesses in general and also small businesses (page 22).

Lending Registration Acts, S.B. 16 - This bill addresses dishonored instrument remedies available to a check casher; provides for an administrative fine under certain circumstances related to the failure to be registered under the registration acts; expands requirements for contracts of loans under the registration acts; adds to the operational requirements of lenders under the registration acts, including requirements for rolling over a deferred deposit loan; addresses timing of examinations; addresses enforcement, including providing for the imposition of administrative fines in general; and makes technical changes (page 23).

Occupational and Professional Licensure Review Committee, H.B. 54 - This bill defines terms; modifies provisions related to the structure and conduct of the committee; modifies the duties of the committee including reporting requirements; addresses the sunrise review process; and makes technical changes (page 22).

Professional Employer Organization Related Amendments, H.B. 29 - This bill modifies definition provisions; provides for an alternative method of registration; addresses employment related economic

SUMMARY OF RECOMMENDED LEGISLATION

incentives; addresses taxes and fees; and makes technical changes (page 22-23).

Senate Rules Resolution - Occupational and Professional Licensure Review Committee Summary Report, S.R. 1 - This resolution requires certain actions regarding a summary report related to newly regulating an occupation or profession, including requiring a chair of a standing committee that receives a summary report from the Senate Rules Committee to ensure that the report is read in a meeting before the standing committee takes action on the related legislation; and makes technical changes (page 22).

Technical Amendments to Assumption of Indebtedness on Residential Real Property, S.B. 27 - This bill makes technical changes to a provision addressing accelerating or maturing an indebtedness including clarifying sentence structure and updating language.

Warranty Deed - Technical Amendments, S.B. 25 - This bill makes technical changes to the statute related to the form of a warranty deed such as replacing the term "seised" with a more updated term; and makes related technical changes.

Workers' Compensation Fund - Board Amendments, H.B. 13 - This bill modifies how terms of directors on the board are staggered; and changes how directors are paid from per diem and expenses approved by the Division of Finance to compensation and reasonable expenses approved by the board and subject to a cap on compensation (page 23).

GOVERNMENT OPERATIONS INTERIM COMMITTEE

Election Law Amendments, H.B. 61 - This bill changes the deadline for challenging the nomination of a person in a primary election from ten days after the date of the primary election to ten days after the date of the primary election's canvass; changes the date for the lieutenant governor to certify the ballot titles for constitutional amendments to be consistent with the certification date for

the names of judges up for retention election; modifies the deadline for publishing notice of open offices to provide consistency with county notice requirements; changes the date for the lieutenant governor to certify the names of candidates to be consistent with the certification date for the names of judges up for retention election; and makes technical changes (page 36).

Election Law Revisions, H.B. 14 - This bill modifies definitions related to poll workers and election judges; clarifies that criminal penalties in the Election Code apply to all poll workers rather than only to poll workers appointed as election judges; removes the requirement for voters to provide their voting precinct number on the voter registration form; requires the voter registration form to list the name of all registered political parties; adjusts the date to challenge names listed on the official register to accommodate early voting; provides quorum requirements for local and state boards of canvassers; modifies a date for the provision of ballots to be consistent with similar date requirements; modifies language relating to municipal ballot formatting to be more consistent with electronic ballot requirements; requires the lieutenant governor to maintain a current list of registered political parties; and makes technical changes (page 36).

Lobbyist Disclosure Technical Amendments, H.B. 62 - This bill amends a section cross-reference to clarify a distinction between reporting requirements for travel expenses and for other expenses made by lobbyists to benefit public officials; and makes technical changes (page 36).

Notary Public Revisions, H.B. 60 - This bill amends the definition of "acknowledgment" to require a notary to know or obtain evidence of the identity of a signer of a document; and makes technical changes (page 36).

Observing Juneteenth Day by the State, H.B. 11 - This bill adds as an annual commemorative day observed in Utah, Juneteenth Independence Day, on the third Saturday in June, in honor of the day freedom was proclaimed to all slaves in the south; and makes technical changes (page 34).

SUMMARY OF RECOMMENDED LEGISLATION

Open and Public Meetings Act Amendments, H.B. 10 -

This bill clarifies that the definition of public body includes a public body created by the Utah Constitution as well as by statute, rule, ordinance, or resolution; amends content requirements for written minutes and recordings of open meetings; and makes technical changes (page 35).

Referendum - Signature Verification Procedures, H.B.

63 - This bill establishes uniform standards for determining whether a signer's signature on an referendum petition is valid or not; and provides for the placement of birth date information on initiative petitions (page 35).

HEALTH AND HUMAN SERVICES INTERIM COMMITTEE

Adoption Amendments, H.B. 51 - This bill defines terms; modifies the background check requirements with regard to a prospective adoptive parent who is not a resident of Utah; modifies and clarifies requirements necessary for an unmarried biological father to preserve his right to notice and consent for an adoption; modifies requirements relating to notice of an adoption proceeding; describes the circumstances under which an adoption may or may not be contested; expands and describes provisions relating to who may take consents or relinquishments for adoption; provides for, and describes, the jurisdiction of a district court to terminate parental rights under certain circumstances; describes the grounds upon which a district court may terminate parental rights; describes when a birth parent's parental rights and duties are dissolved in relation to a child who is to be adopted; provides that a court may, for good cause, order a final decree of adoption earlier than the six month and one year requirements currently provided for by law; and makes technical changes (page 41).

Controlled Substance Database Amendments, H.B. 6-

This bill provides limited access to the Controlled Substance Database for: practitioners, for the purpose of inquiring whether the practitioner's DEA number has been fraudulently used by another person; and law enforcement authorities investigating insurance, Medicaid or Medicare fraud (page 41).

Designated Mental Retardation Professional Amendments, H.B. 16 -

This bill adds licensed marriage and family therapists and professional counselors to the list of mental health professionals that may become qualified as a mental retardation professional; and makes technical changes (page 41).

Emergency Administration of Epinephrine, H.B. 56 -

This bill amends definitions; requires the Department of Health to approve training programs for the use and storage of epinephrine auto-injectors in an emergency; authorizes the Department of Health, as funding is available, to conduct educational programs to train people in the use and storage of epi pens; establishes a standard for when a person has a need for training in the use of epinephrine auto-injectors; authorizes a person trained in the use and storage of epinephrine auto-injectors to obtain a prescription for the epinephrine auto-injector from a physician, pharmacist, or other person authorized to prescribe or sell prescribed medicines or drugs; and authorizes the Department of Health to adopt administrative rules (page 41).

Exploitation of a Vulnerable Adult Amendments, S.B.

7 - This bill provides that, if the plaintiff prevails in an action for exploitation of a vulnerable adult, the court may order the defendant to pay the court costs and reasonable attorney fees of the plaintiff; and provides that, if the defendant prevails in an action for exploitation of a vulnerable adult, the court may order the plaintiff to pay the court costs and reasonable attorney fees of the defendant, if the action was frivolous, unreasonable, or taken in bad faith (page 39).

Health Care Cost and Quality Data, H.B. 9 -

This bill amends the powers and duties of the Health Data Committee; authorizes the Health Data Committee to develop and adopt a plan for the collection and use of health care data related to cost of episodes of health care; and makes implementation of the plan contingent on funding (page 40).

Pilot Program for Day Support Services, H.B. 49 -

This bill establishes a pilot program, beginning on July 1, 2007,

SUMMARY OF RECOMMENDED LEGISLATION

and ending on July 1, 2009, for the provision of day support services to eligible people with disabilities and their families, outside of the prioritization criteria established by the division for the provision of other services; grants rulemaking authority to the division; describes a person who is eligible to receive expedited services under this bill; provides that the division shall establish criteria to determine the order of priority for receiving services under this bill; provides that the services provided under the pilot program described in this bill do not constitute an entitlement and shall be provided and funded separately from the Medicaid program; requires the director of the Division of Services for People with Disabilities to report, for consideration and decision, to the Health and Human Services Interim Committee during the 2008 interim regarding whether the pilot program created by this bill should be modified or converted into an ongoing program; provides, under the Legislative Oversight and Sunset Act, that the pilot program created by this bill will be repealed on July 1, 2009; and makes technical changes (page 42).

Pilot Program for Family Preservation Services, H.B. 47 - This bill establishes a pilot program, beginning on July 1, 2007, and ending on July 1, 2009, for the provision of family preservation services to eligible people with disabilities and their families, outside of the prioritization criteria established by the division for the provision of other services; grants rulemaking authority to the division; describes a person who is eligible to receive expedited services under this bill; provides that the division shall establish criteria to determine the order of priority for receiving services under this bill; provides that the services provided under the pilot program described in this bill do not constitute an entitlement and shall be provided and funded separately from the Medicaid program; requires the director of the Division of Services for People with Disabilities to report, for consideration and decision, to the Health and Human Services Interim Committee during the 2008 interim regarding whether the pilot program created by this bill should be modified or converted into an ongoing program; provides, under the Legislative Oversight and Sunset Act, that the pilot

program created by this bill will be repealed on July 1, 2009; and makes technical changes (page 42).

Probate Code Amendments, S.B. 24 - This bill provides that an estate of less than \$75,000 may be settled by affidavit; and provides for an adjustment based on the Consumer Price Index (page 39).

Public Health Amendments, H.B. 57 - This bill allows a public health official to testify in court regarding an individual or group of individuals who are subject to an order of restriction; and allows the district court to balance an individual's personal belief regarding medical treatment and the ability of public health to control a public health threat (page 42).

Utah Commission on Aging, S.B. 26 - This bill defines terms; extends the sunset date for the Utah Commission on Aging to July 1, 2009; modifies the membership of the commission; provides for the replacement of an appointed member of the commission if the member has three consecutive unexcused absences; provides that the Center on Aging within the University of Utah, Division of Geriatrics, shall: provide administrative support to the commission; pay the salary, and oversee the performance of, the executive director of the commission; provide staff support for the executive director of the commission and the commission; and provide office space, furnishings, and supplies to the commission, the executive director of the commission, and support staff; provides that the executive director of the commission will be appointed by the executive director of the Center on Aging and that the appointment must be ratified by the governor; provides that the funds appropriated by the Legislature for the commission may only be used for the purposes described in the chapter relating to the commission; and makes technical changes (page 39).

JUDICIARY INTERIM COMMITTEE

Child Support Bond, H.B. 17 - This bill allows a court to require a delinquent child support obligor to post a bond for an amount equal to the total for 36 months of child support payments (page 44).

SUMMARY OF RECOMMENDED LEGISLATION

Child Support Collection Amendments, H.B. 18 - This bill allows a court to approve a method of child support collection other than income withholding for good cause; and allows the Office of Recovery Services to enter into agreements with obligors for electronic payment of child support (page 44).

Child Support Guidelines, S.B. 23 - This bill recalculates and updates the child support table amounts; defines "temporary" as less than 12 months; requires the use of the same table when adjusting child support amounts due to aging out or death of a child; and makes technical corrections (page 44).

Comparative Negligence Amendments, H.B. 45 - This bill specifies that an intentional tort and a civil conspiracy are included in the definition of "fault" (page 44).

Domestic Violence and Dating Violence Amendments, H.B. 28 - This bill defines terms; provides for the issuance, modification, and enforcement of protective orders between parties who are, or have been, in a dating relationship when: the parties are emancipated or 16 years of age or older; the parties are, or have been, in a dating relationship with each other; and a party commits abuse or dating violence against the other party; requires the Administrative Office of the Courts to develop and adopt uniform forms for petitions and orders for protection relating to dating violence; describes the restrictions that a court may include in a protective order; requires the Division of Child and Family Services, within the Department of Human Services, to provide certain services to victims of dating violence; describes the conditions that may be placed on an alleged perpetrator of dating violence: in a protective order; in an order of probation for violation of a protective order relating to dating violence; or as a condition of release prior to trial for violation of a protective order relating to dating violence; and makes technical changes (page 44).

Driver License Privilege Suspension for Failure to Pay Child Support, H.B. 15 - This bill defines terms; establishes a procedure for the Office of Recovery Services, within the Department of Human Services, to

order, and the Driver License Division, within the Department of Public Safety, to recognize and impose, a suspension of a person's driving privileges when the person is at least 60 days in arrears on a child support obligation; requires that the Driver License Division, upon application, issue a temporary limited driver license to a person whose driver license is suspended under this bill if the person needs a driver license for employment, education, or child visitation; provides that a suspension imposed under this bill will remain in effect until the Office of Recovery Services rescinds the order of suspension; provides that the suspension of a person's driving privileges under this bill will not be included in the person's driving record after the order of suspension is rescinded; requires the Driver License Division to disclose to the Office of Recovery Services the name and identifying information of each person to whom a license has been issued or whose driving privileges have been suspended, revoked, or reinstated; provides that the information received by the Office of Recovery Services under the preceding paragraph is subject to the Government Records Access and Management Act; describes the circumstances under which an order to suspend a person's driving privileges may not be made, or under which an order to suspend a person's driving privileges will be rescinded; provides that, if the office seeks a driver license suspension of a person who is not delinquent, the office shall refund any noncustodial parent income withholding fee that was collected during the alleged delinquency, unless the person is otherwise in arrears on a child support obligation; grants rulemaking authority to the Office of Recovery Services; requires the Office of Recovery Services to provide notice of an order, or the rescinding of an order, suspending a person's driving privileges, to the person to whom the suspension applies and to the Driver License Division; describes the contents of the notice described in the preceding paragraph; and makes technical changes (page 44).

Expedited Parent-time Enforcement, H.B. 32 - This bill converts the Expedited Parent-time Enforcement Program from a pilot program in the Third Judicial District to a statewide program (page 44).

SUMMARY OF RECOMMENDED LEGISLATION

Material Harmful to Minors Amendments, H.B. 50 - This bill amends the definition of material that is harmful to a minor to include inappropriate violence; and provides a definition of inappropriate violence (page 44).

Motor Vehicle Insurance Arbitration Amendments, H.B. 44 - This bill provides that a person may elect to submit a third party motor vehicle accident claim to arbitration by filing a notice to submit the claim to arbitration within 14 days after the complaint has been answered; clarifies that an arbitration award is limited to \$25,000 in addition to any available personal injury protection benefits and any claim for property damage; provides a procedure for a person to rescind an election to arbitrate and provides that a person who rescinds an election may not elect to arbitrate again; amends procedures for conducting an arbitration process; provides that an arbitration award issued may be reduced to judgment by the court upon notice and motion unless the arbitration award has been satisfied; and makes technical changes (page 45).

LAW ENFORCEMENT AND CRIMINAL JUSTICE INTERIM COMMITTEE

Concealed Weapons Fees Amendments, H.B. 39 - This bill allows the Criminal Investigations and Technical Services Division to use fees collected for the issuance, renewal, and replacement of concealed weapons permits as a dedicated credit to cover the costs of issuing, renewing, and replacing those permits; and makes certain technical changes (page 49).

Driver License or Identification Card Requirement for Sex Offenders, H.B. 31 - This bill requires that sex offenders subject to registration must keep a current state identification card if the offenders do not have a driver license; provides that no extension of an identification card beyond the statutory expiration date may be granted for sex offenders subject to registration; and establishes a class A misdemeanor penalty for sex offenders subject to registration who fail to maintain an identification card if they do not have a driver license (page 49).

Internet Sexual Predator Penalties, H.B. 5 - This bill amends the penalty for enticing a minor to commit a first degree felony sexual offense, so that the enticement offense is a first degree felony with a specified penalty; and provides that if a defendant commits the offense of enticing a minor to commit any felony sexual offense, and the defendant has previously committed a sexual offense or kidnapping against a minor, the court may not shorten the prison sentence (page 49).

Mortgage Fraud, H.B. 25 - This bill directs the attorney general to employ a real estate fraud prosecutor and two investigators; enacts the Real Estate Fraud Act including: creating the crime of real estate fraud; and penalties; and includes real estate fraud as an illegal activity under the Pattern of Illegal Activity Act (page 49).

Organized Retail Theft, H.B. 4 - This bill includes the criminal offense of retail theft in the definition of a pattern of unlawful activity; and provides that persons found guilty of a pattern of unlawful activity may be ordered to pay restitution for property obtained through a pattern of unlawful activity (page 49).

LEGISLATIVE MANAGEMENT COMMITTEE

Sunset Review and Reauthorizations, S.B. 31 - This bill reauthorizes certain named state entities and programs that are scheduled to sunset before the 2008 Annual General Session; and makes technical changes (page 34, 52).

NATIVE AMERICAN LEGISLATIVE LIAISON COMMITTEE

Navajo Revitalization Fund, H.B. 19 - This bill eliminates the requirement that the governor annually approve that grants and loans may be made from the fund; modifies the cap on severance tax monies that are deposited into the fund; and makes technical changes (page 57).

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NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENT INTERIM COMMITTEE

Department of Natural Resources Amendments, H.B. 48 - This bill clarifies the definition of a trophy animal in the Wildlife Resources Code; allows a nonresident peace officer employed by the state to obtain a resident license to fish and hunt; invalidates any wildlife permit or tag obtained by fraud; amends the penalties for license or permit suspensions; allows the Wildlife Board to authorize locations where a person may donate protected wildlife; changes the definition of an all-terrain type I vehicle; authorizes the Division of Forestry, Fire, and State Lands to purchase property; extends the statute of limitations for wildland fire cost recovery; updates the terminology regarding fires caused by locomotive engines; directs state agencies and political subdivisions to pursue opportunities to open public land for responsible off-highway vehicle use; changes the requirement for the application to extend the amount of time a person has to put water to a beneficial use; allows the state engineer to send notice by regular mail; allows the state engineer to employ a deputy; clarifies the requirement for water users to install measuring devices; and makes technical changes.

Joint Resolution Regarding Action on Groundwater in Snake Valley, H.J.R. 1 - This resolution urges the Governor to: consider the consequences of a potential groundwater development project; involve the citizens in developing the division agreement with Nevada; and refrain from entering into the division agreement with Nevada until scientific studies have been completed; and directs a copy of the resolution be sent to various parties (page 60).

Nonprofit Corporation Amendments, S.B. 9 - This bill addresses voting requirements for nonprofit corporations; authorizes distributions from one nonprofit corporation to another upon dissolution; prevents the transfer of title in water rights upon dissolution of a nonprofit corporation; exempts nonprofit corporations from the effects of Title 61, Chapter 6, Control Shares Acquisition Act; and makes technical changes (page 61).

State Declaration of State Water Week, H.B. 20 - This bill declares the first full week of May to be State Water Week (page 61).

Use of State Engineer Fees, S.B. 8 - This bill allows the state engineer to use fees to process reports of water right conveyance (page 61).

POLITICAL SUBDIVISIONS INTERIM COMMITTEE

Creation of New School District Amendments, S.B. 30 - This bill adds a vote to elect school district board members resulting from the creation of a new school district to the list of special elections that a local political subdivision may call; adds a definition relating to the creation of a new school district; provides a process for certifying the creation of a new school district and establishes the date that the new district is created; clarifies the duties of a new district and the district from which the new district was created with respect to providing educational services; makes exceptions to requirements applicable to a proposal by interlocal agreement participants to create a new school district where the proposal would otherwise geographically isolate an area within a municipality that is served by a separate school district entirely within the municipality's boundaries; provides for the election of school district board members of a new school district and of the school district from which the new district was created, and provides for the terms of those members; establishes a process for allocating the property of an existing school district between a newly created district and the school district from which it was created, including: transition teams to represent the new district and the district from which the new district was created; and a requirement that disputes about the allocation of property be decided by binding arbitration; shifts from the board of a new school district to the board of the district from which the new district was created the responsibility to continue to levy a tax on property in the new district to pay the new district's proportionate share of bonds issued before the new district was created; prohibits a school district board from issuing bonds approved but not issued before the creation

SUMMARY OF RECOMMENDED LEGISLATION

of a new district under certain circumstances; and makes technical, conforming, and clarifying changes (page 63).

New School District Leeway Retention, H.B. 58 - This bill allows certain newly created school districts to continue certain property tax levies approved by a vote of the predecessor district electorate; places limitations on the levies; and exempts the levies from truth in taxation advertisement requirements for a certain period of time (page 63).

Special and Local Districts Amendments - This bill modifies provisions relating to special districts and local districts (page 64).

PUBLIC UTILITIES AND TECHNOLOGY INTERIM COMMITTEE

Renewable Energy Tax Credit, H.B. 30 - This bill defines terms; extends the availability of the renewable energy tax credit until 2012; expands the renewable energy tax credit to include some geothermal sources; and makes technical changes (page 70).

RETIREMENT AND INDEPENDENT ENTITIES INTERIM COMMITTEE

Additional State Retirement Benefit, H.B. 12 - This bill increases the retirement allowance of members of the Public Employees' Contributory Retirement System with service prior to July 1, 1975; and increases the retirement allowance of members of the Public Employees' Noncontributory Retirement System with service prior to July 1, 1975.

Health Care Cost and Quality Data, H.B. 9 - This bill amends the powers and duties of the Health Data Committee; authorizes the Health Data Committee to develop and adopt a plan for the collection and use of health care data related to cost of episodes of health care; and makes implementation of the plan contingent on funding (page 79).

Post-retirement Benefits Trust Fund, H.B. 7 - This bill creates a trust fund to pay for post-retirement benefits;

creates a board of trustees to act as the trustee of the trust; and establishes investment criteria for the state treasurer in investing the trust assets (page 79).

Public Safety Retirement Conversion Window, H.B. 21 - This bill provides a conversion window between the Public Safety Contributory Retirement System and the Public Safety Noncontributory Retirement System (page 79).

Retirement Office Amendments, H.B. 8 - This bill amends the definition of allowance by adding "or retirement allowance"; amends the definition of "political subdivision" by providing that a project entity created under the Interlocal Cooperation Act is not a political subdivision if it was formed prior to 1987; requires that retirement contributions made by a participating employee for a retiree that is subject to postemployment retirement restrictions shall be made to a "qualified" defined contribution plan; adds "covered individual" to those whose benefits are not subject to alienation, assignment, or attachment for legal purposes; allows the executive director to delegate certain dispute rulings to the deputy director; provides that Option One retirement allowance is only payable to the member during the member's lifetime for the Public Employees' Contributory and Noncontributory systems; adds "mentally" able to resume firefighter service to the examiners report for a determination regarding disability benefits; allows reserves in an insurance risk pool to be refunded directly to covered individuals; repeals a requirement that employees not be allowed to change from the high deductible health plan more frequently than every three years and replaces it with a provision that the program must be administered so that the impact on the overall health plan is actuarially neutral; requires the office to consult with covered employers in addition to certain state agencies prior to determining the amount of annual contributions to a health savings account; changes references to eligibility to receive a "retirement benefit" to eligibility to receive a "retirement allowance" to clarify provisions of the Unused Sick Leave Retirement Option Program I and II; and makes technical changes (page 80).

SUMMARY OF RECOMMENDED LEGISLATION

Workers' Compensation Fund - Board Amendments, H.B. 13 - This bill modifies how terms of directors on the board are staggered; and changes how directors are paid from per diem and expenses approved by the Division of Finance to compensation and reasonable expenses approved by the board and subject to a cap on compensation.

REVENUE AND TAXATION INTERIM COMMITTEE

Cigarette and Tobacco Tax and Licensing Amendments, H.B. 37 - This bill provides the procedures and requirements for how a cigarette tax is paid, when the tax is due, and the penalties associated with nonpayment; provides the conditions under which an assessment of the cigarette tax may take place; provides when a consumer may obtain a refund for overpayment and the procedures associated with the refund; provides a time limit within which the State Tax Commission must assess certain taxes; provides that the State Tax Commission may extend the time period within which it must assess a cigarette tax or commence a proceeding to collect a cigarette tax; defines terms; and makes technical changes (page 85).

Fuel Tax Bonding Requirements, H.B. 40 - This bill requires the State Tax Commission to determine whether an applicant for a license to collect a motor fuel tax or a special fuel tax is required to post a bond with the State Tax Commission before the applicant may be issued the license; provides the circumstances under which an applicant for a license to collect a motor fuel tax or a special fuel tax is required to post a bond with the State Tax Commission before the applicant may be issued the license; provides for the calculation of the amount of a bond if a bond is combined with another bond into one bond; and makes technical changes (page 85).

Income Tax Additions and Subtractions for Higher Education Savings, H.B. 36 - This bill provides and modifies definitions; provides that a resident or nonresident estate or trust may subtract certain qualified investments in the Utah Educational Savings Plan Trust from federal taxable income; addresses the maximum

amount of a qualified investment in the Utah Educational Savings Plan Trust that a resident or nonresident individual or a resident or nonresident estate or trust may subtract from federal taxable income; modifies and clarifies the amount of a qualified investment in the Utah Educational Savings Plan Trust that a resident or nonresident individual may subtract from federal taxable income; and makes technical changes (page 85).

Individual Income Tax Subtractions for Insurance Relating to Medical Care, H.B. 43 - This bill modifies an individual income tax subtraction for amounts paid for certain insurance relating to medical care, including: modifying the type of insurance eligible for the subtraction; and repealing language providing that the subtraction is not allowed for amounts that are reimbursed or funded by certain entities or if a taxpayer is eligible to participate in a health plan maintained and funded in whole or in part by certain employers; addresses the subtraction for long-term care insurance; and makes technical changes (page 86).

Property Tax Abatement or Deferral - This bill modifies the Property Tax Act to amend the provisions relating to the abatement or deferral of certain property taxes (page 84).

Property Tax Exemption for Personal Property, H.B. 26 - This bill amends the tangible personal property exemption to exclude personal property required to be registered with the state, mobile homes, and manufactured homes from the exemption; defines terms; and makes technical changes (page 86).

Resolution Regarding Permanent State Trust Fund, S.J.R. 2 - This resolution proposes to amend the Utah Constitution to: provide that a permanent state trust fund includes money and assets given to the fund under any provision of law (page 101).

Sales and Use Tax - Common Carriers, H.B. 41 - This bill repeals from the list of transactions subject to sales and use taxation amounts paid to a common carrier for certain telephone service, mobile telecommunications

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service, or telegraph service; and makes technical changes (page 86).

Sales and Use Tax Exemption for Authorized Carriers, H.B. 42 - This bill exempts from sales and use taxation sales, leases, or uses of tangible personal property that is installed on a vehicle: sold or leased to or used by an authorized carrier; and before the vehicle is placed in service for the first time; and makes technical changes (page 101).

Sales and use Tax Exemptions for Certain Governmental Entities and Entities Within the State Systems of Public and Higher Education, S.B. 22 - This bill defines "governmental entity"; and "publication"; clarifies the definition of "school" to include the Electronic High School for purposes of the sales and use tax exemptions for sales relating to schools and fundraising sales; modifies the sales and use tax exemption for photocopies to provide an exemption for sales of photocopies by a governmental entity or an entity within the state system of public education; provides a sales and use tax exemption for sales of publications by a governmental entity; grants rulemaking authority to the State Tax Commission to define the term "photocopy"; and makes technical changes (page 86).

Sales and Use Tax Exemptions for Certain Property Brought into the State, H.B. 34 - This bill modifies a sales and use tax exemption for sales, leases, or rentals of certain property brought into the state by a nonresident if that property is not used to conduct business in the state; enacts a sales and use tax exemption under certain circumstances for sales of property: sold outside of the state; brought into the state; and used to conduct business in the state; and makes technical changes (page 99).

Sales and Use Tax Exemptions for Vehicles, Boats, Boat Trailers, or Outboard Motors Not Registered in the State, H.B. 33 - This bill addresses the time period during which a vehicle, boat, boat trailer, or outboard motor may be used in the state to be eligible for a sales and use tax exemption; and makes technical changes (page 101).

Sales and Use Tax Modifications, H.B. 27 -This bill modifies definitions; addresses the tax rates at which a seller that does not have sufficient contacts with the state to be required to collect and remit sales and use taxes may voluntarily collect and remit sales and use taxes on: food and food ingredients; or a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients; addresses the effective dates of sales and use tax repeals, changes, or increases for certain taxes and transactions; addresses the distribution of the local taxes that are voluntarily collected and remitted by a seller that does not have sufficient contacts with the state to be required to collect and remit sales and use taxes; addresses the revenues to be deposited into the: Centennial Highway Fund Restricted Account; and Transportation Investment Fund of 2005; addresses the calculation of the credit for certain repossessions of a motor vehicle; addresses the calculation of the amount a seller that collects and remits sales and use taxes on a monthly basis may retain; provides that the portion of the tax under the Tourism, Recreation, Cultural, and Convention Facilities Tax part, that is imposed on sales by restaurants, is imposed on sales of prepared food and food and food ingredients; modifies an appropriation to the State Tax Commission to provide that, in addition to other purposes allowed in the appropriation language, monies may be expended to reimburse certain sellers for expenditures to pay for in-house programming to account for sales under the reduced sales and use tax rate imposed on food and food ingredients; and makes technical changes (page 87).

Tax Credits for Alternate Power Generation, S.B. 13 - This bill defines terms; extends the availability of the renewable energy tax credit until 2012; expands the renewable energy tax credit to include some geothermal sources; makes the renewable energy tax credit on commercial energy systems a refundable credit; changes the calculation of the tax credit for commercial energy systems; removes language reimbursing the Uniform School Fund for renewable energy tax credits taken; and makes technical changes (page 85).

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Tax Penalty Amendments, S.B. 5 - This bill amends the penalty provisions for a failure to file a tax return to exempt the return from a penalty if no tax is due on the tax return; amends the mailing requirements for a notice of an assessed penalty and demand for payment; and makes technical changes (page 87).

Tourism, Recreations, Cultural, and Convention Facilities Tax Amendments, H.B. 38 - This bill clarifies that only a county of the first class may impose a tax on certain accommodations and services; and under the Tourism, Recreation, Cultural, and Convention Facilities Tax part; and makes technical changes (page 87).

Use of Oil and Gas Revenues, S.B. 18 - This bill creates the Capital and Infrastructure Investment Account; creates the Oil and Gas Severance Tax Holding Account; provides that oil and gas severance tax revenues that exceed a base amount are deposited in the permanent state trust fund or the Oil and Gas Severance Tax Holding Account; provides that certain earnings are credited to the Capital and Infrastructure Investment Account; and makes technical changes (page 101).

TRANSPORTATION INTERIM COMMITTEE

Commercial Driver License Amendments, S.B. 19 - This bill increases certain commercial driver license fees; provides that certain report exemptions for speeding violations do not apply for CDL holders or violations that occurred in a commercial motor vehicle; amends certain definitions; authorizes the Driver License Division to impose concurrent CDL disqualification periods while a driver is disqualified by the Secretary of the United States Department of Transportation; provides that persons convicted of certain CDL or traffic violations are subject to civil penalties; prohibits employers from knowingly allowing, requiring, permitting, or authorizing a person to violate certain CDL or traffic provisions and provides that employers are subject to civil penalties if convicted; requires the Driver License Division to furnish CDL holder records to certain persons within ten days; requires the Driver License Division to disqualify a person from driving a commercial motor vehicle if convicted of certain

violations; clarifies the beginning effective date of certain CDL disqualification periods; provides that a person must take and pass the knowledge test for hazardous materials endorsement to obtain a hazardous materials endorsement or transfer a hazardous materials endorsement; requires the division to notify the CDLIS within ten days of any changes in the identifying information of a CDL holder; clarifies that the opportunity for reduction of a lifetime disqualification of a CDL does not apply if a person is convicted of certain violations; clarifies the CDL disqualification period for certain offenses; and makes technical changes (page 92).

Driver License and ID Card - Sunset of Race Checkoff Provisions - This bill repeals the requirement that the department maintain a database of certain information and provide access to that information to the Commission on Criminal and Juvenile Justice to evaluate the data and report and make recommendations to the Legislature; repeals the sunset of the race indication provisions on the application for a driver license or identification card; and makes technical changes (page 91).

Driver License Fee Amendments, H.B. 52 - This bill modifies the Uniform Driver License Act by increasing selected driver license fees (page 92).

Driving Under the Influence Amendments, S.B. 4 - This bill clarifies the application of the ten-year look back period for felony driving under the influence violations; amends the definition of alcohol restricted driver; provides that a court shall order an ignition interlock system as a condition of probation for an alcohol restricted driver violation or describe why the order would not be appropriate; increases the fee for a license reinstatement application for an alcohol or drug-related offense; increases the administrative fee for license reinstatement after an alcohol or drug-related offense; provides that the Driver License Division shall deny, suspend, disqualify, or revoke a person's license for certain violations; requires the Driver License Division to immediately revoke, deny, suspend, or disqualify a person's driver license upon receiving record of a person's conviction for operating a vehicle without an

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ignition interlock system if the person is an interlock restricted driver; and makes technical changes (page 92).

Funding for Purchase of State Highway Rights of Way, S.B. 12 - This bill modifies the Bonding Code by authorizing the issuance and sale of general obligation bonds by the State Bonding Commission for the purchase of land for construction of capital projects; specifies the use of the general obligation bond proceeds and the manner of issuance; and exempts the bonds from the statutory debt limit (page 92).

Required Headlight Use on Vehicles, H.B. 35 - This bill requires the operator of a motor vehicle to illuminate the vehicle's headlights when operating windshield wipers; and makes technical changes (page 93).

State Highway Amendments, S.B. 20 - This bill combines SR-41 into SR-28; eliminates a portion of SR-195 from the state highway system; and makes technical changes (page 92).

Traffic Code Amendments, S.B. 17 - This bill provides that an unmarked vehicle may be used for routine enforcement of certain violations; provides that an authorized emergency vehicle may violate certain provisions while engaged in routine patrolling activities; repeals speeds in certain locations as lawful; requires the Department of Transportation to establish the safe and prudent speed limit on each section of highway under its jurisdiction and requires that each speed limit be based on a traffic and engineering study; changes the maximum posted speed limits; provides that an operator of a vehicle traveling in the left lane may not impede the free flow of traffic and shall, upon being overtaken by a vehicle in the same lane, yield to the vehicle; provides that if an operator is not following a vehicle in the left lane within a certain distance, it is prima facie evidence that the operator is impeding the free flow of traffic; provides that an operator of a vehicle shall follow another vehicle so that at least two seconds elapse before reaching the location of the vehicle directly in front of the operator's vehicle; provides that a signal of intention to turn right or left shall be given continuously for two rather than three seconds before

making the indicated action; provides that an operator of a vehicle that observes another operator indicating the operator's intention to turn shall adjust the vehicle as necessary to accommodate the other operator's intended action; defines and prohibits careless driving; and makes technical changes (page 93).

Traffic Code Revisions, H.B. 22 - This bill modifies motor vehicle accident provisions by moving provisions for accidents resulting in fatalities or injuries into new sections of the Utah Code; and makes technical changes (page 93).

Uninsured Motorist Identification Database Program Amendments, S.B. 6 - This bill amends the definition of commercial motor vehicle insurance coverage and repeals the requirement that the Insurance Department make rules establishing a procedure to approve certain policies; provides that the Uninsured Motorist Identification Database Program shall be audited by the State Tax Commission at least every three years rather than annually; and makes technical changes (page 93).

UTAH INTERNATIONAL TRADE COMMISSION

Utah International Trade Commission, H.B. 59 - This bill extends the sunset date for the Utah International Trade Commission; and extends the sunset date for a provision related to the Utah International Trade Commission (page 96).

UTAH TAX REVIEW COMMISSION

Registration and Taxation of a Vehicle Used for a Sports Event - This bill repeals provisions allowing a vehicle to be issued a temporary sports event registration certificate; repeals provisions exempting a vehicle issued a temporary sports event registration certificate from other registration provisions; repeals references to a temporary sports event registration certificate relating to: a dealer's authority to issue a temporary sports event registration certificate; or fees for a temporary sports event registration certificate; repeals uniform fee provisions for a vehicle issued a temporary sports event registration certificate;

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repeals a sales and use tax exemption for a vehicle issued a temporary sports event registration certificate; and makes technical changes (page 102).

Resolution Regarding Permanent State Trust Fund, S.J.R. 2 - This resolution proposes to amend the Utah Constitution to: provide that a permanent state trust fund includes money and assets given to the fund under any provision of law (page 101).

Sales and Use Tax Exemption for Authorized Carriers, H.B. 42 - This bill exempts from sales and use taxation sales, leases, or uses of tangible personal property that is installed on a vehicle: sold or leased to or used by an authorized carrier; and before the vehicle is placed in service for the first time; and makes technical changes (page 101).

Sales and Use Tax Exemption for Certain Property Brought into the State, H.B. 34 - This bill modifies a sales and use tax exemption for sales, leases, or rentals of certain property brought into the state by a nonresident if that property is not used to conduct business in the state; enacts a sales and use tax exemption under certain circumstances for sales of property: sold outside of the state; brought into the state; and used to conduct business in the state; and makes technical changes (page 99).

Sales and Use Tax Exemptions for Vehicles, Boats, Boat Trailers, or Outboard Motors Not Registered in the State, H.B. 33 - This bill addresses the time period during which a vehicle, boat, boat trailer, or outboard motor may be used in the state to be eligible for a sales and use tax exemption; and makes technical changes (page 101).

Use of Oil and Gas Revenues, S.B. 18 - This bill creates the Capital and Infrastructure Investment Account; creates the Oil and Gas Severance Tax Holding Account; provides that oil and gas severance tax revenues that exceed a base amount are deposited in the permanent state trust fund or the Oil and Gas Severance Tax Holding Account; provides that certain earnings are credited to the Capital

and Infrastructure Investment Account; and makes technical changes (page 101).

WATER ISSUES TASK FORCE

Instream Flow to Preserve Water Quality - This bill defines terms; repeals the instream flow change application for water quality in ten years; authorizes the Water Quality Board to make rules regarding certification of instream flow fixed time change applications; allows a municipality, a special service district, a special service improvement district, a county water and sewer improvement district, a county service area, a water conservancy district, or an interlocal entity to file a fixed time change application for an instream flow to comply with state water quality standards; prohibits the use of eminent domain to acquire an instream flow water right; requires the Water Quality Board's executive secretary to certify the proposed fixed time change to an instream flow; allows an applicant to renew a change application once, if certain conditions are met; and makes technical changes (page 105).

Instream Flow to Protect Trout Habitat, S.B. 29 - This bill defines terms; authorizes a fishing group to file a change application for a fixed time period not exceeding ten years for an instream flow to protect or restore habitat for native trout; requires the Division of Wildlife Resources' director to review the proposed change; allows a fixed time change applicant to refile the application; provides that the water right will automatically revert to its original place and purpose of use when the application expires; repeals the private instream flow water right in ten years; and makes technical changes (page 105).

Nonprofit Corporation Amendments, S.B. 9 - This bill addresses voting requirements for nonprofit corporations; authorizes distributions from one nonprofit corporation to another upon dissolution; prevents the transfer of title in water rights upon dissolution of a nonprofit corporation; exempts nonprofit corporations from the effects of Title 61, Chapter 6, Control Shares Acquisition Act; and makes technical changes (page 106).

SUMMARY OF RECOMMENDED LEGISLATION

Share Assessment Act, H.B. 53 - This bill defines terms; describes how shares may be assessed; provides rules for assessing shares; and allows enforcement of assessments by various methods, including sale of shares with unpaid assessments (page 106).

State Declaration of State Water Week, H.B. 20 - This bill declares the first full week of May to be State Water Week (page 106).

Use of State Engineer Fees, S.B. 8 - This bill allows the state engineer to use fees to process reports of water right conveyance (page 106).

Water Conveyance Easements, S.B. 28 - This bill authorizes recording an easement for a water conveyance (page 106).

WORKFORCE SERVICES AND COMMUNITY AND ECONOMIC DEVELOPMENT INTERIM COMMITTEE

Employment Security Act Amendments, H.B. 23 - This bill authorizes the Unemployment Insurance Division to prescribe rules providing standards for determining which contribution reports must be filed on electronic media; provides that the division may not require an employer to file contribution reports on magnetic or electronic media unless the employer is an authorized employer representative who files quarterly tax reports on behalf of 100 or more employers during any calendar quarter; and makes certain technical changes (page 108).

Employment Support Act - Technical Changes, H.B. 24 - This bill deletes outdated provisions in the definitions section of the Employment Support Act regarding "passenger vehicle" and "average monthly number of families"; and deletes a reporting provision to an entity that no longer exists, the Utah Tomorrow Strategic Planning Committee (page 108).

Family Employment Program Amendments, S.B. 14 - This bill provides that the division may not count up to a maximum of three months of transitional support cash payments received by a parent client toward the cash

assistance time limits set for families in the Family Employment Program; and modifies the employment requirement for a parent client to receive additional cash assistance beyond the 36-month time limit set for families in the Family Employment Program (page 108).

Industrial Assistance Fund Amendments - Rural Fast Track Program, S.B. 10 - This bill creates the Rural Fast Track Program as a funded component of the economically disadvantaged rural areas designation within the Industrial Assistance Fund to provide a financial incentive for small companies in rural Utah that create high paying jobs; provides that 20% of the money in the Industrial Assistance Fund shall be used to fund the program and for a reallocation of money not used in the program by the end of the third quarter of any given fiscal year; provides for an application procedure, qualification criteria, and an approval process; provides criteria on which awards are based for the creation of new incremental high paying jobs in rural Utah; and provides for quarterly reports to the Board of Business and Economic Development and annual reports to the Legislature on awards made under the program (page 108).

Resolution Urging Congress to Address Social Security Number Identity Theft, S.C.R. 1 - This resolution urges the United States Congress to pass identity theft and fraud legislation related to the intentional misuse of a Social Security number by an individual or a company; urges that the legislation include increased verification requirements by companies, increased penalties for individuals who intentionally use fraudulent Social Security numbers to obtain employment, avoid child support obligations, or for other personal gain; and urges that the legislation include increased penalties for companies who repeatedly report wages on employees with fraudulent Social Security numbers (page 107).

Unemployment Compensation - Social Security Offset, S.B. 11 - This bill removes the provision that provides for the 50 percent Social Security benefits offset to an individual's weekly unemployment benefit amount to be

SUMMARY OF RECOMMENDED LEGISLATION

funded from federal Reed Act moneys; and makes certain technical changes (page 108).

receiving workers' compensation medical benefits (page 109).

Utah Athletic Foundation Resolution, S.J.R. 1 - This resolution approves the Foundation's negotiation of sales of portions of the Winter Sports Park under certain conditions; authorizes changes to the governing documents of the Foundation including: modifications to the purposes of the Foundation; revisions to the Foundation's investment policy; and modifications of requirements related to the board of directors; directs changes to the governing documents of the Foundation regarding the imposition of a minimum number of voting members on the board of directors; directs the Foundation to provide certain financial information in annual reports; requires the Foundation to provide the Legislature amended governing documents; addresses the effect of this resolution on prior resolutions; and provides for the distribution of the resolution (page 109).

Workforce Services - Reporting Misuse of Personal Identifying Information, S.B. 15 - This bill provides that the Department of Workforce Services may disclose to an individual the suspected misuse of the individual's personal identifying information; provides that the suspected misuse may also be reported to appropriate law enforcement agencies responsible for investigating identity fraud violations; provides that the suspected use of personal identifying information includes a Social Security number under which wages are being reported by two or more individuals and that of an individual under the age of 18 with reported wages exceeding \$1,000 for a single reporting quarter; and reduces from a class A to a class C misdemeanor a violation of the disclosure provisions of Section 35A-4-312 (page 107).

Workforce Services' Work Experience or Training Programs, S.B. 21 - This bill provides that a client or applicant, rather than a customer, for services provided by or through the Department of Workforce Services who is directed to participate in a work experience or training program funded by the department is considered to be a volunteer of the department solely for the purpose of

ADMINISTRATIVE RULES REVIEW COMMITTEE

ADMINISTRATIVE RULES REVIEW COMMITTEE

Membership

Sen. Howard A. Stephenson, Senate Chair
Rep. David Ure, House Chair
Sen. Mike Dmitrich
Sen. Mark B. Madsen
Sen. Ed Mayne
Sen. Michael G. Waddoups
Rep. James R. Gowans
Rep. Kory M. Holdaway
Rep. Carol Spackman Moss
Rep. Merlynn T. Newbold

Staff

Arthur L. Hunsaker, Policy Analyst
Susan Creager Allred, Associate General Counsel
Tracey Fredman, Legislative Secretary

OVERVIEW

The Administrative Rules Review Committee was established by the Legislature in the 1983 General Session. *Utah Code* Section 63-46a-11(3)(b) requires the Committee to review agency rules to ensure they do not exceed legislative authority and intent and to determine the rules' impact on the economy, state and local government operations, and affected individuals.

Initially, the Committee primarily reviewed proposed agency rules, which are published twice monthly in the *Utah State Bulletin* by the Division of Administrative Rules. However, committee members expressed concern that existing rules, many of which were based on broad grants of statutory authority, had not been reviewed.

In the 1988 General Session, funds were appropriated for full-time staff to provide for review of existing rules as a component of the Committee's review process. The Committee directed staff to prepare legislation deleting the broad grants of rulemaking authority given to several state agencies and to work with each affected agency to ensure the rewritten authorizing statutes would still provide needed specific rulemaking authority. The Committee

anticipated that this review could require several years to complete.

As part of an agreement reached between members of the Administrative Rules Review Committee and the Governor during the 1989 General Session, legislation passed which granted the Committee authority to prepare annual legislation reauthorizing all rules of the state except any rules enumerated in that year's bill. The Committee delayed any action on broad statutory grants until after the 1990 General Session.

From 1989 through 1994, the Committee examined the rules of every state agency. Agency representatives were provided with a detailed analysis of their rules and met with the Committee to establish agreements regarding rule changes to be made. This process prompted agencies to make more concise, carefully prepared rules that were in harmony with Utah statutes.

The 2002 General Session marked the first time the annual reauthorization legislation repealed written statements of state agencies that met the definition of a rule but that had not proceeded through the required rulemaking process that includes notice, publication, and public comment. In the 2003 General Session, legislation passed clarifying that an agency's written statement that conformed to the definition of a rule is, in fact, a rule, but is only enforceable if it has gone through the statutorily required rulemaking process, including publication and public comment.

Today, the Committee meets regularly to review the large number of proposed agency rules published twice monthly in the *Utah State Bulletin* to address specific concerns raised by legislators and the public regarding proposed and existing rules.

ACCEPTANCE OF HIGH SCHOOL CLASS CREDITS

Background

Legislators expressed concern that the conditions listed in a draft rule that must be met in order for a public school to accept credits previously earned through a private school

ADMINISTRATIVE RULES REVIEW COMMITTEE

violate the intent of S.B. 56 "Secondary School Amendments," which passed during the 2006 General Session.

The Utah State Superintendent of Public Education explained that a more recent draft of the rule was intended to address these concerns.

The changes made to the latest draft rule appeared to bring the rule into compliance with the law. The Chair noted that there appeared to be general agreement that the changes presented by the Superintendent were consistent with S.B. 56.

Action

The Committee discussed this issue at its May 9 and August 22, 2006 meetings but did not recommend draft legislation.

ANNUAL ADMINISTRATIVE RULES REAUTHORIZATION LEGISLATION

Background

During the 1989 General Session, the Legislature enacted a law requiring that legislation be passed annually to reauthorize state agency rules, except for rules specified in the bill to be repealed.

Action

The Committee met with various state agencies through the year regarding specific rules of concern to committee members and citizens. In many cases, agency representatives agreed to make changes requested by the Committee and filed those changes with the Division of Administrative Rules. When an agency chose not to change a rule, the committee members considered whether to reauthorize or repeal the rule when preparing its annual legislation.

The Committee will consider this issue at its January 9, 2007 meeting and may recommend draft legislation "Administrative Rules Reauthorization."

STATUTES, RULES, AND BYLAWS GOVERNING CHARTER SCHOOL PARTICIPATION IN ACTIVITIES

Background

The Committee discussed a concern regarding limitations on high school students' participation in athletic programs when transferring from a public school to a charter school. Some rules were apparently creating unnecessary hardships for charter schools that have been chartered with athletics as part of their curriculum, and for their students who want to participate in athletics.

Representatives of the Board of Education explained the process used in the development of rules and bylaws. Representatives of the Utah High School Activities Association (Association) said that when a school is not a member of the Association, school districts can make agreements with their local charter schools on athletic participation. However, if districts choose not to make those agreements, charter school students who want to participate in athletics must attend a local public school full-time.

A parent of a charter school student who wanted to participate in athletics expressed concern with the constraints her son experienced when choosing whether to participate in athletics at a charter or a public school.

A legislator reported that some students trying to transfer to a charter school and participate in athletics had met obstacles.

Committee members expressed concern that the State Board of Education was allowing the Association to set policy on charter school student participation in athletic activities, rather than by making administrative rules itself. Representatives of the Board explained that they have Board representatives on the Association's committee that addresses these issues.

A representative of the State Office of Education said the issue should be studied by the State Board of Education.

ADMINISTRATIVE RULES REVIEW COMMITTEE

Action

The Committee discussed this issue at its March 29 and October 3, 2006 meetings but did not recommend draft legislation.

STATUTORY AUTHORITY GRANTED TO STATE AGENCIES TO ESTABLISH CRIMINAL PENALTIES BY RULE

Background

A citizen expressed concern that a misdemeanor penalty for the violation of a Division of Forestry, Fire, and State Land rule was too harsh. Agency representatives indicated that state statute requires the agency to set the criminal penalty by administrative rule. The Committee voted unanimously to refer the issue of whether to change the statute to lessen the penalty to the Natural Resources, Agriculture, and Environment and Law Enforcement and Criminal Justice Interim Committees and directed staff to research statutes that grant agencies authority to establish criminal penalties by rule and review the legal basis of these statutes.

Staff reported that the Utah Supreme court, in *State v. Gallion*, 572 P.2d 683, established that defining crimes and setting the penalty for their violation is an essential legislative function that cannot be delegated by the Legislature. Staff also provided a list of statutes that authorize or direct agencies to establish misdemeanor, and in some cases, felony penalties by rule.

The Committee met with representatives of 19 of the agencies with these statutory grants. Some agencies expressed a willingness to have their statutes amended to remove the authority to set criminal penalties by rule. Others, while disagreeing philosophically with the interpretation of case law on the issue, expressed a willingness to have their statutes amended. It was noted by several agencies that no prosecutions had ever taken place that were based on a criminal penalty established by rule. Other agencies, however, have prosecuted criminal offenses established by rule.

Several agencies expressed concern with removing statutory authority to set criminal penalties by rule, arguing

that it did not violate case law. The agencies also discussed the impact of trying to place all affected state rule provisions into state statutes. Concern about agency compliance with federal requirements was also raised.

Action

The Committee approved legislation to repeal some of the statutory grants of authority to agencies to establish criminal penalties by rule. The legislation did not pass both houses before the conclusion of the 2006 General Session, so the Committee directed that the legislation be refiled for introduction in the 2007 General Session. The Committee discussed this issue at its December 13, 2006 meeting.

OTHER STUDIES

Clarifying the Role of the Division of Administrative Rules

Utah Code Section 63-5a-7 states that rules are in full force and effect in times of emergency if the rules have, among other requirements, been filed with the Division of Archives. Since the responsibility for receiving rules for filing was shifted to the Division of Administrative Rules many years ago, legislation was needed to update the archaic language. The Committee considered this issue at its December 13, 2006 meeting and recommended draft legislation "Filings of Administrative Rules, Orders, and Regulations.

Driver License Guidelines and Standards

A constituent expressed concern in writing about her experience when attempting to renew her driver license. She was mistakenly told that unless she obtained her doctor's permission to drive when taking a certain antidepressant medication, her license to drive would be revoked.

Representatives of the Driver License Division said that certain medications can cause driver impairment, and the list of these medications changes so frequently that placing them in rule would require continual rulemaking.

ADMINISTRATIVE RULES REVIEW COMMITTEE

The Chairs directed staff to meet with representatives of the Driver License Division to determine what standards and guidelines might appropriately be placed in rule.

In a later meeting, representatives of the Driver License Division reported that proposed rules had been written to give the public better notice of the restrictions on driving when taking certain medication. The Committee discussed this issue at its June 19 and July 26, 2006 meetings and voted unanimously to send a letter to the Transportation Interim Committee referring this issue to them for further consideration.

Licensing of Clinical Social Workers

A citizen expressed concern that DOPL (Division of Occupational and Professional Licensing) has told her that she must have two additional years of experience as a clinical social worker before she would be licensed because she had failed to pay a license fee two years previous when she began the two-year work requirement. She was also told that there was no record that she had filled out a license application.

She claimed that she had turned an application for licensure in and also that she had been told by a DOPL worker that she was to pay the fee at the end of the two-year work requirement.

Representatives of DOPL said that although there is no division record of the citizen's application for licensure, her education, exams, and work experience qualify her for licensure. They added that DOPL is willing to help, and the Division's goal was to help her become licensed.

A representative of DOPL reported at a later meeting that issues related to the citizen's licensure had been resolved and that she has obtained her license. Clarifications have also been made to the application so it will be more user friendly. The Committee considered this issue at its August 22, 2006 meeting but did not recommend draft legislation.

Licensing Requirements for Solar Panel Installers

A citizen explained the efforts he has made, and the problems he has encountered, in attempting to comply with state statute and rulemaking requirements to be licensed to install solar energy systems while residing in a remote area of the state with limited access to training.

Representatives of DOPL said the Division's goal is to help the citizen become licensed, and described the qualifications required for a solar contracting license, and how he could obtain a license.

A representative of Carmanah Technologies discussed a National Certification Test that, if approved by DOPL, could qualify the citizen to be licensed.

In a later meeting, a DOPL representative confirmed that, through his previous training and experience, the citizen is qualified to take the North American Board of Certified Energy Practitioners test, and that if he passes it, DOPL will issue a license to him. The Committee discussed this issue in its June 19 and August 22, 2006 meetings but did not recommend draft legislation.

Payment of Per Diem to Boards

A change to a Division of Finance rule proposed to authorize independent corporation boards to provide a higher per diem amount to its members. This provision raised issues of consistency with state law. The Committee met with representatives of the Workers' Compensation Fund, who agreed to make changes to the rule to address the Committees' concerns. The Committee discussed the issue at its April 11 and June 9, 2006 meetings but did not recommend draft legislation.

BUSINESS AND LABOR INTERIM COMMITTEE

BUSINESS AND LABOR INTERIM COMMITTEE

Membership

Sen. Scott K. Jenkins, Senate Chair
Rep. Stephen D. Clark, House Chair
Sen. Gene Davis
Sen. Thomas V. Hatch
Sen. John W. Hickman
Sen. Ed Mayne
Sen. Michael G. Waddoups
Rep. J. Stuart Adams
Rep. Jackie Biskupski
Rep. David Clark
Rep. Carl W. Duckworth
Rep. James A. Dunnigan
Rep. Ben C. Ferry
Rep. Craig A. Frank
Rep. Neil A. Hansen
Rep. Todd E. Kiser
Rep. Michael T. Morley
Rep. Curtis Oda
Rep. Gordon E. Snow
Rep. Scott L. Wyatt

Staff

Allison M. Nicholson, Policy Analyst
Patricia Owen, Associate General Counsel
Phalin L. Flowers, Legislative Secretary

OVERVIEW

The Business and Labor Interim Committee considers issues relating to the interests of businesses, employees, consumers, and others involved in the state's economy. Safeguarding these interests involves balancing the need for appropriate regulation with the need to foster a healthy economy by avoiding unnecessary governmental interference.

The Committee has legislative responsibility for six departments and commissions: Alcoholic Beverage Control Commission, Department of Alcoholic Beverage Control, Department of Commerce, Department of Financial Institutions, Department of Insurance, and the Labor Commission.

Issues addressed by the Committee in recent years include regulation of construction activities and mechanics' liens, affordable health insurance, consumer lending, insurance regulation, disaster preparedness, workers' compensation, regulation of financial services providers, consumer protection, and real estate activities.

DISASTER PREPAREDNESS

Background

With recent natural disasters such as tsunamis and hurricanes saturating the media, individuals and governments are reminded of the need to prepare for these situations and their aftermath. Unlike some coastal cities, Utah's most likely catastrophic disaster is a significant earthquake. With the majority of its urban clusters concentrated along a fault line, Utah could see extensive and costly damage from a major earthquake. The Committee studied the possible effects of a disaster of this kind and discussed the level of preparedness of Utah's governments and businesses.

The Committee discussed the possibility of establishing funding mechanisms that would address recovery from disasters on both state and local levels, and also encourage local governments to establish funding sources.

Action

The Committee considered these issues at its May, October, and November 2006 meetings and recommended draft legislation "Disaster Recovery Funding."

OCCUPATIONAL AND PROFESSIONAL LICENSING

Background

Government regulation of occupations and professions by the means of licensing, certification, or registration strives to protect the health, safety, and welfare of the public, and not just to limit competition or entrance into the marketplace. DOPL (Division of Occupational and Professional Licensing) within the Department of Commerce regulates over 150,000 individuals and entities

BUSINESS AND LABOR INTERIM COMMITTEE

in the state. These diverse occupations range from medical providers and barbers to contractors, engineers, and accountants. Several other state agencies also license individuals and entities including the Department of Insurance, the Division of Real Estate, the Division of Securities, and the Department of Health.

The Committee studied the operation of DOPL and its activities, and specifically studied the following situations:

- the regulation of general building contractors,
- the use of laser technologies in the practice of aesthetic medicine by various license holders,
- the registration requirements of professional employer organizations, and
- the creation of new licence classifications of "master plumber" and "residential master plumber."

At several meetings, the Committee also reviewed and discussed possible changes to OPLR (Occupational and Professional Licensure Review Committee), which is composed of legislators and members of the public, and makes recommendations regarding occupations and professions seeking to be newly regulated. In order to better inform legislators and others, the Committee recommended requiring the dissemination of OPLR's reports and recommendations to a wider audience.

Action

The Committee considered this issue at its June, July, September, October, and November 2006 meetings and recommended draft legislation "Occupational and Professional Licensure Review Committee," "House Rules Resolution - Occupational and Professional Licensure Review Committee Summary Report," "Senate Rules Resolution - Occupational and Professional Licensure Review Committee Summary Report," and "Professional Employer Organization Related Amendments."

OTHER STUDIES

Impact of Administrative Rules on Small Businesses

At times, it may be more burdensome for small businesses than it is for large businesses to comply with government regulation because of differences in staff and resources

that help to ensure compliance. The Committee studied a bill that requires executive departments or divisions to provide an analysis of the impacts of proposed administrative rules on small businesses (defined as employing 100 or fewer persons) as part of the rule making process. The Committee considered this issue at its September 2006 meeting and recommended draft legislation "Impact of Administrative Rules on Small Businesses."

Insurance Issues

The Committee studied several insurance issues during the interim:

Consumer-Directed Health Care

Consumer-directed health care plans are becoming an attractive choice for some businesses in managing rising health care costs by giving consumers greater financial control over their health care. An example of a consumer-directed health care plan is an HSA (health savings account). An HSA is a tax-free financial account designed to help individuals save for health care expenses, which must be used in conjunction with a high-deductible health plan. The Committee studied this issue at its April 2006 meeting but did not recommend legislation.

Health Insurance Mandates

In the 2000 General Session, the Business and Labor and Health and Human Services Interim Committees were charged with identifying and studying mandates placed on health insurers in Title 31A, Insurance Code. Mandates enacted prior to 2000 were to be studied by November 30, 2005. Mandates enacted after 2000 will be studied in the fifth year following their enactment. The Committee reviewed the status of the required studies and evaluated the process for completing additional studies at its April 2006 meeting but did not recommend legislation.

Insurer Delinquency Proceedings

The National Association of Insurance Commissioners has released an IRMA (Insurer Receivership Model Act), which states may choose to implement in an effort to encourage uniformity among states in delinquency proceedings for insurers. The Committee studied the possibility of Utah adopting

BUSINESS AND LABOR INTERIM COMMITTEE

language similar to IRMA in its October and November 2006 meetings but did not recommend legislation.

Lending Registration Acts

The Committee studied changing provisions to the Check Cashing Registration Act and the Title Lending Registration Act, including provisions for increased disclosure by lenders and additional enforcement by the Department of Financial Institutions. The Committee considered this issue at its November 2006 meeting and recommended draft legislation "Lending Registration Acts."

Workers' Compensation Fund

The Committee considered legislation that changes how board members of the Workers' Compensation Fund are paid and modifies how the terms of board members are staggered at its July and October 2006 meetings, and recommended draft legislation "Workers' Compensation Fund - Board Amendments."

sunset review of the Act at its September 2006 meeting and recommended reauthorization of the Act for an additional five years.

Professional Employer Organization Registration Act

A PEO (professional employer organization) generally provides services such as payroll, human resource compliance, risk management, and benefits administration to a client (worksite employer) through a coemployment relationship. DOPL began licensing PEOs in 1993. In 2003, the licensing act was changed to a registration act. The Committee conducted a sunset review of the PEO Registration Act at its June 2006 meeting and recommended that the Act be reauthorized without a sunset date. The Committee discussed changes to the PEO Registration Act at its October 2006 meeting and recommended draft legislation "Professional Employer Organization Related Amendments."

SUNSET REVIEWS

Insurance Fraud Act

An insurance fraud act generally requires that someone knowingly intends to deceive or defraud another. Utah's Insurance Fraud Act empowers the Insurance Department to address fraudulent insurance acts. The Act was first enacted in 1994 and extended for 10 years in 1997. The Committee conducted a sunset review of the Act at its July 2006 meeting and recommended the reauthorization of the Act with no sunset date.

Motor Fuel Marketing Act

Utah Code Title 13, Chapter 16 prohibits certain below cost sales (with some exceptions) if the intent or effect is to injure competition, induce buying of other merchandise, unfairly divert trade from a competitor, or otherwise injure a competitor. The Act also addresses discriminatory pricing. The Office of the Attorney General, which is charged with enforcing the Act, recommended allowing the Act to sunset, while some marketers, retailers, and others support its reauthorization. The Committee conducted a

CHILD WELFARE LEGISLATIVE OVERSIGHT PANEL

CHILD WELFARE LEGISLATIVE OVERSIGHT PANEL

Membership

Sen. Dan R. Eastman, Senate Chair
Rep. Steven R. Mascaró, House Chair
Sen. Gene Davis
Rep. David Litvack
Rep. Paul Ray

Staff

Mark D. Andrews, Policy Analyst
Thomas R. Vaughn, Associate General Counsel
Wendy L. Bangerter, Legislative Secretary

OVERVIEW

The Child Welfare Legislative Oversight Panel was created in 1995 to study and recommend improvements to Utah's system for preventing and responding to allegations of child abuse and neglect. The Panel reports annually to the Health and Human Services Interim Committee, the Judiciary Interim Committee, the President of the Senate, and the Speaker of the House.

DAVID C.

Background

Utah's child welfare system continues to operate under federal court oversight begun in 1994 as a result of the legal challenge brought by the National Center for Youth Law in *David C. v. Leavitt*. Oversight is scheduled to end when the state meets the operational objectives of the Performance Milestone Plan adopted by the court in 1999.

Operational compliance with the Performance Milestone Plan is measured using two tools—the case process review and the qualitative case review. To date, although the state has demonstrated performance improvement, it has not demonstrated compliance at the levels required by either measurement tool. Nevertheless, the Office of the Attorney General is hopeful that by the spring of 2007 the state will be able to demonstrate that it has made sufficient sustained improvement to be released from judicial oversight.

Action

The Panel considered this issue at its June 2006 meeting but did not recommend legislation.

GUARDIAN AD LITEM

Background

Last year, in response to the legislative performance audit of the GAL (Office of the Guardian ad Litem), the Judicial Council created a Guardian ad Litem Oversight Subcommittee to provide oversight of the Office and address concerns raised by the audit. This year the Panel received reports from the Oversight Subcommittee and the GAL.

Action

The Panel considered this issue at its October 2006 meeting and expressed, by motion, its support of the GAL's FY 08 budget request. This request of \$1,700,700 (\$1,567,600 ongoing, \$133,100 one-time) would allow the office to reduce caseloads by funding an additional 11 full-time attorneys, 5.5 legal secretaries, five paralegals or paraprofessionals, and one Court Appointed Special Advocates coordinator.

SUBSTANCE ABUSE

Background

Approximately 80 percent of children in the child welfare system come from families where either drugs or alcohol are abused. The Panel received testimony that the public substance abuse treatment system does not have sufficient capacity to serve all who need treatment. There is a particular need for residential treatment settings for mothers and their children in the child welfare system, high intensity services, and services in the rural areas of the state.

Action

The Panel considered this issue at its July and October 2006 meetings but did not recommend legislation.

EDUCATION INTERIM COMMITTEE**Membership**

Sen. Howard A. Stephenson, Senate Chair
Rep. Margaret Dayton, House Chair
Sen. Patrice M. Arent
Sen. D. Chris Butters
Sen. Karen Hale
Sen. Mark B. Madsen
Sen. David L. Thomas
Rep. Ron Bigelow
Rep. Duane E. Bourdeaux (until 4/19/2006)
Rep. LaVar Christensen
Rep. John Dougall
Rep. James A. Ferrin
Rep. James R. Gowans
Rep. David L. Hogue
Rep. Kory M. Holdaway
Rep. Gregory H. Hughes
Rep. Bradley T. Johnson
Rep. Carol Spackman Moss
Rep. Merlynn T. Newbold
Rep. LaWanna "Lou" Shurtliff
Rep. Stephen H. Urquhart

Staff

Phillip V. Dean, Policy Analyst
Constance C. Steffen, Policy Analyst
Dee S Larsen, Associate General Counsel
Glenda S. Whitney, Legislative Secretary

OVERVIEW

The Committee provides oversight of and recommends policy relating to the state systems of public and higher education.

MATHEMATICS CORE CURRICULUM**Background**

In the 2006 General Session, the Public Education Appropriations Subcommittee received testimony recommending that the state mathematics core curriculum be revised. The Subcommittee approved a motion to refer the issue to the Education Interim Committee for study.

The State Board of Education also initiated a review of the math core curriculum.

The Committee received extensive testimony from mathematicians and experts in the teaching of math. All individuals testifying recommended that the math core curriculum be revised, some advocating more extensive revisions than others.

One of the reasons cited for establishing new math standards is that the current standards do not sufficiently emphasize the quick recall of math facts. If students do not memorize math facts in the lower grades, they will not be able to efficiently perform mathematical calculations in higher grades.

Another reason given by some mathematicians for revising the math curriculum is that Utah's core curriculum, like the math curricula of most states, is perceived to be "a mile wide and an inch deep." With such a broad curriculum, many students are not able to develop proficiency in key areas. Mathematicians and experts in the teaching of math nationwide are now recommending that states focus instruction in a few key areas at each grade level.

Action

The Committee considered this issue at its October and November 2006 meetings and adopted a resolution of the Education Interim Committee endorsing a plan for a full revision of math standards by the State Board of Education.

NO CHILD LEFT BEHIND**Background**

The state superintendent of public instruction reported that members of Utah's congressional delegation asked her to create what Utah's perspective is on the federal No Child Left Behind law and to submit those ideas back to the congressional delegation. She asked committee members to assist in developing Utah's perspective on No Child Left Behind by submitting their comments on five options for the reauthorization of the federal law. After obtaining the

EDUCATION INTERIM COMMITTEE

comments of committee members, the Utah State Board of Education, and hundreds of educators and educational stakeholders in Utah, the state superintendent of public instruction submitted "Utah's Position on Revising Language in No Child Left Behind" to the Utah congressional delegation. The position calls for the revising of the current No Child Left Behind law and to insert language that:

- fully restores control of public education to the states;
- requires data disaggregation of student subgroups;
- perpetuates quality instructional principles and practices, including standards, ongoing assessment, and use of data in decision making;
- limits the role of the U.S. Department of Education to research and dissemination; and
- increases aid to school districts in which 50 percent or more of the land is owned by the federal government.

Action

The Committee considered this issue at its April, June, July, September, and November, 2006 meetings but did not recommend legislation.

OTHER STUDIES

Acceptance of Credits and Grades Awarded by Accredited Schools

The Committee studied issues relating to the implementation of S.B. 56 "Secondary School Amendments," enacted in the 2006 General Session. The bill requires a public school to accept credits and grades awarded to a student by a school approved by the State Board of Education or accredited or recognized by the Northwest Association of Accredited Schools as issued by the school, without alterations. The Committee received information indicating that proposed rules of the State Board of Education were not consistent with S.B. 56. The State Board of Education subsequently revised the rules in conformance with the new law. The Committee also received testimony regarding a school district's policy that was inconsistent with the new law and the revised rules of the State Board of Education. A district representative assured the Committee of the district's intent to comply

with state law. The Committee considered this issue at its April, June, and July 2006 meetings but did not recommend draft legislation.

Corrections Education

The Committee conducted a sunset review of Utah Code Section 53A-1-403.5 which directs the State Board of Education and State Board of Regents to develop and implement a recidivism reduction plan for persons in the custody of the Department of Corrections. Representatives of the State Board of Education and State Board of Regents discussed the effectiveness of the recidivism reduction plan. The Committee considered this issue at its November 2006 meeting and recommended that Section 53A-1-403.5 be reauthorized for an additional five years.

Information Management Systems for Student Data

School districts and the Utah State Office of Education have numerous databases with extensive data on student achievement, but much of the data is not readily accessible by teachers, administrators, parents, and researchers. The Committee invited representatives of the Utah State Office of Education and DigitalBridge, a vendor of information management software, to discuss information management systems in use and under development. A representative of the Utah State Office of Education reported that they will make available on their website a method of easily comparing student test scores of different schools. The Committee considered this issue at its May and June 2006 meetings but did not recommend draft legislation.

Student Assessment

The Committee received testimony regarding potential changes to U-PASS (Utah Performance Assessment System for Students). The president of Utah Valley State College proposed requiring each high school student take the ACT. The state superintendent of public instruction raised the issue of eliminating statewide testing in first and second grades, creating statewide tests for social studies, and modifying norm-referenced testing. The state superintendent was encouraged to form a committee made up of legislators, the Utah State Office of Education,

the State Board of Education, and assessment specialists to discuss various assessment issues and make proposals for revising student assessment requirements by December 1. The Committee considered this issue at its May and June 2006 meetings but did not recommend draft legislation.

GOVERNMENT OPERATIONS INTERIM COMMITTEE

GOVERNMENT OPERATIONS INTERIM COMMITTEE

Membership

Sen. Parley G. Hellewell, Senate Chair

Rep. Douglas C. Aagard, House Chair

Sen. Dan R. Eastman

Sen. Brent H. Goodfellow

Sen. Lyle W. Hillyard

Rep. Roger E. Barrus

Rep. DelMar "Bud" Bowman

Rep. Craig W. Buttars

Rep. Tim M. Cosgrove

Rep. Glenn A. Donnelson

Rep. Janice M. Fisher

Rep. Neal B. Hendrickson

Rep. Eric K. Hutchings

Rep. John G. Mathis

Rep. Patrick Painter

Rep. Mark W. Walker

Rep. Mark A. Wheatley

Staff

Benjamin N. Christensen, Policy Analyst

Eric N. Weeks, Associate General Counsel

Brooke Ollerton, Legislative Secretary

OVERVIEW

The Government Operations Interim Committee considers a broad range of issues, including elections, campaign finance, ethics, government records access and management, appropriations and bonding, open and public meetings, personnel, boards and commissions, and administrative services. The Committee considers policy questions with statewide implications, receives testimony from concerned groups and state agencies, and makes recommendations to the Legislature.

The Committee has legislative responsibility for several departments and agencies of state government, including the offices of the Governor, Lieutenant Governor, Attorney General, Utah State Auditor, and Utah State Treasurer; Governor's Office of Planning and Budget; Department of Administrative Services; and Department of Human

Resource Management. The Committee also has primary responsibility for the following titles of the *Utah Code*: Title 20A, Election Code; Title 36, Legislature; Title 63, State Affairs in General; Title 63A, Administrative Services; Title 63B, Bonding; and Title 67, State Officers and Employees.

IMPACT OF CERTAIN SALES TAX CHANGES ON LOCAL BONDING

Background

During the 2006 General Session, concern was expressed that certain proposed changes to sales tax provisions by the Legislature may have negative implications on local governments' ability to make revenue bond payments for outstanding bonds pledged against local sales tax revenue. Sales tax revenues are a major source of revenue for both state and local governments. Sales tax revenues are also known for growing with inflation and for providing a reliable income stream because it is broadly applied. Sales tax generates about 85 percent of the state General Fund. During FY 2007, sales tax revenues are expected to generate 33.1 percent of all projected state revenue sources. For municipalities, local sales tax accounted for 26 percent of all FY 2004 municipal revenue sources and 18.5 percent of all 2004 county revenue sources.

Under Title 11, Chapter 14, Local Government Bonding Act, municipalities and counties have been pledging future local sales tax revenues to obtain revenue bonds for local government purposes. When the state proposes significant changes to sales tax provisions that affect this revenue, local governments take notice. In addition, the act provides a state pledge for the protection of local revenue bond holders. Several key questions were presented and discussed with the Committee:

- What is the extent of the state's obligation to make "adequate provision . . . by law for the protection of the holders of the bonds?"
- Have local entities used sales tax revenue bonds to an extent that effectively makes a change by the Legislature in sales tax policy problematic?
- Is this a local entity budgeting issue, i.e. shouldn't local entities protect their own bond holders?

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- Have sales tax revenue bonds become a shortcut to skip voter approval, which is required for GO (General Obligation) bonds?
- Are sales tax revenue bonds overused or could they be overused given the high 80 percent cap for payments to revenue?
- Are sales tax revenues appropriate for revenue bonds or should sales tax revenues be reserved to cover GO bonds?

The following policy options were presented and discussed with the Committee:

- make no "significant" changes to sales tax provisions at this time and make no changes to the Local Government Bonding Act;
- assume local entities:
 - ▶ understand that the sales tax provisions may be changed by the Legislature at any time;
 - ▶ have already built that risk into their bonding/budget decisions;
 - ▶ will make necessary adjustments if the Legislature changes sales tax provisions; and
 - ▶ will not overutilize sales tax revenue bonds which may require the state to make provisions to help them cover their payments;
- require local governments to disclose in annual financial statements revenue bond payment amounts and amounts from the designated revenue source;
- place (by statute) additional restrictions/limitations on local entities' ability to use sales tax for revenue bonding to ensure the state's ability to make sales tax changes in the future; or
- pursue other options.

Action

The Committee considered this issue at its June 2006 meeting but did not recommend legislation.

TOTAL COMPENSATION OF STATE EMPLOYEES STUDIES

Background

The Legislature must annually establish compensation levels of the approximately 24,799 state employees. Employee compensation constituted an average of 15.9

percent of the state's operating budget over the last 10 years with an annual average cost of \$1.032 billion. The number of state employees as a percent of the state population has decreased during each of the last seven years from a high of 0.896 percent in 1999 to 0.798 percent in 2006.

Selected state compensation spending facts (as of October 2006)

- On average, 69.4 percent of the cost of employee compensation is for salaries and 24.7 percent is for benefits;
- in FY 2006 the state spent \$823.8 million on salaries and \$339.7 million on benefits for state employees; 66.7 percent and 27.5 percent respectively; and
- health insurance premiums for state employees has increased 45.1 percent over the last six years.

Selected state employee salary facts (as of October 2006)

- The average salary for state employees is \$38,469 per year;
- the median annual salary for state employees is \$34,237, that is, 50 percent of state employees are paid "at or below" or "at or above" this figure;
- a state employee who makes \$54,330 per year is in the 85th salary percentile for all state employees;
- only 10.05 percent of state employees make more than \$60,000 per year; and
- state employee salary increases (merit plus cost-of-living adjustment salary increases only) are below the consumer price index when compounded over the last 11 years and are substantially below local government increases. (See Figure 1 on page 37.)

The Department of Human Resource Management annually conducts salary market comparison studies using benchmark jobs and four separate sources (two local and two regional) to help evaluate salary adjustment needs. There are approximately 900 job titles for state employees; 101 of them have been selected as benchmark jobs for comparative purposes. According to the study, actual salaries for state employees this year are an average of 16.1 percent below the market and salary

GOVERNMENT OPERATIONS INTERIM COMMITTEE

ranges are on average 11.5 percent below the market. The study showed that employees in 68 percent of the state's benchmark positions could receive substantial pay increases for the same work with other employers.

In addition the Department commissioned a study this summer of state employee benefits by an independent consultant. The study looked at how the state of Utah employee benefits compare to the market. This information is to assist the Department with making future salary and benefits decisions, thus enabling better strategic decisions for possible salary/benefits adjustments.

Action

The Committee considered this issue at its October 2006 meeting but did not recommend legislation.

OTHER STUDIES

Access to Key Election Dates

Title 20A, Election Code, contains hundreds of dates and deadlines associated with each year's election cycle. These dates affect several groups, and include primary and general election days, voter registration deadlines, campaign finance report due dates, voter information pamphlet dates, initiative and referendum process dates, and candidate filing deadlines. Since most of these dates are set by statute and can be calculated and listed, committee staff has prepared a list of these dates for the convenience of the public. These dates were presented to the Committee and have been placed on the Legislature's website under "Quick Links," then "Dates of Interest." The Committee considered this issue at its May 2006 meeting but did not recommend legislation.

DFCM (Division of Facilities Construction and Management) Five Year Building Program

Under *Utah Code* 63A-5-103, the State Building Board is required to prepare a master plan for state structures in cooperation with state institutions, departments, commissions, and agencies and to keep current the five-year building program for the state. With some exceptions, DFCM supervises the design and construction of projects

in the five-year program. Proposed projects are evaluated based on six scoring objectives and criteria for establishing how well each project will satisfy each objective. Each objective is then weighed for final scoring. This evaluation method is designed to provide an objective score from which the board can prioritize each proposed project. In addition, the Division is developing a master plan of state government office space needs for the future. DFCM reported on the building board five-year building program, the capital budget funding history, construction project status, and the master plan.

During the 2006 General Session, the Legislature approved \$200 million from the General Fund in state funded projects and \$146.7 million in projects from other funding sources. Statewide master planning is currently underway to evaluate government office needs in major geographic locations across the state. The study will forecast the need for additional government office locations over the next 10 years using demographics, historic growth trend analysis, projections of new government programs, and services. The study will also include a review of lease versus building scenarios, strategic locations for government regional centers, and employee commute issues. The Committee considered this issue at its May 2005 meeting but did not recommend legislation.

Electronic Transaction Fee Processes – Sunset Review

During the 2003 General Session, the Legislature passed S.B. 175, "Revenue Procedures and Control Act Amendments," which allows state agencies to charge extra fees to pay for processing costs from electronic payments. The bill also established a sunset date of July 1, 2007 for the program and required the Office of the Legislative Fiscal Analyst to study and make recommendations on the program during the 2006 interim. The Committee heard a report from the Office of the Legislative Fiscal Analyst on this issue at its October 2006 meeting and recommended that the program be allowed to sunset. This recommended statutory change is expected to be included in the omnibus sunset legislation "Sunset Review and Reauthorizations."

GOVERNMENT OPERATIONS INTERIM COMMITTEE

Government Agency Overviews

Under the direction of the Committee chairs, several agencies for which the Committee has general oversight and study responsibilities were asked to appear before the Committee. Each agency was asked to explain its function and to highlight key issues, both new and ongoing, that the agency is working on. The agencies were also asked to explain their role, how many full-time employees are allocated to the agency, how the agency contributes to efficient and effective government, and how the Legislature could be of assistance to the agency. During the 2006 Interim, the following agencies appeared before the Committee:

- Division of Finance of the Department of Administrative Services;
- Office of the Attorney General;
- Capitol Preservation Board; and
- Utah State Archives and Records Services Division, Department of Administrative Services.

The Division of Finance accepted the Committee's invitation to bring back suggestions for changes to the *Utah Code* that would benefit the Division in carrying out its duties. In a letter dated June 20, 2006, the Division responded with three items: (1) provide for a post-retirement benefits trust fund, (2) update work program procedures in the Budgetary Procedures Act, and (3) revise post-conviction program statutes. After working on these issues, the Division reported that the post-retirement benefits trust fund was addressed by the Retirement and Independent Entities Committee and the other two issues would require additional work before they are ready for further committee consideration.

Following adjournment of the June meeting, members of the Committee took a walking tour of the Capitol renovation project conducted by the Capitol Preservation Board. Representatives from the Board reported that the project is currently on schedule to be completed November 1, 2007. The Capitol will be placed on base isolators for earthquake protection sometime in March 2007, but a final date has not been set.

Following adjournment of the July meeting, members of the Committee took a walking tour of the Utah State Archives and Records Services Division conducted by the Division.

The Committee considered these issues at its May, June, and July 2006 meetings but did not recommend legislation.

International Trade Commission and International Trade Agreement – Sunset Review

During the 2006 General Session, the Legislature passed H.B. 39, "Utah International Trade Commission," which created a legislative commission to study policy issues on: (1) international trade treaties' effects on the Legislature's regulation of state affairs. (2) creation of a trade-related position in state government, and (3) the promotion of trade relationships. The bill also requires the governor to consult with the Commission before binding the state to an international trade agreement. In addition, the bill established a sunset date of December 31, 2007 for all of its provisions. At its November 2006 meeting the Committee heard testimony from the Commission chairs on its work. The Commission chair recommended that the sunset date be extended. The Committee voted to recommend that the Commission be reauthorized for another 10 years. This recommended statutory change is expected to be included in the omnibus sunset legislation "Sunset Review and Reauthorizations."

Observing Juneteenth Day by the State

On June 19, 1865, Union General Gordon Granger proclaimed freedom to all slaves in the South in a speech made in Galveston, Texas. In honor of that event, a request was made for draft legislation that would add a commemorative day to the Utah Code called "Juneteenth Independence Day," to be observed on the third Saturday in June each year. The Committee considered this issue at its October 2006 meeting and recommended draft legislation "Observing Juneteenth Day by the State."

Open and Public Meetings

In 1955, the Legislature enacted an open meetings law. The Legislature updated and expanded the law in 1977 to

GOVERNMENT OPERATIONS INTERIM COMMITTEE

what is essentially the current Utah law found in Title 52, Chapter 4, Open and Public Meetings Act. During the 2006 General Session, the Legislature passed four bills amending the Act. All four bills were recommended by the Committee. One of those bills, H.B. 14, amended the definition of "public body," providing that a public body had to be created by a statute, rule, ordinance, or resolution to be subject to the Act. This provision inadvertently left out public bodies created by the Utah Constitution. Draft legislation was prepared and considered by the Committee to correct this problem. The draft legislation added provisions regarding recordings of open meetings and tightened requirements for written minutes of open meetings. The Committee considered this issue at its September 2006 meeting and recommended draft legislation "Open and Public Meetings Act Amendments."

Signature Verification Standards for Referenda

An initiative is a citizen-initiated petition that seeks to submit a new law to the voters for their adoption or rejection. A referendum is a citizen-initiated petition that seeks to submit a law that has been passed by the Legislature or by a local legislative body to the voters for their approval or rejection. In response to a 2004 ruling by the Utah Supreme Court that expressed concern over verification standards that differed among counties, the Legislature passed S.B. 11, "Initiative Petitions Amendments" during the 2005 General Session. The bill established uniform standards for county clerks to use in order to determine whether a signature on an initiative petition is valid. No such standards are currently in place for referenda. The Committee discussed whether or not the same or similar signature verification standards should be made for referenda as for initiatives. The Committee considered this issue at its May and November 2006 meetings and recommended draft legislation "Referendum – Signature Verification Procedures."

State Emergency Response and Disaster Relief Funding

Recent natural disasters, both nationally and locally, have highlighted the need for state and local governments to be prepared in the event of a natural or man-caused disaster. Representatives from the Division of Emergency Services

and Homeland Security and Department of Public Safety provided the Committee an overview of the Division's programs, funding, and interaction with other agencies. There are three components of the homeland security program: (1) risk identification and treatment, (2) the recognition of vulnerabilities in critical facilities, and (3) preparedness response and recovery. The state is involved in an emergency management accreditation program and should be accredited in the near future. The Division works with numerous counties, tribes, federal agencies, and state agencies. The federal government has provided less funding for these programs in recent years, causing state and local governments to look for funding elsewhere. Federal funding makes up 93 to 97 percent of the Division's operating budget. The remaining 3 to 7 percent comes from the state's general fund and is used to match federal grants. Reportedly, current funding is insufficient to cover the Division's budget so it relies heavily on local jurisdictions to provide matching grants. The Committee considered this issue at its June 2006 meeting but did not recommend legislation.

Statutory Revisions to Elections, Public Notaries, and Lobbyist Disclosure of Expenditures

The Committee annually considers potential amendments to the Election Code as part of the continuing effort to:

- keep the Election Code accurate,
- implement the federal Help America Vote Act, and
- adjust to electronic voting equipment.

The potential amendments are typically identified by local election officials, the Lieutenant Governor's Office, and committee staff. The Committee considered four bills: (1) "Election Law Revisions," which is considered an annual clean-up bill resulting from ongoing reviews of the Election Code; (2) "Election Law Amendments" amending certain election related dates; (3) "Notary Public Revisions," amending the definition of "acknowledgment" in the Notaries Public Reform Act; and (4) "Lobbyist Disclosure Technical Amendments," amending a cross-reference in the Lobbyist Disclosure and Regulation Act. The Committee considered this issue at its May, October, and November 2006 meetings and recommended draft legislation, "Election Law Revisions," "Election Law

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Amendments," "Notary Public Revisions," and "Lobbyist Disclosure Technical Amendments."

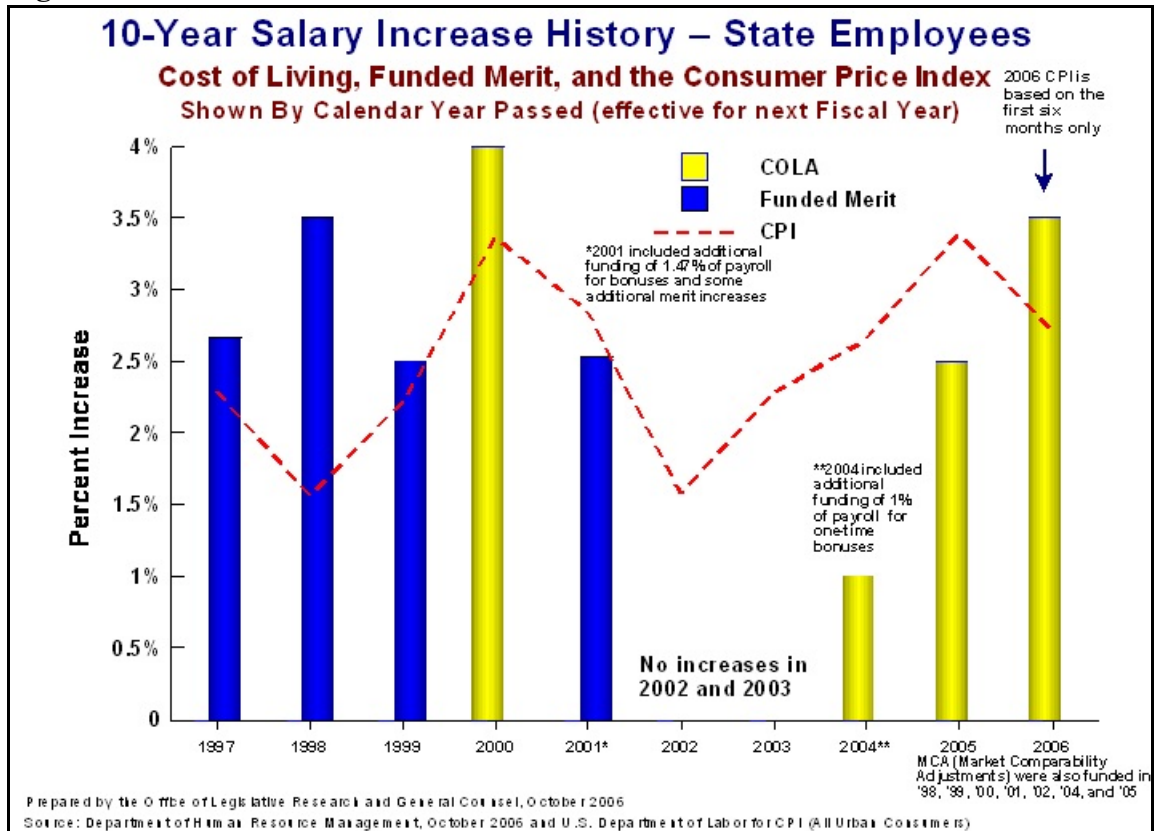
Utah Procurement Code Provisions

In 1980 the Legislature passed S.B. 71, "Utah Procurement Code," which was largely patterned after model legislation to provide transparency in procurement practices of the states. It created a procurement board and purchasing division. Currently, Title 63, Chapter 56, Utah Procurement Code, provides that its underlying purposes and policies are to:

- simplify, clarify, and modernize government procurement law;
- ensure the fair and equitable treatment of providers;
- provide increased economy in state procurement activities; and
- foster effective broad-based competition.

The Utah Procurement Code applies to expenditures by state agencies. Many provisions also apply to local public procurement units which include local governments and institutions of higher education. The Committee considered this issue at its September 2006 meeting but did not recommend legislation.

Figure 1



HEALTH AND HUMAN SERVICES INTERIM COMMITTEE

HEALTH AND HUMAN SERVICES INTERIM COMMITTEE

Membership

Sen. Allen M. Christensen, Senate Chair
Rep. Bradley G. Last, House Chair
Sen. Sheldon L. Killpack
Sen. Peter C. Knudson
Sen. Scott D. McCoy
Rep. D. Gregg Buxton
Rep. Wayne A. Harper
Rep. Patricia W. Jones
Rep. David Litvack
Rep. Rebecca D. Lockhart
Rep. Steven R. Mascaro
Rep. Ronda Rudd Menlove
Rep. Paul Ray

Staff

Mark D. Andrews, Policy Analyst
Catherine J. Dupont, Associate General Counsel
Thomas R. Vaughn, Associate General Counsel
Joy L. Miller, Legislative Secretary

OVERVIEW

The Health and Human Services Interim Committee considers a wide range of issues related to public health, health care providers, healthcare facility licensing, health insurance, access to health care, mental health, aging, persons with a disability, child abuse, and substance abuse. The Committee provides oversight to many of the programs administered by the Department of Health and the Department of Human Services.

AGING

Background

The Utah Commission on Aging was created by the Legislature in 2005 to make recommendations on how to meet the needs and address the impacts of Utah's growing senior population. The Committee received a written report of the Commission's work during 2005–06 and reviewed three pieces of draft legislation developed by the Commission. "Exploitation of a Vulnerable Adult

Amendments," would allow a court, under certain circumstances, to award court costs and reasonable attorney's fees to a prevailing party in an action for exploitation of a vulnerable adult. "Probate Code Amendments," would increase the total amount of an estate which may be settled by affidavit from \$25,000 to \$75,000 and allow that amount to be adjusted yearly for inflation. "Utah Commission on Aging" would extend the sunset date for the Commission to July 1, 2009 and transfer the responsibility for providing administrative support to the Commission from the Department of Human Services to the Center on Aging at the University of Utah.

The Commission reported that it is also developing draft legislation to amend the Utah Personal Choice and Living Will Act.

Action

The Committee considered this issue at its October and November 2006 meetings and recommended draft legislation "Exploitation of a Vulnerable Adult Amendments," "Probate Code Amendments," and "Utah Commission on Aging."

CONSUMER-DIRECTED HEALTH CARE INITIATIVES AND COST CONTAINMENT

Background

High Deductible Health Plans - During the 2006 General Session, the Legislature passed H.B. 76, "High Deductible Health Plan Option For Public Employees," which required the Public Employees Health Program to offer as an optional plan a high deductible health plan with a federally qualified health savings account. The Committee received a report on the design and use of this plan and similar plans offered in the private health insurance market.

Availability of Health Care Data - In the face of rapidly escalating private and government health care spending, states are examining and implementing various changes to their health care systems designed to contain costs by informing and engaging consumers. The Committee reviewed the implementation of 2005 S.B. 132, "Health Care Consumer's Report," which requires the Department

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of Health to publish, at least annually, information which compares and identifies by name at least a majority of the health care facilities and institutions in the state on the basis of nationally recognized quality standards, charges, and nationally recognized patient safety standards. The Committee also reviewed three pieces of draft legislation — "Health Care Cost and Quality Data," "Consumer Access to Health Care Charges," and "Producer and Affiliate Disclosure Amendments" — that would:

- authorize the Department of Health to collect and use data to compare the costs of risk-adjusted episodes of care, by health care provider;
- require health care providers to disclose charges for their most frequently performed procedures upon request by a consumer; and
- require the disclosure of compensation to an insurance producer from an insurer or third party.

Action

The Committee considered this issue at its July and September 2006 meetings and recommended draft legislation "Health Care Cost and Quality Data."

HEALTH INSURANCE ACCESS

Background

During the 2006 interim, the Committee studied three issues related to the availability of health insurance in Utah.

First, recent federal legislation permits employers to reimburse employees, tax-free, for the purchase of health insurance in the individual market. The Committee discussed whether the practice by Utah insurers of denying or cancelling coverage in the case where a policy is subsidized by the enrollee's employer should be prohibited.

Second, Massachusetts recently passed a package of bills intended to produce universal health care coverage by 2009. The Committee reviewed the details of the legislation and considered whether any aspects of the Massachusetts approach might be applicable to Utah.

Third, for two years a working group under the direction of the governor has been looking for ways to extend insurance or other coverage of health care costs to more Utahns. The Committee received a preliminary report on the Governor's Initiative for Health Insurance for the Uninsured.

Action

The Committee considered these issues at its June and November 2006 meetings but did not recommend legislation.

SUBSTANCE ABUSE

Background

Substance abuse and its effects are a concern of many government programs. The Committee received reports from three state agencies on the prevalence, prevention, and treatment of substance abuse in Utah.

The Division of Substance Abuse and Mental Health within the Department of Human Services identified four ways to improve state substance abuse policy:

- treat substance abuse as a health issue,
- shift spending on substance abuse treatment from the more costly private system to the less costly public system,
- enact a "parity" law that would require providers of health insurance to cover substance abuse treatment, and
- determine how to decrease the amount spent by taxpayers on substance abuse.

The Division of Occupational and Professional Licensing reported to the Committee on the use of the Controlled Substances Database to detect substance abuse. At a subsequent meeting the Committee reviewed draft legislation "Controlled Substance Database Amendments," that would permit limited access to the Controlled Substance Database by: (1) a medical practitioner inquiring whether the practitioner's Drug Enforcement Authority number has been misused; and (2) law enforcement authorities investigating insurance, Medicaid, or Medicare fraud.

HEALTH AND HUMAN SERVICES INTERIM COMMITTEE

The Department of Health reported on the recent increase in deaths due to prescription medications. In 2005, over 250 Utah deaths were due to overdoses of nonillicit drugs.

The Committee also received a report on the implementation of the Drug Offender Reform Act authorized during the 2005 First Special Session.

Action

The Committee considered this issue at its May and October 2006 meetings and recommended draft legislation "Controlled Substance Database Amendments."

OTHER STUDIES

Acupuncture Licensing Act

The Committee conducted a sunset review of Title 58, Chapter 72, Acupuncture Licensing Act, and considered draft legislation "Acupuncture Licensing Act Amendments" that would modify the definition of the practice of acupuncture and make other changes to the Act. The Committee considered this issue at its April 2006 meeting and recommended that the Act be reauthorized for 10 years.

Adoption

The Committee considered draft legislation that would make various changes related to background checks, preservation of an unmarried biological father's rights, notice of an adoption, and other provisions of Utah adoption law. The Committee considered this issue at its October and November 2006 meetings and recommended draft legislation "Adoption Amendments."

Epinephrine Auto-injectors

The Committee considered a proposal to broaden the category of persons other than medical professionals authorized to administer epinephrine (adrenaline) by auto-injector to persons exhibiting potentially life-threatening symptoms of anaphylaxis. In 1998 primary and secondary school personnel were granted similar authorization. The Committee considered this issue at its April and October

2006 meetings and recommended draft legislation "Emergency Administration of Epinephrine."

Foster Care Citizen Review Boards

The Committee conducted a sunset review of the foster care citizen review boards program operated as part of Utah's child welfare system. The Committee considered this issue at its November 2006 meeting and recommended extending the sunset date for Title 78, Chapter 3g, "Foster Care Citizen Review Board," to July 1, 2012.

Mental Health

Recent federal changes in how Medicaid pays for mental health services has resulted in a significant reduction in revenue to local mental health providers and caused providers to reevaluate how services are delivered. The Committee received a report from the public mental health providers' association, "Utah Behavioral Healthcare Network," recommending a new model for service delivery based on: recovery; the use of proven, effective treatment practices; the application of accountability measures for outcomes; realistic funding proposals that address current and future needs; and measurable returns on public investment. The Committee considered this issue at its April and October 2006 meetings but did not recommend legislation.

Mental Retardation

The Committee considered draft legislation that would expand the definition of "designated mental retardation professional" used in the Services to People With Disabilities chapter of the Utah Human Services Code to include certain licensed marriage and family therapists and professional counselors. The Committee considered this issue at its October 2006 meeting and recommended draft legislation "Designated Mental Retardation Professional Amendments."

Public Health

The Committee considered draft legislation that would clarify changes made to the Communicable Disease and Control Act during the 2006 General Session by allowing a district court to balance an individual's personal belief

HEALTH AND HUMAN SERVICES INTERIM COMMITTEE

regarding medical treatment and the ability of the Department of Health to control a public health threat. The Committee considered this issue at its November 2006 meeting and recommended draft legislation "Public Health Amendments."

Services for People with Disabilities

During the 2006 General Session the Legislature passed H.B. 31, "Pilot Program for the Provision of Services for People with Disabilities," which establishes a pilot program beginning July 1 for providing supported employment services outside the prioritization criteria established for other services. The Committee reviewed the implementation of the program and considered other options to address the needs of persons waiting for Division services. The Committee considered this issue at its July and November 2006 meetings and recommended draft legislation "Pilot Program for Day Support Services" and "Pilot Program for Family Preservation Services."

Suicide

The Committee considered draft legislation "Utah Suicide Prevention Act" which would create a task force to develop a statewide suicide prevention plan. The Committee considered this issue at its November 2006 meeting but did not recommend legislation.

Utah Health Care Workforce Financial Assistance Program

The Committee considered whether to reauthorize the Utah Health Care Workforce Financial Assistance Program, scheduled for repeal July 1, 2007. The program provides professional education scholarships and loan repayment assistance to health care professionals who locate or continue to practice in areas designated by the Department of Health as "underserved." The Committee considered this issue at its April 2006 meeting and recommended that the Program be reauthorized for 10 years.

JUDICIARY INTERIM COMMITTEE

Membership

Sen. David L. Thomas, Senate Chair
Rep. James A. Ferrin, House Chair
Sen. Patrice M. Arent
Sen. Gregory S. Bell
Sen. L. Alma Mansell (until 7/18/2006)
Sen. Scott D. McCoy
Sen. Wayne L. Niederhauser (as of 7/19/2006)
Sen. Darin G. Peterson
Rep. Douglas C. Aagard
Rep. Stephen D. Clark
Rep. Ben C. Ferry
Rep. Lorie D. Fowlke
Rep. Ann W. Hardy
Rep. Neal B. Hendrickson
Rep. David L. Hogue
Rep. Eric K. Hutchings
Rep. M. Susan Lawrence
Rep. Ross I. Romero
Rep. LaWanna "Lou" Shurtliff
Rep. Scott L. Wyatt

Staff

Jerry D. Howe, Policy Analyst
Esther Chelsea-McCarty, Associate General Counsel
Brooke Ollerton, Legislative Secretary

OVERVIEW

The Judiciary Interim Committee was established to study issues related to the substantive rights of litigants and the administration of justice. The Committee oversees policy aspects of Utah's justice system.

The Committee's scope of policy oversight includes the jurisdictional powers associated with Utah's Justice Court, Juvenile Court, District Court, Court of Appeals, and Supreme Court. The Committee also has statutory oversight of certain programs delegated by the Legislature to the Judicial Council, including Mandatory Education Course for Divorcing Parents, Alternative Dispute Resolution, and the Judicial Nominating Commissions.

DOMESTIC RELATIONS

Background

During the course of their lives, about half the adult population of the state will come to rely on the Legislature and the courts to resolve disputed issues of divorce, child custody, and parent-time. Divorce is a difficult process that requires major life decisions to be made during a time of significant stress. With so many people experiencing this life altering event, and under so many varying circumstances, it is understandable that each year the legislative committee responsible for the state's divorce statutes is repeatedly asked by constituents to review and recommend changes in this area of the law.

During the 2006 Interim, the Committee reviewed and considered issues relating to child support, parent-time, and temporary custody orders:

- "Child Support Bond" - This bill allows the court to require a person delinquent in child support payments to post a bond for an amount up to the total of 36 months of child support payments.
- "Child Support Collection Amendments" - This bill permits exceptions for income withholding for child support collections, by allowing a court to approve other methods of child support collection besides income withholding, and allowing the Office of Recovery Services to enter into agreements with people who owe child support for electronic payment without court approval.
- "Child Support Guidelines" - This bill recalculates the child support table amounts, defines "temporary" as less than 12 months, and, in addition to making technical corrections, requires the use of the same table when adjusting child support payments due to the aging out or death of a child.
- "Driver License Privilege Suspension for Failure to Pay Child Support" - This bill establishes a procedure for the Office of Recovery Services to suspend the driver's license of a person who is at least 60 days in arrears on a child support obligation and requires, that upon application, a temporary limited driver license be issued by the Driver License Division to the person whose driver's license has been

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suspended under this bill if the person needs a driver license for employment, education, or child visitation.

- "Expedited Parent-time Enforcement" - This bill expands the Expedited Parent-time Enforcement Program from a pilot program in the Third Judicial District to a statewide program.
- Temporary Custody and Visitation Orders - A concerned constituent told the Committee that courts are quick to provide temporary custody and visitation orders which routinely become permanent orders because of the prolonged delay in taking a case to trial. Judges, the Committee was told, are often reluctant to change a temporary custody or visitation order that has been in place for an extended period of time because doing so may disrupt the lives of the children. The problem, as it was explained, is that many temporary orders become the default permanent order with little additional consideration into what is actually in the best interest of the child.

Action

The Committee considered these issues at its May, October, and November 2006 meetings and recommended draft legislation "Child Support Bond," "Child Support Collection Amendments," "Child Support Guidelines," "Driver License Privilege Suspension for Failure to Pay Child Support," and "Expedited Parent-time Enforcement."

DOMESTIC VIOLENCE AND DATING VIOLENCE

Background

Under current state law a person may obtain a protective order if a person with whom they cohabit causes or attempts to cause them physical harm. The problem is that courts are not permitted to issue a protective order when a person causes or attempts to cause physical harm to someone with whom they do not cohabit. The unintended consequence is that a person does not currently qualify for a protective order unless they live with, have lived with, or have had an intimate sexual relationship with that person.

Action

The Committee considered a bill that would allow for the issuance, modification, and enforcement of protective orders between individuals who are, or have been, in a dating relationship at its June and November 2006 meetings and recommended draft legislation "Domestic Violence and Dating Violence Amendments."

MATERIAL HARMFUL TO MINORS

Background

Some interactive video and electronic games contain graphic violence. Currently these games are voluntarily rated and regulated by the industry. The issue is that some of these games that contain graphic violence are being marketed, sold, or rented to minors.

Due to the sexual or violent content of some of these interactive video and electronic games, some legislators are suggesting these materials be classified as harmful to minors, thereby creating penalties for the sale and distribution of these materials to minors.

Action

The Committee considered this issue at its September and November 2006 meetings and recommended draft legislation "Material Harmful to Minors Amendments."

OTHER STUDIES

Comparative Negligence

The Committee considered a bill that would expand the definition of fault to include an intentional tort and civil conspiracy. The Committee considered this issue at its July 2006 meeting and recommended draft legislation "Comparative Negligence Amendments."

Judicial Rulemaking Authority

Article VIII, Sec. 4, *Utah Constitution* provides that the Utah Supreme Court and the Legislature both have authority over certain Judicial Rules. The Supreme Court believes that whichever branch acts last determines the state of the law. Some legislators expressed concern with that interpretation because that allows three members of

the Supreme Court to overturn a two-thirds vote of the Legislature. The Committee considered this issue at its July 2006 meeting but did not recommend legislation.

Mandatory Education Course for Divorcing Parents

In FY 2006, over 7,000 people participated in a statewide mandatory program enacted by the Legislature in 1994 to sensitize divorcing parents to the needs of their children both during and after a divorce. At the end of every mandatory session, participants evaluate the program. An overwhelming majority of parents report being positive about the class, even if they were not initially enthusiastic about being required by law to attend. Parents report the primary value in the class is learning how children feel and react to divorce. The Committee considered this issue at its May 2006 meeting but did not recommend legislation.

Motor Vehicle Insurance Arbitration Amendments

The Committee considered a bill that would amend current law for third party motor vehicle accident claims, limit arbitration awards to \$25,000 in addition to any available personal injury protection benefits and any claim for property damage, and establish procedures for an arbitration process. The Committee considered this issue at its July and November 2006 meetings and recommended draft legislation "Motor Vehicle Insurance Arbitration Amendments."

Sunset Review

In accordance with Title 63, Chapter 55, "Legislative Oversight and Sunset Act," the Committee reviewed *Utah Code 78-9-101, Unauthorized Practice of Law*, to determine whether or not it should be extended for a specified period of time. The Committee considered this issue at its May 2006 meeting but did not recommend legislation.

LAW ENFORCEMENT AND CRIMINAL JUSTICE INTERIM COMMITTEE

LAW ENFORCEMENT AND CRIMINAL JUSTICE INTERIM COMMITTEE

Membership

Sen. D. Chris Butters, Senate Chair
Rep. DeMar "Bud" Bowman, House Chair
Sen. Allen M. Christensen
Sen. Fred J. Fife
Sen. Mark B. Madsen
Rep. Duane E. Bourdeaux (until 4/19/2006)
Rep. D. Gregg Buxton
Rep. LaVar Christensen
Rep. Patricia W. Jones
Rep. Todd E. Kiser
Rep. David Litvak
Rep. Michael T. Morley
Rep. Curtis Oda
Rep. Paul Ray
Rep. Jennifer M. Seelig (as of 5/17/2006)

Staff

Stewart E. Smith, Policy Analyst
Susan Creager Allred, Associate General Counsel
Wendy L. Bangerter, Legislative Secretary

OVERVIEW

The Law Enforcement and Criminal Justice Interim Committee was established in 1997 to study issues related to law enforcement, criminal law, illegal drug activity, weapons, corrections, public safety, and the criminal justice system. In studying these issues, the Committee strives to maintain a balance between public safety, victim rights, and offender accountability and rehabilitation.

The Committee's statutory oversight includes the criminal code, law enforcement agencies, Department of Public Safety, Department of Corrections, Division of Youth Corrections, Utah Board of Pardons and Parole, Utah Commission on Criminal and Juvenile Justice, Utah Sentencing Commission, Utah Substance Abuse and Anti-Violence Coordinating Council, and the Office of Crime Victim Reparations.

The Committee has in recent months focused on prevention, enforcement, and treatment issues and on programs designed to improve the efficiency and cost-effectiveness of the criminal justice system and increase communication and collaboration between programs and agencies.

DRUG OFFENDER PENALTIES AND TREATMENT

Background

New drug offender commitments to Utah's prisons have increased by 903 percent since 1988. These new commitments comprised 42 percent of all new commitments to prison. By contrast, property crimes account for 34 percent, crimes against persons 14 percent, and sex offenses 10 percent of new prison admissions.

The Committee studied various aspects of this issue, including: the role of drug courts, the effectiveness of treatment, how drugs are changing the prison population, the effects of drug penalty enhancements based on location, and the need for funding multi-jurisdictional drug and crime law enforcement task forces.

The criminal penalties and enhancements specified in Utah law have a direct effect on the need for prison beds and the costs of other corrections-related programs. The full fiscal impact of a new criminal penalty or enhancement may not be realized for years after it is enacted.

In 2006, S.B. 185 "Drug Offender Reform Act Amendments," was passed. The bill amended the pilot treatment program which took effect on May 1, 2006 for felony offenders in the Third Judicial District in Salt Lake County. Outcomes for this program should be available soon. UDC (The Utah Department of Corrections) expressed concern to the Committee that treatment resources have not kept pace with the growing need among the inmate population. UDC reports that a long-term evaluation of its HOPE (Helping Offenders Parole Effectively) substance abuse treatment program at the Gunnison prison showed a 20 percent reduction in the

LAW ENFORCEMENT AND CRIMINAL JUSTICE INTERIM COMMITTEE

12-month return rate for inmates who completed the treatment.

Action

The Committee considered this issue at its May and July 2006 meetings but did not recommend legislation.

PUBLIC SAFETY DISPATCH SERVICES

Background

Over the past few years, the DPS (Department of Public Safety) Communications Bureau has highlighted the problems of maintaining minimum staffing levels of the vital public safety job of dispatching the Utah Highway Patrol and other agencies in response to "911" emergency calls. The retention problem is attributed to the mentally, physically, and emotionally taxing work which often burns out workers within a few years. The high costs of turnover, training, and errors of inexperienced public safety dispatchers working in the six DPS dispatch centers in the state have brought public attention to this problem. DPS dispatchers are the interface between the public and the first responders. Extensive training and experience is required to prepare a new dispatcher for service. The centers operate 24 hours a day and 365 days each year.

The Utah Department of Human Resource Management conducted a salary study in 2003 and authorized a range increase based on factors used to evaluate jobs in the state system. However, DPS would have had to fund the range change from its existing budget. The money was not available, so the proposal languished. In an effort to improve public safety by attracting quality candidates and providing an incentive for experienced workers to stay in the job, the Committee recommended that public safety dispatchers be part of the public safety retirement system but the bill to accomplish this did not pass in the 2006 General Session.

The Bureau reports that the problem continues to worsen in the tight Utah job market, often requiring existing dispatchers to work mandatory 12-hour shifts to keep the emergency network staffed.

Action

The Committee considered this issue at its September and November 2006 meetings and unanimously recommended that the hourly compensation of public safety dispatchers employed by the State of Utah be increased by four steps. This recommendation would increase the beginning wage from \$11.90 to \$13.26 per hour.

SEX OFFENDER PENALTIES AND TREATMENT

Background

UDC (Utah Department of Corrections) reported 6,908 sex offenders on the Utah Sex Offender registry, 3,150 of whom are under UDC supervision and 3,758 who are no longer under the Department's supervision. An offender is registered upon conviction, and registration continues for 10 years after the termination of the sentence. Lifetime registration is required for some violent predators.

The number of sex offenders entering prison for the first time has increased 170 percent over the past 17 years and now constitutes more than 10 percent of all new admissions to prison. Over the past 20 years, recidivism rates for graduates of UDC's sex offender treatment programs have been less than half of the rate for other sex offenders.

Sex offenses against children have been in the news and there has been interest in modifying Utah's law. The Committee considered the appropriateness of penalties and Utah's approach to sentencing compared to those states which have passed minimum mandatory sentences. The Utah Sentencing Commission, prosecutors, and others emphasized the value of Utah's structure, which gives more control and more incentive for inmates and parolees to participate in prison programs and not to offend again. Utah's sentencing scheme allows the Board of Pardons and Parole to determine the appropriate duration of the offender's sentence based on circumstances and behavior.

Action

The Committee considered this issue at its June, July, September, October, and November 2006 meetings and

LAW ENFORCEMENT AND CRIMINAL JUSTICE INTERIM COMMITTEE

recommended draft legislation "Driver License or Identification Card Requirement for Sex Offenders" and "Internet Sexual Predator Penalties."

how these incidents of theft by individuals could be linked together for purposes of penalty and restitution. The Committee considered this issue at its October and November 2006 meetings and recommended draft legislation "Organized Retail Theft."

OTHER STUDIES

Concealed Weapon Permit Processing

The number of concealed weapon permits issued in 2006 has exceeded 16,138, where in 2005, 10,767 were issued. The appropriation for this program has not anticipated its growth and as a result, a staffing crisis has occurred within the BCI (Bureau of Criminal Identification). The BCI is not able to meet the statutory deadlines for issuing the permits with the funding appropriated by the Legislature. Fifty-eight percent of the concealed carry permits issued by the BCI are being issued to residents of other states. This out-of-state interest is because the Utah permits are almost universally recognized by other states and are comparatively inexpensive to obtain and renew. The Committee considered increasing fees to out-of-state residents, but concluded that the best solution would be to establish a dedicated credit for all permit fees so the fees are used to pay the costs of issuing the permits. The Committee considered this issue at its September and November 2006 meetings and recommended draft legislation "Concealed Weapons Fees Amendments." The Committee also moved to request that the BCI give an annual accounting to the Committee of the costs and fees associated with this program.

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. The Committee considered this issue at its October and November 2006 meetings and recommended draft legislation "Mortgage Fraud."

Organized Retail Theft

Organized criminal activity has increased its focus on stealing products from retailers. The Committee reviewed

LEGISLATIVE MANAGEMENT COMMITTEE

LEGISLATIVE MANAGEMENT COMMITTEE

Membership

Speaker Greg. J. Curtis, Chair
President John L. Valentine, Vice Chair
Sen. Gene Davis
Sen. Mike Dmitrich
Sen. Dan R. Eastman
Sen. Beverly Ann Evans
Sen. Karen Hale
Sen. Peter C. Knudson
Sen. Ed Mayne
Rep. Jeff Alexander
Rep. Ralph Becker
Rep. Ben C. Ferry
Rep. Patricia W. Jones
Rep. Brad King
Rep. Rosalind J. McGee
Rep. Stephen H. Urquhart

Staff

Michael E. Christensen, Director
M. Gay Taylor, General Counsel
Beverlee LeCheminant, Administrative Assistant

OVERVIEW

The LMC (Legislative Management Committee) consists of the combined membership of the Senate Management Committee and the House Management Committee. LMC's main responsibility is to manage the administrative affairs of the Legislature and to provide direction to the legislative committees. For example, it assigns the study items from the Master Study Resolution to the various interim committees, it authorizes the study requests of the interim committees, it schedules interim committee meeting dates and times, and it approves site visits for the entire Legislature (this year the Legislature went to the Uintah Basin for two days) and for interim committees and task forces.

COMMERCIAL AND FREE SPEECH ACTIVITIES AT THE CAPITOL HILL COMPLEX

Background

The CPB (Capitol Preservation Board) adopted rules governing commercial and free speech activities at the Capitol Hill Complex. However, the CPB does not have jurisdiction over the House Building of the Capitol Hill Complex. Using the CPB rules as a basis, the LMC reviewed policies and procedures governing commercial and free speech activities in the legislative area of the Capitol Hill Complex.

Action

In its November meeting, LMC adopted the Capitol Preservation Board Policies and Procedures for dealing with commercial and free speech activities in the legislative area of the Capitol Hill Complex. The new procedures make clear that free speech is allowed in the "public areas" of the Complex controlled by the Legislature. Public areas include: open areas such as hallways and foyers, but do not include committee rooms, legislative chambers, office space and parking facilities. The latter areas are restricted to allow the normal flow of legislative work to continue while still allowing areas for free speech and demonstrations. Commercial solicitation is generally prohibited in the legislative area of the Capitol Hill Complex, except as provided by CPB rules. The new free speech policies and procedures are outlined and time, place, and manner of free speech are provided for.

LEGISLATIVE REVIEW NOTES

Background

Over the last few years, some legislators have expressed concerns about constitutional review notes on bills. Working with the LMC's Subcommittee on Oversight, the Office of Legislative Research and General Counsel made several recommendations for changes to improve legislator satisfaction.

Action

In its November meeting, LMC approved the following procedures to be followed by the Office of Legislative

LEGISLATIVE MANAGEMENT COMMITTEE

Research and General Counsel in providing legislative review notes and constitutional review letters:

- (1) eliminate the review note language from bills that do not have a high probability of being held unconstitutional;
- (2) add to bills that do receive a legislative review note an educational paragraph about what the note means and does not mean; and
- (3) require a legislator to obtain written approval from the majority leader of the legislator's house to request an in-depth constitutional review letter, if the legislator is a member of the majority party, or from the minority leader, if the legislator is a member of the minority party. A copy of the approved request must also be sent to the Speaker and the President.

SUNSET REVIEWS

Background

Each interim the LMC assigns sunset reviews to various interim committees. These committees conduct their reviews and then make recommendations to LMC as to whether the department, division, or program should be renewed for a period of years or be repealed by the statutory sunset date. The LMC votes to accept, reject, or modify the various recommendations of the interim committees and then prepares a committee bill for the legislative session.

Action

The LMC considered the recommendations of the interim committees at its November 2006 meeting and recommended draft legislation "Sunset Review and Reauthorization," which includes the recommendations of the interim committees as presented to the LMC and any further recommendations made by interim committees at their November 2006 meetings.

MEDICAID INTERIM COMMITTEE

Membership

Sen. Sheldon L. Killpack, Senate Chair
Rep. Merlynn T. Newbold, House Chair
Sen. Allen M. Christensen
Sen. Gene Davis
Sen. Karen Hale
Sen. Lyle W. Hillyard
Rep. Jeff Alexander
Rep. D. Gregg Buxton
Rep. David Litvack
Rep. Karen W. Morgan
Rep. Michael E. Noel
Rep. Paul Ray

Staff

Mark D. Andrews, Policy Analyst
Leif G. Elder, Research Analyst
Derek Byrne, Fiscal Analyst
Stan Eckersley, Fiscal Analyst
William Greer, Fiscal Analyst
Debbie Headden, Fiscal Analyst
Catherine J. Dupont, Associate General Counsel
Thomas R. Vaughn, Associate General Counsel
Phalin L. Flowers, Legislative Secretary

OVERVIEW

The combination of the post-9/11 jump in Medicaid recipients and rapidly rising healthcare costs has led many states to carefully re-examine their Medicaid programs for ways to contain costs. In Utah, numerous steps have been taken to reduce Medicaid spending growth. Still, the program maintains a long-term pattern of double-digit annual spending growth.

Medicaid growth rates are also a national concern. In February 2006, President Bush signed the Deficit Reduction Act thereby reducing national Medicaid spending by nearly \$5 billion over the next five years. Also, a national medicaid commission will report to the U.S. Department of Health and Human Services on how Medicaid might be sustained in the long term. This report could possibly urge further federal spending cuts.

In March of 2006, the Legislative Management Committee established the Medicaid Interim Committee to study Medicaid and Medicaid related issues. The Committee was authorized to have six paid meetings, none of which could be held on interim days. To assist in accomplishing the work of the Committee, \$150,000 was appropriated to the Office of Legislative Research and General Counsel.

In order to become familiar with the various state programs, the Medicaid Interim Committee conducted a survey of all health and human service related programs. The survey included 177 programs, each of which is delivered by one of the following agencies:

- Department of Health,
- Department of Human Services,
- Department of Workforce Services,
- State Office of Rehabilitation, or
- Utah Schools for the Deaf and Blind.

The Committee received program data for expenditures, clients served, and eligibility as well as responses to questions asking potential impacts of increasing, decreasing, and eliminating state funding.

In addition to the survey, the Committee heard testimony from agency heads and stakeholders on various issues.

The Legislative Management Committee received an initial report of the Committee at its November 2006 meeting. The final committee meeting is scheduled for January 5, 2007.

CONSOLIDATION OF MEDICAID ELIGIBILITY SERVICES

Background

Both DWS (Department of Workforce Services) and DOH (Department of Health) determine Medicaid eligibility, however, DWS only determines Medicaid eligibility for clients who are also eligible for one of its other services. Many cases are moved back and forth between the agencies as a client's eligibility changes and nearly 12 percent of CHIP (Children's Health Insurance Program) cases are assigned to caseworkers in both departments. Furthermore, both of the departments have eligibility

MEDICAID INTERIM COMMITTEE

offices with similar management functions located throughout the state. In some cases, the offices are housed in the same building. Consolidating the eligibility services offered by DOH and DWS could reduce duplicate efforts, lease payments, and caseloads.

Action

The Committee considered this issue at its October and November 2006 meetings but did not recommend legislation. The Committee expects to receive more information on the possible savings of consolidating the Medicaid eligibility services at its January 2007 meeting.

PHARMACEUTICALS

Background

Because the Medicaid Pharmacy Program is among the most expensive and fastest growing programs, the Committee looked at options for pharmaceutical savings. It found that DOH has already sought significant cost-savings by: (1) excluding certain drug classes from coverage, (2) limiting early refills, (3) requiring prior authorization for certain expensive drugs, (4) mandating generic substitution, (5) requiring copayments, (6) employing disease management strategies, and (7) providing consumer education. These cost-saving strategies have saved an estimated \$26 million of General Fund monies. The state has also realized pharmaceutical savings as a result of the Medicare Part D program, which allows Medicaid recipients who are eligible for Medicare to receive prescription drugs under Medicare instead of Medicaid.

The Committee heard testimony that a preferred drug list as well as a joint purchasing pool would likely result in additional savings to the pharmacy program. DOH recommended trying a limited preferred drug list comprised of two drugs: statins and proton pump inhibitors. DOH estimated that implementing the proposed list would save \$1.7 million from the General Fund in the first year.

Action

The Committee considered this issue at its October and November 2006 meetings but did not recommend legislation.

OTHER STUDIES

Home and Community Based Services

In 1992, the U.S. Department of Health and Human Services approved Utah's Home and Community Based Services Waiver for the first time. This Medicaid Waiver allows clients who are at least 65 years old and would be medically eligible for institutional care to choose to receive in-home care instead of being institutionalized. In Fiscal Year 2006, the Division of Aging and Adult Services served about 800 clients under this waiver at an annual cost of \$5,068 per client. The per client cost for those served in skilled nursing facilities for the same year was \$26,671. The Division suggested that if more Medicaid eligible seniors could be diverted from skilled nursing care into home based services, the state could achieve savings on a per client basis. To accomplish this, the program's current capacity of 800 clients would need to be gradually expanded. Hospital discharge planners and those who care for the elderly would also need to be made aware that home-based services are an alternative to nursing homes. The Committee considered this issue at its November 2006 meeting but did not recommend legislation.

Hospital Outpatient Services

Hospital Outpatient Services has been growing at a rate between 8 and 22 percent per year. A closer look revealed that emergency room expenditures have gone from \$4 million in 2003 to \$20 million in 2006.

Some of the emergency room expenditure increase is due to healthcare inflation, but the method used to reimburse hospitals for their services may be exacerbating the problem. The reimbursement structure for Hospital Outpatient Services is different than most other services in that hospitals receive a percentage of the total charges it submits rather than a fixed fee for each service it

delivers. The Committee pointed out that hospitals could exaggerate charges in order to boost reimbursements.

Another likely reason for rising emergency room costs is increased utilization. DOH offered two possible explanations for increased utilization. First, more immigrants may be taking advantage of the Emergency Services Only program, which allows low-income aliens and visitors to receive a specific range of emergency medical services. Second, Medicaid enrollees may have difficulty accessing a primary care provider due to time constraints or low physician reimbursement rates. In the meantime, the person's condition may decline and eventually necessitate emergency medical help.

To solve this problem, DOH is monitoring hospital charges from year to year so it can adjust the reimbursement percentage according to what the Legislature actually budgets for emergency room outpatient services. Another option is to change the reimbursement structure and use the fee for service method. The Committee considered this issue at its November meeting but did not recommend legislation.

The Utah State Hospital

The Utah State Hospital is categorized as an Institution for Mental Disease, and under federal guidelines, adult mentally ill patients between the ages of 22 and 64 do not qualify for Medicaid. Thus, the state covers a large portion of the expenses, which ranged from about \$60,000 to \$110,000 per client for FY 2006. The Division of Substance Abuse and Mental Health explained that high costs are due to pharmaceuticals and the high intensity of care provided. The Division has made efforts to curb costs by joining group purchasing organizations, integrating clients back into their communities, and starting diversion programs to help limit those needing to stay at the State Hospital. The Committee considered this issue at its November 2006 meeting but did not recommend legislation.

NATIVE AMERICAN LEGISLATIVE LIAISON COMMITTEE

NATIVE AMERICAN LEGISLATIVE LIAISON COMMITTEE

Membership

Sen. Beverly Ann Evans, Senate Chair

Rep. David N. Cox, House Chair

Sen. Fred Fife

Sen. Karen Hale

Sen. Darin G. Peterson

Rep. Douglas C. Aagard

Rep. DelMar "Bud" Bowman

Rep. James R. Gowans

Rep. Brad King

Rep. Michael E. Noel

Rep. Mark A. Wheatley

Staff

John Q. Cannon, Managing Policy Analyst

Patricia Owen, Associate General Counsel

Wendy L. Bangerter, Legislative Secretary

OVERVIEW

The Native American Legislative Liaison Committee is an 11-member committee that addresses Native American issues in Utah. The Committee serves as a liaison for the Legislature with Indian tribes in Utah, reviews the operations of the Division of Indian Affairs, sponsors meetings and other opportunities for discussion with and between Native Americans, and recommends legislation when changes are in the best interest of the State and tribes. The Committee has visited many of the tribal lands throughout the state.

NAVAJO REVITALIZATION FUND

Background

The Navajo Revitalization Fund is a statutorily created fund that diverts a portion of severance taxes collected on oil and gas wells on land in Utah held in trust by the United States for the Navajo Nation and its members. The Fund is intended to benefit the citizens of San Juan County by making grants and loans available to serve persons that are socially or economically impacted by mineral resource development. Priority is given for projects related to

capital improvement and infrastructure, housing, economic development within the Utah portion of the Navajo Reservation, the preservation of Navajo culture, and postsecondary educational opportunities for Navajo students.

By statute, the maximum amount deposited in the Navajo Revitalization Fund may not exceed \$2,000,000 in any state fiscal year. With increasing production and the increased cost of oil and gas, the potential severance taxes deposited into the Fund are expected to reach the \$2,000,000 level. The Committee discussed draft legislation that would, among other things, increase the cap on the Fund to \$4,000,000 to capture the anticipated growth in severance tax revenues and allow for additional projects to be funded.

Action

The Committee considered this issue at its November 2006 meeting and recommended draft legislation "Navajo Revitalization Fund."

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENT INTERIM COMMITTEE

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENT INTERIM COMMITTEE

Membership

Sen. Thomas V. Hatch, Senate Chair (until 11/8/06)

Rep. Roger E. Barrus, House Chair

Sen. Gene Davis

Sen. Beverly Ann Evans (until 11/1/06)

Sen. Parley G. Hellewell

Sen. Michael G. Waddoups

Rep. Jackie Biskupski

Rep. Craig W. Butters

Rep. Margaret Dayton

Rep. Carl W. Duckworth

Rep. James R. Gowans

Rep. Kory M. Holdaway

Rep. Bradley T. Johnson

Rep. John G. Mathis

Rep. Ronda Rudd Menlove

Rep. Michael E. Noel

Rep. David Ure

Rep. Mark A. Wheatley

Rep. Richard W. Wheeler

Staff

J Brian Allred, Policy Analyst

Emily R. Brown, Associate General Counsel

Joy L. Miller, Legislative Secretary

OVERVIEW

Under the broad subject of natural resources, the Committee deals with water rights, water development, wildlife, parks and recreation, mining, and forestry. Within the field of agriculture, the Committee is concerned with promoting agricultural production, preventing disease among domesticated animals, and insuring a wholesome food supply. Environmental issues include air quality, water quality, solid and hazardous waste disposal, and radioactive waste.

Much of the Committee's efforts involve coping with rapid growth and urbanization of the state's population. A top priority has been to assure that Utah has ample water

supplies. Maintaining and improving the quality of Utah's water is as critical as developing adequate water supplies.

Wildlife is another natural resource affected by growth. Land development has diminished wildlife habitat and increased competition for the use of the remaining habitat. Wildlife interests and agricultural interests are frequently vying for use of the same land. Accommodating these competing interests and addressing the growing population's increased demand for recreational opportunities present significant challenges to the Committee.

The Committee oversees three state departments: the Department of Natural Resources, the Department of Agriculture and Food, and the Department of Environmental Quality.

COMMERCIAL HAZARDOUS AND RADIOACTIVE WASTE FACILITY CLOSURE, POST CLOSURE, AND PERPETUAL CARE FINANCIAL ASSURANCE AND FUNDING

Background

The Solid and Hazardous Waste Control Board and the Radiation Control Board are required to evaluate and report on financial assurance for, and funding of, closure, post closure, and perpetual care of commercial hazardous waste and commercial radioactive waste disposal facilities. The Boards recommended to the Committee that perpetual care funding should be required for hazardous waste and perpetual care funding should be accelerated for radioactive waste.

Action

The Committee considered this issue at its November 2006 meeting and passed a motion to not accept the recommendations of the report regarding perpetual care funding and to request staff to draft legislation repealing the requirement for perpetual care of radioactive waste.

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENT INTERIM COMMITTEE

ENDANGERED SPECIES

Background

An Endangered Species Mitigation Fund was established by the Legislature in 1998 to provide money for species protection actions for plants and animals identified as sensitive by the state or as threatened or endangered under the federal Endangered Species Act. The Legislative Auditor presented a performance audit of the Fund excluding three federal endangered fish recovery programs — the Upper Colorado River Basin Recovery Program, the Virgin River Resource Management and Recovery Program, and the June Sucker Recovery Program.

Action

The Committee considered this issue at its July 2006 meeting but did not recommend legislation.

SOUTHERN NEVADA WATER DEVELOPMENT

Background

Federal law grants the Southern Nevada Water Authority and Lincoln County Water District nonexclusive rights-of-way to federal land to build a water conveyance system. The project involves groundwater aquifers that are in both Utah and Nevada. The law requires that both states reach an agreement regarding the diversion of water. Utah and Nevada are currently working on developing a Memorandum of Understanding to determine how to reach that agreement. While Nevada has the right to develop water in its state, Utah must protect its existing water rights, future water needs, and safe yield of groundwater flow systems.

The Committee visited the Snake Valley area of Western Utah and Eastern Nevada to evaluate potential impacts on the area and hear from area residents.

Action

The Committee considered this issue at its April, August, and September 2006 meetings and recommended draft legislation "Joint Resolution Regarding Action on Groundwater in Snake Valley."

OTHER STUDIES

Electronic Waste

Rapidly developing technology has caused a tremendous increase in electronic waste. Electronic waste that is not disposed of properly can pose an environmental hazard. Four states have developed electronics reuse and recycling programs. The Committee discussed legislation that would encourage the design of electronic devices and components that are less toxic and more recyclable. The proposal would also promote the development of a statewide infrastructure for collection and recycling of end-of-life electronics. The Committee considered this issue at its October 2006 meeting but did not recommend draft legislation.

Financing State Parks

The Committee discussed the need and possible alternatives for an ongoing, dedicated, and continual source of funding for existing state park facilities. Renovation and capital development are the primary challenges facing state parks. Many areas of the state are losing customers due to the lack of basic facilities. The Committee considered this issue at its June 2006 meeting but did not recommend draft legislation.

Mercury Contamination

Mercury is a naturally occurring element and also occurs through manmade sources. Mercury deposition from air pollution is an increasing concern for contamination of watersheds and fish populations. Mercury emissions from Utah's coal-fired power plant produces significantly lower levels of mercury compared to other western states. The Committee considered this issue at its May 2006 meeting but did not recommend draft legislation.

Oil and Gas Company Access to Private Land

The Committee considered draft legislation requiring an oil or gas owner or operator to give notice to a surface owner regarding an oil or gas operation and to compensate them for use of the property and for any damages sustained as a result of the operation. The Committee considered this issue at its June 2006 meeting but did not recommend draft legislation.

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENT INTERIM COMMITTEE

State Energy Policy

The State Energy Policy Advisor discussed the areas of the state's energy resources that have been identified as top priorities: transmission, energy efficiency, natural gas and oil extraction, coal, renewables, and oil shale and tar sands. The Committee discussed removing barriers to energy efficiency, supporting energy efficiency programs through energy budgets, developing transportation energy efficiency policies, and developing state energy efficiency goals. The Committee considered this issue at its May, October, and November 2006 meetings but did not recommend draft legislation.

Testing for Whirling Disease

The Committee discussed what, if any, changes should be made to the methods used by the Department of Agriculture and Food to sample and test for Whirling Disease at trout production facilities in Utah. The Committee considered this issue at its September 2006 meeting but did not recommend draft legislation.

Water Issues Task Force

The Water Issues Task Force is a one-year task force created in the 2006 General Session to address the following water issues: (1) instream flow; (2) water conservation; (3) issues relating to financing water resource development; and (4) any other issue that affects the state's development or management of water. The Task Force was repealed November 30, 2006. The Committee received the report of the Task Force at its November 2006 meeting and recommended draft legislation "State Declaration of State Water Week," "Nonprofit Corporation Amendments," and "Use of State Engineer Fees."

POLITICAL SUBDIVISIONS INTERIM COMMITTEE

POLITICAL SUBDIVISIONS INTERIM COMMITTEE

Membership

Sen. Carlene M. Walker, Senate Chair
Rep. Brad L. Dee, House Chair
Sen. Fred J. Fife
Sen. L. Alma Mansell (until 7/18/2006)
Sen. Wayne L. Niederhauser (as of 7/19/2006)
Pres. John L. Valentine
Rep. David N. Cox
Rep. Julie Fisher
Rep. Kerry W. Gibson
Rep. Ann W. Hardy
Rep. Brad King
Rep. M. Susan Lawrence
Rep. Karen W. Morgan
Rep. Joseph G. Murray
Rep. Peggy Wallace
Rep. Larry B. Wiley

Staff

Joseph T. Wade, Policy Analyst
Robert H. Rees, Associate General Counsel
Wendy L. Bangarter, Legislative Secretary

OVERVIEW

The Political Subdivisions Interim Committee has primary jurisdiction over political subdivisions of the state which include: counties, cities, towns, special districts, and entities created by interlocal agreements. Although school districts are technically political subdivisions of the state, the Education Interim Committee has primary jurisdiction over school districts. The Political Subdivisions Interim Committee has statutory responsibility in the *Utah Code* for: Title 10, Utah Municipal Code; parts of Title 11, Cities, Counties, and Local Taxing Units; Title 17, Counties; Title 17A, Special Districts; Title 17B, Limited Purpose Local Government Entities; and Title 17C, Limited Purpose Local Government Entities – Community Development and Renewal Agencies.

CREATION OF SMALLER SCHOOL DISTRICTS

Background

Prior to the 2003 General Session, state statute did not provide a mechanism for the creation of a smaller new school district. Rather, state statute provided a mechanism for consolidation of school districts which had been the focus for several decades. In 2003, the Legislature enacted a mechanism to create a new school district from existing districts. The process would be initiated by either voter petition or school board resolution and must receive the approval of the county legislative body, voters in the proposed new school district, and voters in the remaining school districts left behind. In 2006, the Legislature passed H.B. 77, "School District Boundaries," which added an additional alternative mechanism for creating a new smaller school district. This alternative process could be initiated by a first-class or second-class city (or a group of cities/unincorporated county with a combined population of at least 65,000) and must receive the approval of the city council and only the voters within the proposed new district.

Passage of H.B. 77 generated significant interest among residents of several cities generating many questions on how H.B. 77 would be implemented. Some questions include: how would the assets be divided, how would the debts be divided; how and when the transition would take place; and questions about the transfer of employees to the new district. The Political Subdivisions Interim Committee asked the bill sponsor to form an ad hoc workgroup of interested parties to discuss implementation questions and report back with recommendations.

Action

The Committee considered this issue at its May, June, September, and November 2006 meetings and recommended draft legislation "Creation of New School District Amendments" and "New School District Leeway Retention."

POLITICAL SUBDIVISIONS INTERIM COMMITTEE

INSPECTION OF SCHOOL CONSTRUCTION

Background

State statute gives municipalities the responsibility to inspect building construction within their boundaries. Counties are given the responsibility for construction within the unincorporated parts of the county. School building construction is exempted from the local government's inspection; school construction is inspected by the school districts and school districts are required to submit the inspection reports to the municipality (or county for unincorporated parts of the county). The Committee received testimony that the required reports were not being submitted. The Committee also received testimony that the problem was due to poor communication between schools and municipalities. The study sponsor formed an ad hoc workgroup of interested parties to explore the problems. The ad hoc workgroup reported back with recommended changes to the statute and changes to administrative rules.

Action

The Committee considered this issue at its May, October, and November 2006 meetings and reviewed draft legislation "County and Municipal Land Use Provisions Regarding Schools," but due to lack of a quorum did not recommend the legislation.

SPECIAL DISTRICTS SUBCOMMITTEE

Membership

Sen. Carlene M. Walker, Co-chair
Rep. Brad L. Dee, Co-chair
Sen. Fred J. Fife
Rep. Ann W. Hardy
Rep. Joseph G. Murray
Rep. Larry B. Wiley

Staff

Joseph T. Wade, Policy Analyst
Robert H. Rees, Associate General Counsel
Wendy Bangerter, Legislative Secretary

Background

Special district statutes in Utah are complex. The Legislature has been taking steps to simplify statutes relating to special districts to make them easier to understand. In 1990, at the recommendation of a two-year legislative study committee on special districts, relevant statutory provisions which were scattered throughout the *Utah Code* were moved into a new Title 17A, Special Districts. However, no substantive changes were made.

In 1997, a Special Districts Subcommittee of the Political Subdivisions Interim Committee was created to begin rewriting Title 17A in an effort to make the statute more understandable and uniform. That year the Subcommittee developed uniform special district creation procedures as the first step in recodifying the code. In 1999, the Subcommittee continued its rewrite by updating and standardizing statutes relating to the special districts' governing bodies. In 2000, the Subcommittee developed uniform provisions relating to annexation and dissolution for certain independent special districts. In 2001, the Subcommittee standardized provisions relating to withdrawal. In 2002, the Subcommittee dealt with several miscellaneous topics and cleanup of some statutory provisions. In 2005, the Subcommittee dealt with standardizing many of the bonding provisions.

During the 2006 Interim the Special Districts Subcommittee worked towards completing the standardization and rewrite of the independent special districts statutes, except the Special Service District type of special districts. The rewrite of dependent special districts and Special Service Districts remains to be completed in future years. The Subcommittee formed ad hoc workgroups which met extensively throughout the interim. The Subcommittee discussed these issues at its July, October, and November 2006 meetings.

Action

The Political Subdivisions Interim Committee recreated the Special Districts Subcommittee and considered special district issues at its April, June, and October 2006 meetings and recommended draft legislation "Special and Local Districts Amendments."

POLITICAL SUBDIVISIONS INTERIM COMMITTEE

OTHER STUDIES

Antitrust Exemption for Political Subdivisions

In November 2005, the Utah Supreme Court issued an opinion in the case of *Summit Water Distribution Company v. Summit County*. This case raised the policy question of whether political subdivisions should be exempt from antitrust laws and under what circumstances. H.B. 333, Antitrust Exemption, passed in the 2006 General Session, expanded the definition of municipalities (which the statute already exempted) to include the Intermountain Power Agency. The Committee heard arguments from both sides on the question of whether other political subdivisions also should be exempt from antitrust laws. The Committee considered this issue at its May 2006 meeting but did not recommend legislation.

Authorization for Non-binding Opinion Questions Submitted to Voters

Current statute does not provide for a mechanism to submit to voters a non-binding opinion question. The Committee heard a proposal that would establish a process for submitting a non-binding opinion question to the voters of Utah. The Committee considered this issue at its July 2006 meeting but did not recommend legislation.

Distribution Formula for the Local Option Sales and Use Tax

Current statute provides that the local option distribution formula for the distribution of sales and use taxes to local government be based 50 percent on the point of sale and 50 percent on the entity's population. The Committee received testimony regarding draft legislation "Local Option Distribution Formula for the Distribution of the Local Option Sales and Use Tax," which would provide certain qualifying counties and municipalities options relating to the distribution of revenue from this local sales and use tax. The Committee considered this issue at its October 2006 meeting but did not recommend legislation.

Forms of Municipal Government

Title 10, Chapter 3, Part 12, Optional Forms of Municipal Government Act, provides for several "optional forms of

municipal government under which citizens may vote to organize to meet their needs and desires." Section 10-3-830 also allows a city council to establish, by ordinance, a "manager form of government." Recently, several municipalities have, by ordinance, changed their form of government using Section 10-3-830. The Committee reviewed issues related to optional forms of government and considered draft legislation "Forms of Municipal Government" that would repeal Section 10-3-830. The Committee considered this issue at its November 2006 meeting but did not recommend legislation.

Local Government Land Use Referendums

The Committee heard testimony regarding concerns over current statutes relating to local government land use referendums. The Committee considered this issue at its July 2006 meeting but did not recommend legislation.

Municipal Disconnection

The Committee heard testimony regarding concerns about ambiguity in the municipal disconnection and annexation statutes. The policy question discussed was whether property owners and developers should be prohibited from disconnecting from a city for the purposes of annexing the property into a neighboring city because they like the services and taxing structure better in the other city. The Committee considered this issue at its October 2006 meeting but did not recommend legislation.

Primary Elections for Special Districts

State statute prohibits special districts from having primary elections in electing board members. A concerned citizen brought to the attention of the Committee a recent special district election where eleven candidates were vying for two positions. The Committee considered whether the statute should be amended to allow primary elections for special districts. The Committee considered this issue at its July 2006 meeting but did not recommend legislation.

Quality Growth Commission Annual Report

In 1999, the Legislature created the Quality Growth Commission. Representatives of the Quality Growth Commission discussed the LeRay McAllister Critical Land Conservation Fund and reported on the state of quality growth in Utah. The Committee considered this issue at its

POLITICAL SUBDIVISIONS INTERIM COMMITTEE

November 2006 meeting but did not recommend legislation.

Report on Governmental Immunity Limits

S.B. 113, "Governmental Immunity Limits," passed in the 2006 General Session, directed the state risk manager to: "(1) invite the early and continued participation of all involved parties in the development of a process for the state and its political subdivisions to contribute to and administer an equitable pool for catastrophic claims made against the respective entities; (2) recommend strategies for the creation, composition, and management of a board or boards to administer a statewide catastrophic claims pool; and (3) consider and report to the Political Subdivisions Interim Committee regarding Subsections (1) and (2)." The State Risk Manager made the requested report. The Committee considered this issue at its September 2006 meeting but did not recommend legislation.

Use of Social Security Numbers by Political Subdivisions

The Committee was briefed on a situation in which a county used social security numbers as an employee identifier and the numbers were compromised. The Committee discussed the policy question of whether political subdivisions should be more cautious regarding the use of Social Security Numbers. The Committee considered this issue at its September 2006 meeting but did not recommend legislation.

Using Public Funds to Promote Political Issues

Utah's "Political Activities of Public Entities Act" prohibits public entities from making expenditures from public funds for political purposes or to influence a ballot proposition. The act provides a Class B misdemeanor penalty for violations. The Committee heard claims of violations of the Act. The Committee considered this issue at its September 2006 meeting but did not recommend legislation.

PRIVATELY OWNED HEALTH CARE ORGANIZATION TASK FORCE

PRIVATELY OWNED HEALTH CARE ORGANIZATION TASK FORCE

Membership

Sen. Michael G. Waddoups, Senate Chair
Rep. David Clark, House Chair
Sen. Gene Davis
Sen. John W. Hickman
Sen. Peter C. Knudson
Sen. Mark B. Madsen
Sen. Ed Mayne
Rep. Jackie Biskupski
Rep. Stephen D. Clark
Speaker Greg J. Curtis
Rep. Brad L. Dee
Rep. James A. Dunnigan
Rep. Patricia W. Jones
Rep. Bradley G. Last
Rep. Rebecca D. Lockhart

Staff

Allison M. Nicholson, Policy Analyst
Constance C. Steffen, Policy Analyst
Catherine J. Dupont, Associate General Counsel
Joy L. Miller, Legislative Secretary

OVERVIEW

S.B. 61 "Privately Owned Health Care Organization Task Force," enacted in the 2005 General Session, created a two-year legislative task force known as the Privately Owned Health Care Organization Task Force. The Task Force was directed to study issues relating to competition in health care markets, business practices of market participants, and the tax exempt status of nonprofit health care organizations.

To assist in accomplishing the work of the Task Force, \$300,000 was appropriated to the Office of Legislative Research and General Counsel to acquire economic, financial, and actuarial services.

A final report of the Task Force was made to the Business and Labor Interim Committee and the Revenue and Taxation Interim Committee in November 2006.

COMPETITION IN UTAH HEALTH CARE MARKETS

Background

Enconormists, Incorporated was hired through an RFP (Request for Proposals) process to: (1) examine the performance of health care markets in Utah to determine how the performance of those markets impacts consumers in terms of the quality of, access to, and costs of health care and competition; (2) evaluate how the presence and business practices of a vertically integrated health care system in Utah's health care markets impact consumers and competition in those markets; and (3) make specific recommendations on how to improve Utah's health care markets.

In brief, their findings were:

- Little disagreement exists that consumers in Utah receive high quality health services at reasonable prices. Acceptable price and quality suggest that Utah's health care markets are performing competitively.
- In urban areas along the Wasatch Front, consumers chose among a variety of health insurance products, some of which feature restrictive networks of providers while others feature broad networks of providers. Employers and employees are free to switch health plans and networks, and exercise that freedom, reflecting competition among providers and health plans.
- In Cache and Washington counties, alternative facilities have opened in competition with the general acute care hospital. In those counties, health insurance products that include ASCs (area ambulatory surgery centers) and health insurance products that exclude ASCs have attracted significant numbers of consumers.
- IHC (Intermountain Health Care) does not appear to be cross-subsidizing some services with favorable discounts or with high profits from other services. The number and size of IHC's competitors indicate that a predation strategy is unlikely to be successful.
- IHC's vertical integration has not thwarted entry of competitors; in fact, evidence suggests the opposite.

PRIVATELY OWNED HEALTH CARE ORGANIZATION TASK FORCE

The creation of a non-IHC-oriented facilities network was in direct response to IHC's vertical integration.

- The Utah Legislature should refrain from intervention in Utah's health care markets. Regulatory actions may benefit particular providers or insurers to the detriment of competition and consumer welfare.

The Task Force received comments agreeing and disagreeing with some of the conclusions of the report. Criticisms of the report include the following:

- More information is needed on IHC's contracting and business practices.
- The reports suggests that it is OK to have healthcare provider casualties of competition as long as it does not affect overall costs, quality, and access to care for patients. However, when physicians cannot remain viable in the community, it is a loss to the community and to the continuity of care of the physician's patients.
- The report failed to measure, or even consider, the increased costs to consumers and employers of health plan/hospital arrangements which steer patients to more expensive hospital outpatient departments rather than more efficient, lower cost ASCs.
- It takes time for market corrections to occur and individual care needs are compromised during that period.

Action

The Task Force considered this issue at its May 11, May 23, June, and November 2006 meetings but did not recommend legislation.

TAX EXEMPTIONS FOR CHARITABLE NONPROFIT HEALTH CARE ORGANIZATIONS

Background

Nonprofit health care organizations that provide charitable care are eligible for exemptions from property tax, sales tax, and corporate franchise and income tax. The Task Force reviewed the standards that are used to determine whether a nonprofit health care organization qualifies for the exemptions.

The Legislature has greater leeway in modifying the sales and corporate franchise and income tax exemptions, which are established in statute, than the property tax exemption, which is provided in the Utah Constitution. The Utah Supreme Court has promulgated guidelines for the property tax exemption, and the Utah State Tax Commission has established standards, consistent with those guidelines, for nonprofit health care organizations to qualify for a property tax exemption.

The Task Force discussed whether for profit health care organizations that provide charitable care also should be eligible for a sales tax exemption.

Action

The Task Force considered this issue at its October and November 2006 meetings but did not recommend legislation.

OTHER STUDIES

Utah's Access to Rural Health Care Law

Utah Code 31A-8-501 was enacted in 1997 to encourage health maintenance organizations to contract with rural health care providers so that residents of rural communities would not have to travel long distances for health care, and so that rural hospitals would have an adequate patient base. The statute has been amended since 1997, and rules identifying the counties, hospitals, and federally qualified health centers to which the law applies went into effect September 7, 2006. The Task Force invited health care providers and insurers to comment on whether the law and rules meet the intended purpose of the law. Testimony received from hospital and physician representatives concurred that the law was working. A representative of health insurers asserted the law is no longer necessary. The Task Force considered this issue at its October 2006 meeting but did not recommend legislation.

PUBLIC UTILITIES AND TECHNOLOGY INTERIM COMMITTEE

PUBLIC UTILITIES AND TECHNOLOGY INTERIM COMMITTEE

Membership

Sen. Gregory S. Bell, Senate Chair
Rep. Sheryl L. Allen, House Chair
Sen. Curtis S. Bramble
Sen. Mike Dmitrich
Sen. Beverly Ann Evans (until 11/1/06)
Sen. Darin G. Peterson
Rep. Ralph Becker
Rep. Bradley M. Daw
Rep. Lorie D. Fowlke
Rep. Fred R. Hunsaker
Rep. Rosalind J. McGee
Rep. Michael E. Noel
Rep. Ross I. Romero
Rep. Aaron Tilton
Rep. David Ure
Rep. Richard W. Wheeler

Staff

Richard C. North, Policy Analyst
Christopher R. Parker, Associate General Counsel
Tracey Fredman, Legislative Secretary

OVERVIEW

Since the early 1990s, the deregulation of public utilities has been studied across the United States to determine whether lower costs, more choices, and greater efficiencies would result. After extensive reviews of the regulatory environment, policymakers on federal and state levels have established standing committees to provide ongoing review and monitoring of the regulatory environment.

In January 1997, the Utah House of Representatives created the Public Utilities and Technology Standing Committee to review legislation related to utilities such as telecommunications and energy. The Legislature then created the Public Utilities and Technology Interim Committee to provide additional research and review of utility issues. With the creation of the Interim Committee, issues involving utilities now receive year-round review.

ENERGY: EMERGENCY SYSTEMS AND MANAGEMENT

Background

Energy shortages due to access, transmission, and management have become a critical issue as world geopolitical issues undermine the stability of existing prices and systems.

Declining domestic oil production and increased competition for international sources of oil have also focused efforts of national and state authorities to develop energy emergency plans and more effective energy management systems.

Action

The Committee considered this issues at its April and July 2006 meetings but did not recommend legislation.

ENERGY FUEL SOURCE DEVELOPMENT

Background

Rising oil prices in today's competitive energy market are driving the development of other sources of oil and energy including tar sands, oil shale, clean coal, and co-generation. Newer technology such as combined cycle integrated gasification can increase the thermal efficiency while reducing carbon output.

The Committee received reports and heard testimony regarding the urgency of promoting new energy technology and sources of energy.

Action

The Committee considered this issue at its April, May, October, and November 2006 meetings but did not recommend legislation.

ENERGY POLICY DEVELOPMENT

Background

In 2005, the Public Utilities and Technology Interim Committee with the Natural Resources, Agriculture, and Environment Interim Committee created the Energy Policy Work Group. That entity was charged with reviewing

PUBLIC UTILITIES AND TECHNOLOGY INTERIM COMMITTEE

existing state energy policies, consulting with the executive branch, and developing energy policy recommendations for codification.

The Energy Policy Work Group continued its policy review and recommendation process throughout the 2006 interim and produced a list, with the help of the state energy policy advisor, of proposals for consideration during the 2007 General Session.

Those proposals include revolving loan funds for energy efficient school and state government buildings, more efficient state motor pool fleets, and building code energy efficiency training courses.

Action

The Committee considered this issue at its April and November 2006 meetings but did not recommend legislation. However, the Committee did note that many of the recommendations could be addressed in the appropriations process.

OIL, MINING, AND GAS PERMITTING

Background

Past practices for issuing permits for mining and the development of oil and gas resources were largely fragmented at federal and state levels. The low level of coordination was attributable to factors such as federal preemption, commodity demand and pricing, and minimal environmental considerations regarding pollution and remediation.

Today the growing demand and extraction of these energy/mineral resources based on population increases and business needs have focused attention on developing integrated federal and state permitting laws.

Action

The Committee considered this issue at its May 2006 meeting but did not recommend legislation.

RENEWABLE ENERGY TAX CREDITS

Background

Most states offer some type of renewable energy tax credit/exemption such as property tax (24 states) or sales tax (18 states) credits. Other state incentives include income tax credit, net metering, and rebates.

The federal government also provides both individual and expanded business energy tax credits via the Energy Policy Act of 2005. The type of credit ranges from 10 percent to 30 percent depending upon the technology.

Renewable energy technologies allowed in either state or federal law include solar, geothermal, wind, fuel cells, and microturbines.

Action

The Committee considered this issue at its April, July, October, and November 2006 meetings and recommended draft legislation "Renewable Energy Tax Credit."

OTHER STUDIES

Broadband Connectivity

Approximately 30 years ago, in an effort to promote education, the legislature authorized the creation of the UEN (Utah Education Network). The statutory charge for UEN is to connect every public school, college, and university. Technology (broadband width) has dramatically changed over the last 10 years allowing for faster, real-time, and a greater variety of connections including Internet, video conferencing, and wide area networks. The Committee considered this issue at its October 2006 meeting but did not recommend legislation.

Conservation Enabling Tariff

In May 2006, Utah utility regulatory entities, including the Committee of Consumer Services, the Division of Public Utilities, the Public Service Commission, and the Utah Clean Energy organization agreed to a stipulated settlement with Questar Gas Company regarding rate reductions, demand-side management/energy efficiency

PUBLIC UTILITIES AND TECHNOLOGY INTERIM COMMITTEE

programs, and a three-pilot program. The Committee considered this issue at its November 2006 meeting but did not recommend legislation.

Federal Telecommunication Reform

In 2005, legislation was introduced in the U.S. Congress that authorized a national cable franchise process. This national franchise and related provisions are designed to provide competition in the delivery of broadband video services. Provisions of the legislation would also require national franchisees to meet certain state requirements such as zoning requirements. The Committee considered this issue at its November 2006 meeting but did not recommend legislation.

Uranium Ore Recycling

International Uranium Corporation operates an ore processing plant at White Mesa in southeastern Utah. The issue of "alternate feed" or uranium bearing material processing has raised concern as the plant was not originally licensed to handle this type of ore. The Utah Department of Environment Quality granted a request to amend the mill's operating license in order to accept the alternate feed. The Committee heard testimony regarding whether the mill was processing alternate feed material or serving as an unlicensed storage facility. The Committee considered this issue at its September 2006 meeting but did not recommend legislation.

REDISTRICTING COMMITTEE

Membership

Sen. Curtis S. Bramble, Senate Chair
Rep. David Clark, House Chair
Sen. D. Chris Butters
Sen. Gene Davis
Sen. Sheldon L. Killpack
Sen. Michael G. Waddoups (nonvoting member)
Rep. Jackie Biskupski
Rep. John Dougall
Rep. Ben C. Ferry
Rep. Gregory H. Hughes
Rep. David Litvack
Rep. Stephen H. Urquhart

Staff

John Q. Cannon, Managing Policy Analyst
Mark D. Andrews, Policy Analyst
Joseph T. Wade, Policy Analyst
John L. Fellows, Deputy General Counsel
Brooke Ollerton, Legislative Secretary

CONGRESSIONAL REDISTRICTING

Background

The 435 seats in the United States House of Representatives are apportioned among the states following each decennial Census based on population. Following the 2001 Census, Utah received three congressional seats and missed being awarded a fourth seat by a margin of only 856 people. In an effort to receive the fourth seat, the state unsuccessfully challenged the Census count and methodology.

Since that time, legislation has been introduced in Congress that would increase the number of seats in the United States House of Representatives to 437, awarding one seat to the District of Columbia, and another seat to the next state that would have received a seat following the 2000 Census, i.e. Utah. The most recent version of this legislation was H.R. 5388, the "District of Columbia Fair and Equal House Voting Rights Act of 2006."

While this legislation was pending in Congress during the fall of 2006, the Utah Legislature determined that it was in the best interest of the state to consider a new map dividing the state into four congressional districts. Any new four district plan would have a contingent effective date based on the passage of the federal legislation and Utah being awarded a fourth seat. The Redistricting Committee was formed to consider this issue and to recommend a new four district plan to the Legislature.

Working under significant time restraints because of pending Congressional action, the Committee met several times to consider congressional redistricting plans, including holding public hearings in locations around the state. At its first meeting, the Redistricting Committee considered redistricting principles to guide their actions and adopted the following principles:

- (1) equal population – congressional districts must be as nearly equal as practicable with a deviation not greater than +/- 0.5 percent;
- (2) single member districts – districts will be single member districts;
- (3) number of districts – plans will be drawn to create four Congressional Districts;
- (4) census bureau figures – in drawing districts, the official population enumeration of the 2000 decennial census will be used; and
- (5) contiguity and compactness – districts will be contiguous and reasonably compact.

Action

The Committee considered this issue at its November 20, November 21, and November 29, 2006 meetings and at public hearings held on November 27 (Provo), November 27 (Price), November 27 (St. George), November 28 (Park City), November 28 (Ogden), and November 28, 2006 (Salt Lake City). The Committee adopted "Plan L" as a recommended four district congressional plan. The Legislature subsequently adopted this plan as S.B. 5001, "Congressional Four Member Redistricting Plan" at a special session held on December 4, 2006.

RETIREMENT AND INDEPENDENT ENTITIES INTERIM COMMITTEE

RETIREMENT AND INDEPENDENT ENTITIES INTERIM COMMITTEE

Membership

Sen. Beverly Ann Evans, Senate Chair
Rep. Michael T. Morley, House Chair
Sen. D. Chris Butters
Sen. Gene Davis
Sen. Karen Hale
Sen. Carlene M. Walker
Rep. Ron Bigelow
Rep. David Clark
Rep. Neil A. Hansen
Rep. Ann W. Hardy
Rep. Rebecca D. Lockhart
Rep. Karen W. Morgan
Rep. Merlynn T. Newbold
Rep. LaWanna "Lou" Shurtliff

Staff

Benjamin N. Christensen, Policy Analyst
Dee S Larsen, Associate General Counsel
Glenda S. Whitney, Legislative Secretary

OVERVIEW

The Retirement and Independent Entities Committee is a statutorily created interim committee of the Legislature. The Committee is composed of five senators and nine representatives. By legislative rule, Senate members constitute the Retirement and Independent Entities Senate Standing Committee and House members constitute the Retirement and Independent Entities House Standing Committee. Members of the Committee are also the members of the Retirement and Independent Entities Subcommittee of the Joint Appropriations Committee. The Committee is required to comply with the rules of legislative interim committees.

In addition to legislative oversight of the Utah State Retirement Systems, the Committee has responsibility to: (1) determine which entities should be treated as independent entities; (2) determine the extent to which consistency in the statutes for each independent entity should be provided; (3) determine from which provisions

of the *Utah Code*, if any, each independent entity should be exempt; (4) determine whether the State should receive services from or provide services to each independent entity; (5) request and hear reports from each independent entity; (6) review the annual audits of each independent entity; (7) follow statutory guidelines in reviewing a proposal to create a new independent entity; (8) recommend the appropriate method of changing the organizational status of any entity; (9) study entities created by interlocal agreement to determine if they should be subject to the Independent Entities Act; and (10) report annually to the Legislative Management Committee.

The independent entities that are statutorily created include:

Independent State Agencies

- Heber Valley Historic Railroad Authority
- School and Institutional Trust Lands Administration
- Utah Communications Agency Network
- Utah Dairy Commission
- Utah Science Center Authority
- Utah State Retirement Office

Independent Corporations

- Utah Housing Corporation
- Utah State Fair Corporation

Nonprofit Quasi-public Corporations

- Utah Capitol Investment Corporation
- Workers' Compensation Fund

DEFINED BENEFIT VS. DEFINED CONTRIBUTION RETIREMENT SYSTEM FOR PUBLIC EMPLOYEES

Background

The Utah Retirement Systems offers a DB (defined benefit) retirement system as the primary system for its members. A DC (defined contribution) plan is also offered as a supplement. For state and school employees under Utah's noncontributory retirement systems, a DC plan is provided with 1.5 percent of salary deposited into each member's 401(k) or 457(b) account by the employer. Most members may also make their own contributions to their DC accounts up to certain federal limits. Under a DB plan,

RETIREMENT AND INDEPENDENT ENTITIES COMMITTEE

an employee gets a defined amount per month, starting at retirement and ending at the death of the employee and the employee's spouse. Under a DC plan, an employee gets a defined amount toward retirement during employment. DC plans are provided by the IRS as a way to supplement retirement income on a tax deferred basis. Many private employers have adopted DC plans as their sole retirement plan. In recent years, some states have been exploring the option of adopting a DC plan as a primary retirement plan for employees.

A DC plan provides maximum portability for employees, fixed employer contributions, and zero unfunded liabilities to employers. DC plans can be easily compared by employers and employees providing for more direct salary and benefit competition for critical employees to fill workforce needs. Employees are solely responsible for investment decisions and account balances and must plan for their own retirement spending needs, future investment returns, and life span.

A DB plan provides that all assets are pooled in a trust fund that is invested in diverse large scale investments, usually at reduced administrative expenses due to economies of scale. A DB plan rewards career service employees who value a future, stable, life-time retirement allowance and built-in protections for inflation. A DB plan works best when a large portion of the plan's expense is covered by investment earnings coupled with disciplined employer contributions to fund actuarially determined contribution rates. The tables in Figure 1 on page 7 outline key retirement system differences between a DB and a DC plan. All of these differences should be carefully weighed against overall objectives and purposes for providing a retirement plan.

Utah's DB retirement systems are largely self-sustaining with a 10-year average of 68.6 percent of its costs paid by pooled investment returns and about 25.8 percent paid by employers. The Utah Retirement Systems' noncontributory system as a funded ratio (fund assets divided by actuarially determined liabilities) of 92.2 percent as of January 1, 2006 is consistent with other AAA bond rated states. If the state were to require new employees to be in a DC plan instead of the current DB Plans, expenses in

the DB would go up and additional cost would be incurred for setting up a new DC plan. Closing a DB plan would result in a reduction of self-sustainability because revenues going into the system decrease and investment strategies must be changed to meet short-term cash flow needs and eventual depletion of assets. Administrative expenses increase because costs are spread over a smaller population and over a shorter time period.

Action

The Committee considered this issue at its September 2006 meeting but did not recommend legislation.

PUBLIC SAFETY RETIREMENT SYSTEM COLA

Background

A COLA (cost-of-living adjustment) for a retirement allowance provides an increase to the allowance to reduce the negative impact of inflation. COLAs have been an important part of retirement systems for several decades. Since 1975, public employees have had up to a four percent COLA as part of the retirement benefit. If the CPI (Consumer Price Index) is four percent in a given year the retiree's allowance is increased by an amount equal to four percent of the original allowance. If the CPI is less than four percent the allowance is adjusted by the actual CPI amount. If the CPI is more than four percent, for example six percent, the allowance in that year is adjusted by four percent. The extra two percent is then held and applied in years when the CPI is less than four percent.

While public employees have a maximum four percent COLA, public safety employees have a maximum 2.5 percent COLA. Firefighters were granted a maximum four percent COLA in 1994. This means that in years of moderate to high inflation, the purchasing power of public safety retirees retirement allowance will fall behind the allowance provided to retirees in other retirement systems. Advocates for public safety retirees have been requesting an increase from a maximum 2.5 percent COLA to a maximum four percent COLA for many years.

RETIREMENT AND INDEPENDENT ENTITIES INTERIM COMMITTEE

In addition to the information above, at least three other related factors should be considered:

- **Inflation has been relatively low over the last 12 years.** The CPI during that period has risen at an annual average of only 2.5 percent. Since CPI increases in excess of maximum percentages (2.5 percent for Public Safety retirees) are accumulated and used in years when inflation is less than the maximum, the actual harm for Public Safety retirees not having a four percent COLA since 1994 has been the delay in getting COLAS' between years rather than in the 2.5 percent cap itself.
- **Public Safety Employees and Firefighters retirement systems have enhanced benefits over other public employees.** Both of those systems provide full retirement after 20 years of service and provide a 2.5 percent retirement multiplier for each of the first 20 years of service. This means that after 20 years of service employees on both of those systems can retire with 60 percent of their final average salary (20 x 2.5 percent = 60 percent). In addition a person who retires in 2006 with 30 years of service would also get 70 percent of final average salary in the public safety and firefighters system, but only 60 percent in the public employees' systems.
- **Public Safety and Firefighter retirement systems cost more than public employees' systems.** In 2005, the average cost for a public safety employee retirement contribution was \$9,557, more than double that of a public employee or school employee, which was \$4,734. The average annual retirement contributions per employee differ due to the different level of benefits, historical funding requirements of the various funds, and average salary of the various types of employees.

Action

The Committee considered this issue at its October 2006 meeting but did not recommend legislation.

RESTRICTIONS ON POST-RETIREMENT EMPLOYMENT

Background

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 costs of providing retirement benefits. The financial soundness of retirement systems is based on actuarial assumptions, including when benefits will be paid and for how long. When an employee collects a retirement allowance earlier than projected, i.e., when the employee has not finished the employee's working career, the retirement system must make unanticipated expenditures. If the practice expands over a number of employees, contribution rates will have to be adjusted to pay for the unanticipated system expenditures.

Under *Utah Code* 49-11-505, 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. The statutes rely on: (1) the retiree, (2) the employing agency, and (3) the retirement office for compliance with the post-retirement employment restrictions. When alleged abuses have been reported the Retirement Office has said it lacks the resources to audit agencies who may be violating the statute. A Post-Retirement Re-Employment Audit by the Legislative Auditor General on this subject was released in December 2006. Two issues have been factors in the recent studies of post-retirement restrictions:

- reports of noncompliance with the restrictions in some cases; and
- difficulty in filling certain job positions with qualified persons.

Some of the benefits of having post-retirement restrictions on re-employment include reduced costs on the retirement system, receiving member/employer contributions into the system for a longer period of time, a shorter period of time over which benefits must be paid out, and the ability to fill a retiree's position with a new employee at lower salary. Some the costs of having post-retirement restrictions on re-employment include reducing the number of

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experienced employees who may otherwise stay, increasing costs associated with recruitment and training, and potentially adding to labor shortage problems.

Action

The Committee considered this issue at its October and November 2006 meetings but did not recommend legislation.

TWO PERCENT RETIREMENT MULTIPLIER

Background

To calculate a retiree's retirement allowance (the amount a retiree is paid during retirement), the retiree's number of years of service is multiplied by a number called the retirement multiplier. The product is then multiplied by the retiree's final average salary to produce the retirement allowance. Two percent is the retirement multiplier for all years of service in the Public Employees' Noncontributory Retirement System and the Public Employees' Contributory Retirement System, both of which include state and local public employees and public school employees. However, for years of service rendered prior to July 1, 1975, the retirement multiplier is 1.25 percent per year for retirees: (1) in the contributory system; and (2) in the noncontributory system who retired prior to July 1, 1990 and who did not retire during the 1987 early retirement incentive program. This results in a retirement allowance that is 37.5 percent less for those years of service. Retirees in these two categories have advocated for years to have the Legislature provide an increased retirement multiplier for those years of service.

In 1967 the retirement multiplier was one percent for all public employees and teachers. The most significant change to the multiplier was passed in 1975 when a two percent retirement multiplier was provided for years of service beginning July 1, 1975. In 1987, under an early retirement incentive program, a two percent retirement multiplier was offered for all years of service to those that retired during a window offered that year and if:

- the employee had 25 or more years of service credit; and

- the employee forfeited any stipend for retirement they would have received upon retirement, amounting to thousands of dollars for some employees.

In addition, under the 1987 early retirement incentive program some employees were asked to delay retirement up to 12 months but received:

- no years of service credit for that time, and
- no adjustment to their final average salary.

In 1990 the Legislature provided a two percent retirement multiplier for all years of service only for noncontributory retirement system members who retire after July 1, 1990. A conversion window was offered that year and again in 1995 allowing active employees to move from the contributory to the noncontributory retirement systems thus providing a two percent retirement multiplier for all years of service. Employees who chose not to take advantage of the early retirement incentive program or the conversion windows or who retired too early to be eligible for them, remain with a 1.25 percent retirement multiplier for years of service prior to July 1, 1975.

Action

The Committee considered this issue at its October 2006 meeting and voted to pass out, without recommendation, draft legislation "Two Percent Retirement Multiplier."

OTHER STUDIES

Consumer Information on Health Care Provider Cost and Quality

In response to rising healthcare costs and concerns about quality of healthcare, the concept of providing to consumers cost and quality data from Utah hospitals and healthcare providers was discussed by the Committee during the 2005 interim. During the 2006 General Session H.B. 246, "Health Care Cost and Quality Data" was introduced but did not pass. The bill would have authorized the Health Data Committee to collect costs of episodes of health care and authorize the Department of Health to develop a plan to measure and compare costs of episodes of care. This data would be available to Utah consumers including individuals, employers, and payers

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to help consumers of healthcare make informed decisions and to enhance competitive forces. The Committee considered this issue at its September and November 2006 meetings and recommended draft legislation "Health Care Cost and Quality Data."

Post-Retirement Benefits Trust Fund

Under new government accounting standards the state must show how it will fund its post-retirement employment benefits over a maximum 30 year horizon. During the 2006 General Session H.B. 381, "Post-retirement Benefits Trust Fund" was introduced but did not pass. The bill would have established a trust fund to accumulate and invest assets, create a board of trustees over the fund, and allow the use of certain long-term investment types to fund the state's obligations. This would provide a trust fund with fewer investment restrictions than normal state funds to provide for potentially greater investment returns and lower overall cost to the state to cover the obligations. The Committee considered this issue at its September 2006 meeting and recommended draft legislation "Post-retirement Benefits Trust Fund."

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. The Committee had representatives from the University of Utah, Commissioner of Higher Education, and the State Office of Education report the status of implementing the audits' recommendations. Representatives from public education presented a report on the liabilities of Utah school districts for post-retirement benefits as required by the audit. The Committee asked the Utah State Office of Education to have each school district provide a one page summary of their plan to address post-retirement obligations and present them to the Committee. These reports were presented, with 33 of 40 school districts responding as requested. The Committee considered this issue at its September and

November 2006 meetings but did not recommend legislation.

Public Safety Retirement Conversion Window

The Public Safety Noncontributory Retirement System was created in 1989. That same year a six-month window was created for both employers to offer this plan and for their employees to convert from the Public Safety Contributory Retirement System to the noncontributory system. An additional six-month window was opened in 2002. The bill provides a third six-month conversion window in 2007. The Committee considered this issue at its November 2006 meeting and recommended draft legislation "Public Safety Retirement Conversion Window."

Recurring Retirement Issues

Because of fiscal constraints, many retirement issues are not addressed, while others are considered but not adopted. Many of these issues are recurring as proponents attempt to gather support for their proposals each year. The Executive Appropriations Committee, through the Legislative Management Committee, requested the Committee study two recurring issues as noted below. In addition, the Committee sent a letter to retirement interest groups asking that they present to the Committee prioritized proposals of any retirement-related legislation that they plan to pursue during the 2007 General Session. In response the Committee heard presentations on the following issues:

- Public Safety Retirement System COLA - The proposal is to increase the maximum COLA from 2.5 percent to four percent for members of the Public Safety Retirement System. As described above, a written report and oral presentation was given by committee staff to the Committee on this issue. The Committee chairs gave a written and oral report to the Executive Appropriations Committee.
- Two Percent Retirement Multiplier - The proposal is to increase the retirement multiplier years of service rendered prior to July 1, 1975 from 1.25 percent to two percent. As described above, a written report and oral presentation was given by committee staff to the Committee on this issue. The Committee chairs gave a written and oral report to the Executive Appropriations Committee.

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- Retirement in Place of Certain Firefighters - The proposal is to allow firefighters who do not qualify for Medicare to retire in place for up to three years to allow them to save money to pay for health insurance costs when they leave employment.
- Utah Retirement Office Amendments Bill - The Utah Retirement Office annually recommends amendments, usually primarily technical amendments, to the statute based on the previous years' implementation experiences.

The Committee considered these issues at its September 2006 meeting and recommended draft legislation "Retirement Office Amendments."

Retirement Contribution Rates

In addition to the salary paid to public employees, a percentage of the salary is required to be paid into the Retirement Fund for each eligible employee. This percentage of salary, called the contribution rate, is set based on actuarial projections and must be approved by the Retirement Board each year. These funds are required to keep retirement systems funded on an actuarially sound basis. The historical contribution rate in the Public Employees Noncontributory System (expressed as percentage of salary) is shown in Chart 1. For FY 2008, the Retirement Board has recommended a contribution rate of 14.22 percent of salary. This is the same contribution rate paid for FY 2007. The 14.22 percent of salary rate is also the highest contribution rate since the creation of the noncontributory system in 1987. The Committee considered this issue at its July 2006 meeting but did not recommend legislation.

Chart 1

Noncontributory Retirement Contribution Rates (Ten-Year History)	
Fiscal Year	Percent of Salary
1999	14.16%
2000	14.16%
2001	13.68%
2002	10.40%
2003	10.40%
2004	11.70%
2005	13.38%
2006	13.38%
2007	14.22%
*2008	14.22%
Average	12.97%
*Proposed	

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Figure 1

Key Retirement System Differences	
Defined Benefit Plans	Defined Contribution Plans
<ul style="list-style-type: none"> • A retirement benefit that is guaranteed to the employee for life • Sponsored by an employer • Pays a defined amount during retirement based on a formula including length of service and final average salary • Assets are pooled in a trust fund and monitored by an actuary 	<ul style="list-style-type: none"> • A retirement savings account that can be depleted • Offered by an employer • The amount available in the account at retirement is determined by contributions made by the employer and employee plus investment earnings • Contributions are usually held in individual 401(k), 403(b), or 457 accounts

Key Cost/Risk Differences	
Defined Benefit Plans	Defined Contribution Plans
<ul style="list-style-type: none"> • Employer contribution rates vary based on economic conditions as determined by an actuary • Requires employer discipline to fund actuarially determined contributions or unfunded liabilities accumulate • At retirement the annual pay out is determined by formula. Example: 30 years of service times a two percent retirement multiplier times final average salary (\$50,000) Example: 30 years x 2 percent = 60 percent; 60 percent x \$50,000 = \$30,000 • Contributions end upon retirement and benefits end with death of employee and/or spouse • Professionally managed -- employer assumed risk • Certainty and stability in retirement income • Administrative expenses usually cost less because assets and accounts are pooled • Administrative expenses are borne by the system/employer • A well-run DB system is largely self-sustaining with approximately 70 percent of its costs paid by pooled investment returns 	<ul style="list-style-type: none"> • Employer contributions can be fixed and certain • Unfunded liabilities do not normally accumulate • At retirement the annual pay out is determined by the retiree; unknowns include: <ul style="list-style-type: none"> ▸ future investment returns, ▸ retiree's/spouse's life span, ▸ rate of spending during retirement • Contributions end upon retirement and assets are transferable to named beneficiaries upon death of the employee • Investment responsibility and risk are with the employee • Certainty and stability in retirement income are determined by account balances, financial markets, and effective employee financial planning • Administrative expenses usually cost more because accounts are maintained individually • Administrative expenses are borne by the employee through investment/advisor expenses • Self-sustainability and pooled investments are not applicable to DC plans

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Key Flexibility Differences	
Defined Benefit Plans	Defined Contribution Plans
<ul style="list-style-type: none"> • Provides specified vesting and retirement eligibility based on age and years of service • Borrowing from account usually not allowed • Limited lump sum payment options determined under the plan • Plan assets usually not transferable to future employers' retirement systems • Benefits extend to a spouse only 	<ul style="list-style-type: none"> • Provides immediate vesting and eligibility • Borrowing from account allowed • Generally unlimited lump sum payment options determined by employee • Assets are transferable to a future employer's DC plan • Assets are transferable to named beneficiaries

Key Human Resource Management and Employee Interests Differences	
Defined Benefit Plans	Defined Contribution Plans
<ul style="list-style-type: none"> • Retirement eligibility date designated by plan which provides some orderly and regular turnover • Enables workforce and succession planning • Certainty and stability in retirement income regardless of length of life • Allows employers/employees to meet targeted retirement income needs • Provides a cost of living adjustment to retirement allowance • Benefit offered by relatively fewer employers, giving participating employers a competitive advantage • Encourages continued public service in order to receive the full benefit • Predictable turnover • Benefit is an offset to low salaries to encourage employee retention 	<ul style="list-style-type: none"> • No retirement eligibility date: <ul style="list-style-type: none"> ▸ employee decides, or ▸ market driven turnover • Workforce and succession planning is limited • Any certainty and stability in retirement income are determined by account balances, financial markets, and effective employee financial planning • Targeted retirement income levels are not possible • No protections against inflation • Benefit offered by many employers • Employees can leave the employer at their leisure, taking the benefit with them • Increased and unpredictable turnover • Increased turnover compounds difficulties in attracting new employees due to low salaries and no DB plan

REVENUE AND TAXATION INTERIM COMMITTEE

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OVERVIEW

The Revenue and Taxation Interim Committee studies a wide range of policy issues and reviews potential legislation affecting the structure and administration of Utah's state and local tax systems. These studies range from establishing new policy to implementing existing policy.

In addition to its regular policymaking emphasis, the Committee makes a special effort to focus on its revenue responsibility and regularly receives briefings from

committee staff on current state tax revenue collection trends. The Committee also receives information on current state and national economic conditions.

The Committee also receives recommendations from the Utah Tax Review Commission, which is an independent study group. It consists of legislators, tax practitioners, academics, and citizen representatives, and annually reports to the Committee.

ACCESS BY LEGISLATIVE STAFF TO INFORMATION CONTAINED ON A TAX RETURN

Background

State law provides that information contained on tax returns filed with the Utah State Tax Commission is to be kept confidential. The Commission may only publish summaries of information contained on tax returns. The Commission may not disclose any information that could potentially identify a specific taxpayer.

Action

The Committee considered the need for Office of Legislative Research and General Counsel and Office of the Legislative Fiscal Analyst staff to obtain certain information contained on tax returns filed with the Commission for revenue forecasting, preparation of fiscal notes, and for statistical analysis. The Committee supported the limited disclosure of certain information contained on a tax return so long as no information that could be used to identify a specific taxpayer was disclosed.

The Committee considered this issue at its May 2006 meeting and recommended draft legislation "Access to Information Gained by the State Tax Commission from a Return." This legislation was enacted by the Legislature at its 2006 Third Special Session held on May 24, 2006.

AMENDMENTS TO THE STATE INDIVIDUAL INCOME TAX

Background

During the 2005 interim, the Tax Reform Task Force considered whether the state should adopt an individual

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income tax where a taxpayer computes the tax based on single rate applied to federal adjusted gross income. During its 2006 General Session the Legislature considered S.B. 242 "Tax Revisions," that would have changed the state individual income tax system to provide for a single rate applied to federal adjusted gross income with certain additional modifications. The bill did not pass and was referred to interim study.

Action

The Committee considered the provisions of S.B. 242 and other possible design features of a single rate individual income tax system. The Committee also studied the feasibility and desirability of allowing a taxpayer to elect between paying the lesser of the tax computed under the current system where multiple rates are applied to state taxable income or the tax computed under a single rate that is applied to modified federal adjusted gross income.

The Committee considered this issue at its May, June, July, August, and September 2006 meetings and recommended draft legislation "Income Tax Amendments," which was enacted by the Legislature during its Fourth Special Session on September 19, 2006.

DEFERRAL OF PROPERTY TAXES OWED BY ELDERLY TAXPAYERS

Background

Property taxpayers with low incomes may take advantage of several programs to help them meet their property tax obligations. Elderly taxpayers with low incomes who are either homeowners or renters may apply for tax relief under the circuit breaker program. Under this program, a homeowner may receive an exemption of 65 percent of the fair market value of the home and also receive a credit towards the payment of any remaining property taxes. A county governing body may also abate or defer property taxes for certain taxpayers with low incomes. Property tax relief programs are also available for disabled veterans and their unmarried surviving spouses and dependent children.

The Committee received testimony from taxpayers and local government officials regarding their perceptions of a growing property tax burden on elderly homeowners. Despite state laws that generally limit property tax increases, taxpayers told the Committee that they have recently experienced large increases in their property tax liability.

Action

The Committee considered the feasibility and desirability of adopting a comprehensive property tax deferral program for all taxpayers over 65 years of age, regardless of income. The Committee considered this issue at its September, October, and November 2006 meetings and recommended draft legislation "Property Tax Abatement or Deferral."

UNIFORM FEES ON PROPERTY REQUIRED TO BE REGISTERED WITH THE STATE

Background

During the 2005 General Session, the Legislature enacted S.B. 23 "Property Tax Treatment of Tangible Personal Property." This legislation established an age and length based fee system for certain classes of tangible personal property required to be registered with the state including boats, off-highway vehicles, trailers, snowmobiles, and motorcycles. Prior to the enactment of S.B. 23, this property was subject to a uniform fee based on fair market value.

Among other things, S.B. 23 established a fee system for boats based on the age and length of the boat. However, S.B. 23 inadvertently subjected certain classes of boats to significantly higher fees. These types of boats included certain canoes, kayaks, jon boats, utility boats, sail boats, and collapsible inflatable vessels.

Action

The Committee considered legislation to lower the fees that were inadvertently imposed on certain classes of boats under S.B. 23. The Committee also considered the best way to notify taxpayers who had paid these higher fees of a refund application. The Committee considered

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this issue at its May, June, July, September, October, and November 2006 meetings and recommended draft legislation "Uniform Fees on Property Amendments - Mailing Requirements," which was enacted by the Legislature during its Fifth Special Session on December 4, 2006.

UNIFORM STATEWIDE SALES AND USE TAX RATE

Background

During the 2006 General Session, the Legislature considered, but did not pass, H.B. 353 "Sales and Use Tax Amendments." This legislation would have established a uniform statewide sales and use tax rate of 6.5 percent to be reduced to 6.3 percent by 2014.

Action

The Committee reviewed the provisions of H.B. 353 and also reviewed other options to establish a uniform statewide sales and use tax rate. Supporters of a uniform statewide sales and use tax rate believe that it will decrease compliance burdens on vendors imposed by the Streamlined Sales and Use Tax Agreement. The state has been associated with development of this agreement for several years. Among other things, the agreement requires a vendor to collect the tax that is in effect at the point of delivery, not the point of sale. A uniform sales and use tax rate would ease the compliance burden of the destination based sourcing requirement.

The Committee considered this issue at its April 2006 meeting but did not recommend legislation.

OTHER STUDIES

Cigarette and Tobacco Tax Licensing Amendments

The state imposes a tax on the sale, use, or storage of cigarettes and other tobacco products. The Utah State Tax Commission asked the Committee to review certain aspects of how this tax is administered and to make certain technical changes. The Committee considered this issue at its November 2006 meeting and recommended draft legislation "Cigarette and Tobacco Tax Licensing Amendments."

Fuel Tax Bonding Requirements

State law provides that a person who is required to collect the motor fuel tax first obtain a license from the Utah State Tax Commission. As a condition of granting a license, the Commission may require that person to post a bond. The Committee reviewed the circumstances under which an applicant for a license to collect the motor fuel tax is required to post a bond with the Commission. The Committee considered this issue at its November 2006 meeting and recommended draft legislation "Fuel Tax Bonding Requirements."

Income Tax Additions and Subtractions for Higher Education Savings Plan

When determining state taxable income, a taxpayer may deduct from federal taxable income qualified investments in the Utah Educational Savings Plan Trust. The Committee reviewed issues associated with the tax treatment of qualified investments including investments made by trusts and investments made by married taxpayers who file a joint individual income tax return but have established separate accounts with the Utah Educational Savings Plan Trust. The Committee considered this issue at its November 2006 meeting and recommended draft legislation "Income Tax Additions and Subtractions for Higher Education Savings."

Income Tax Credits for Alternative Power Generation

A taxpayer may claim a credit against state individual income taxes and corporate franchise taxes equal to 25 percent of the cost of a renewable energy system, up to a certain limit. The Committee considered whether or not this credit should be extended and whether or not it should be expanded to include biomass, direct-use geothermal, and geothermal heat pump systems. The Committee considered this issue at its November 2006 meeting and recommended draft legislation "Tax Credits for Alternate Power Generation."

Income Tax Credits for Donated Art

The Committee considered draft legislation that provides a nonrefundable credit against state individual income taxes and corporate franchise taxes for art donated to the state's Alice Art Collection. The Committee considered

REVENUE AND TAXATION INTERIM COMMITTEE

this issue at its June 2006 meeting but did not recommend legislation.

Income Tax Credits Voluntary Service by a Health Care Professional

During the 2006 General Session, the Legislature considered H.B. 178 "Volunteer Service by a Health Care Professional." The legislation did not pass and was referred for interim study. The Committee received testimony from the bill's sponsor and supporters. They told the Committee that the bill would provide a tax incentive for health care professionals to donate time at facilities and clinics for medically under-served populations. The Committee considered this issue at its June 2006 meeting but did not recommend legislation.

Income Tax Deduction for Health Insurance Premiums

In determining state taxable income under the individual income tax, a taxpayer may deduct from federal taxable income certain payments for health insurance to the extent that the amounts paid are included in federal taxable income. The Committee reviewed how the Utah State Tax Commission administers this deduction. The Committee found that certain modifications were needed to clarify how this deduction is administered. The Committee considered this issue at its October and November 2006 meetings and recommended draft legislation "Individual Income Tax Subtractions for Insurance Relating to Medical Care."

Property Tax Exemption for Personal Property Tax

During the 2006 General Session, the Legislature enacted H.J.R. 1, "Resolution Regarding Property Tax on Personal Property." This resolution amended the Utah Constitution to provide that the Legislature may exempt from the property tax certain personal property that, if subject to tax, would generate an inconsequential amount of revenue. The Legislature also enacted implementing legislation. In implementing this personal property exemption, the Utah State Tax Commission identified several issues. The Committee reviewed a proposal to amend the tangible personal property exemption to exclude personal property required to be registered with the state, mobile homes, and manufactured homes from the exemption. The Committee considered this issue at its

November 2006 meeting and recommended draft legislation "Property Tax Exemption for Personal Property."

Review of Exemption from the State Sales and Use Tax for Sales of Lodging, Motel, and Hotel Services on Navajo Nation Lands

State law provides an exemption from the state sales and use tax that prevents amounts paid by a purchaser for lodging services from being subject to a sales and use tax by both the Navajo Nation and the state. The Committee reviewed this exemption and its effects on tourism and business conditions generally in San Juan County. The Committee concluded that the exemption should be retained so that taxpayers are not subject to double taxation by both the state and Navajo nation. The Committee considered this issue at its June 2006 meeting but did not recommend legislation.

Sales and Use Tax – Common Carriers

During the 2006 General Session, the Legislature enacted H.B. 52 "Sales and Use Tax Exemption for Transportation." The bill removed from the state sales and use tax base amounts paid to persons for transportation. The Utah State Tax Commission asked the Committee to consider further technical and conforming amendments to this bill. The Committee considered this issue at its November 2006 meeting and recommended draft legislation "Sales and Use Tax – Common Carriers."

Sales and Use Tax Exemption for Certain Governmental Entities and Entities within the State Systems of Public and Higher Education

Certain sales by state and local government agencies are subject to the sales and use tax. State and local government agencies are required to collect a sales and use tax, file a return, and remit the revenue to the State Tax Collection. Sales by a state and local government agency can include sales of publications. The Committee considered the administrative burden of collecting sales and use taxes on sales of government publications, given the limited amount of revenue that these transactions generate. The Committee considered this issue at its November 2006 meeting and recommended draft legislation "Sales and Use Tax Exemptions for Certain

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Governmental Entities and Entities Within the State Systems of Public and Higher Education."

Sales and Use Tax Modifications

During the 2006 General Session, the Legislature enacted H.B. 109 "Sales and Use Tax - Food and Food Ingredients." Among other things, this bill reduced the state sales and use tax rate on food and food ingredients from 4.75 percent to 2.75 percent effective January 1, 2007. Since the enactment of H.B. 109, certain implementation and administrative issues have been identified. The Committee reviewed these issues and determined that further clarifications and amendments were needed. The Committee considered this issue at its November 2006 meeting and recommended draft legislation "Sales and Use Tax Modifications."

Tax Penalty Amendments

State law provides for various penalties when a taxpayer fails to file a return and fails to remit a tax that is owed. The Committee reviewed several aspects of penalties imposed by the Utah State Tax Commission and how they are applied. The Committee considered this issue at its November 2006 meeting and recommended draft legislation "Tax Penalty Amendments."

Tourism, Recreation, Cultural, and Convention Facilities Tax Amendments

During the 2006 General Session, the Legislature enacted H.B. 371 "Transient Room Taxes Amendments." The Utah State Tax Commission asked the Committee to consider further technical and conforming amendments to this bill. The Committee considered this issue at its November 2006 meeting and recommended draft legislation "Tourism, Recreation, Cultural, and Convention Facilities Tax Amendments."

Vendor Software: Destination Based Sourcing

Over the last several years, the state has joined with other states in developing and implementing SST (Streamlined Sales and Use Tax Agreement). The Legislature has amended state law to bring the state into compliance with certain parts of SST. To this point, the Legislature has chosen to not conform state laws to the destination-based sourcing requirement of SST. Under this requirement, a

vendor must collect the sales and use tax at a rate that is in effect at the point of delivery, not the point of sale. Some members of the Legislature have expressed concern that this requirement places an undue compliance burden on vendors. The Committee received a demonstration from two business software development companies: Avalara and Taxware. These companies demonstrated software products that, for a per-transaction fee, assist a vendor in determining the sales and use tax rate in effect at the point of delivery. The Committee considered this issue at its October 2006 meeting but did not recommend legislation.

RURAL DEVELOPMENT LEGISLATIVE LIAISON COMMITTEE

RURAL DEVELOPMENT LEGISLATIVE LIAISON COMMITTEE

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OVERVIEW

S.B. 50 "Rural Planning and Development," passed in the 2004 General Session and created the following four entities to address rural planning and development issues on a statewide, coordinated basis:

Rural Development Legislative Liaison Committee

serves as liaison between rural economic development and planning groups and state entities, and recommends legislation on the economic and planning interests of rural Utah;

Governor's Rural Partnership Board

prepares an annual strategic plan to address rural economic development;

Office of Rural Development

helps foster and support economic development for the benefit of rural counties and communities; and

Rural Coordinating Committee

coordinates efforts and resources and help implement the strategic plan for rural economic development, planning, and leadership training.

The duties of the Rural Development Legislative Liaison Committee are to:

- serve as a liaison between the Governor's Rural Partnership Board, the Utah Rural Development Council, rural economic development and planning groups, and the Legislature;
- recommend legislation if the Committee determines that modifications to current law are in the best interest of the state and the economic and planning interests of rural Utah;
- review the operations of the Office of Rural Development and other state agencies involved in rural economic development and planning; and
- help sponsor meetings and other opportunities for discussion with and among rural economic development and planning interests.

GOVERNOR'S RURAL PARTNERSHIP BOARD REPORT TO THE LEGISLATURE

Background

Utah law requires the GRPB (Governor's Rural Partnership Board) to make recommendations on economic planning and development in the state's rural areas and on related issues to the Legislature through the Committee. The GRPB, as part of its 2006 report to the Legislature, re-emphasized the following recommendations:

- develop tourist sites and increase efforts and funding to attract more tourists to the state;
- continue to support USTAR (Utah Science, Technology, and Research Initiative) to disseminate and coordinate the research from the state universities with the rural parts of the state;
- provide affordable health insurance to Utah entrepreneurs, their families, and employees;
- expand micro-loan funding to areas outside the metropolitan parts of the state where the service is not presently available; and
- continue to support and expand economic development through the USU Cooperative Extension, the Public Land Policies Coordinating Office, and the Governor's Energy Advisor.

A more recent focus of the GRPB has been in the area of developing "human capital," that is, ensuring an educated

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workforce which fosters entrepreneurial efforts. Rural counties have an average college graduation rate of 12 to 13 percent while the state average is 26 to 30 percent. GRPB reported that for most parts of rural Utah there is a great need for more and better trained workers so that rural businesses will be able to grow and prosper.

The Board also has spent considerable effort studying infrastructure needs in rural Utah, which impede the ability of rural businesses to compete with urban businesses in the context of our world economy. Many rural communities do not have the critical utility infrastructure to support homegrown business or attract new companies. In some places the needed infrastructure includes basic telephone service, sewer, electricity, roads, and quality computer and Internet service that will allow rural businesses to compete in the world.

Relating to these areas of focus, the GRPB made the following recommendations:

- promote an education initiative with emphasis on rural Utah through the existing colleges and universities using technology and extension programs to bring an equal education opportunity to those living outside the metropolitan areas, and to begin this initiative with business education;
- place broadband Internet service under the umbrella of "telephone universal service," which will require some of the more populated areas of the state to subsidize this effort so that all parts of the state will have this critical service; and
- amend the Industrial Assistance Fund, administered by the Governor's Office of Economic Development, to earmark 30 percent of its annual appropriation for small rural business projects and rural expansions.

Action

The Committee considered these issues at its September 2006 meeting but did not recommend legislation.

TRANSPORTATION INTERIM COMMITTEE

Membership

Sen. Sheldon L. Killpack, Senate Chair
Rep. Joseph G. Murray, House Chair
Sen. Scott K. Jenkins
Sen. Ed Mayne
Sen. Carlene M. Walker
Rep. Jeff Alexander
Rep. David Clark
Rep. Bradley M. Daw
Rep. Brad L. Dee
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Rep. James A. Dunnigan
Rep. Julie Fisher
Rep. Kerry W. Gibson
Rep. Neil A. Hansen
Rep. Brad King
Rep. Todd E. Kiser
Rep. Aaron Tilton
Rep. Larry B. Wiley

Staff

Mark B. Steinagel, Policy Analyst
Shannon C. Halverson, Associate General Counsel
Christopher R. Parker, Associate General Counsel
Tracey Fredman, Legislative Secretary

OVERVIEW

The Transportation Interim Committee has responsibility for issues relating to the safe and efficient movement of people and property within Utah. Issues considered by the Committee include highway construction and maintenance, highway safety, traffic laws, motor vehicle insurance, driver licensing and personal identification, vehicle licensing and registration, transportation-related taxation, and public transportation.

The Committee has oversight responsibility for UDOT (Utah Department of Transportation), the Driver License Division of the Department of Public Safety, and the Motor Vehicle and Motor Vehicle Enforcement Divisions of the Utah State Tax Commission. In addition, the Committee

hears periodic reports by the Utah Transit Authority relating to public transit issues.

DRIVER LICENSE AND ID CARD–SUNSET OF RACE CHECKOFF PROVISIONS

Background

The 2002 Legislature passed a law requiring the Driver License Division to request the race of an applicant of a driver license or identification card. The data was to be used to track whether discriminatory practices against minorities were taking place by law enforcement officers in Utah. The Committee learned that the data has not been useful in determining whether discriminatory practices are taking place, but that the information may be useful for other purposes.

Action

The Committee considered this issue at its May, September, and November 2006 meetings and recommended draft legislation "Driver License and ID Card–Sunset of Race Checkoff Provisions."

DUI (DRIVING UNDER THE INFLUENCE) AMENDMENTS

Background

Alcohol-impaired drivers kill or injure many people on Utah's roadways each year. To aid the Committee in assessing the effectiveness of Utah's laws in deterring drunk driving, the Commission on Criminal and Juvenile Justice reported data being collected and maintained by the courts to allow sentencing and penalty enhancement decisions for repeat DUI offenders.

The Commission's report included recommendations that the Legislature increase fees for a license reinstatement after an alcohol or drug-related offense and require the Driver License Division to revoke, deny, suspend, or disqualify a person's driver license if the person operates a motor vehicle without using an ignition interlock system when required.

TRANSPORTATION INTERIM COMMITTEE

Action

The Committee considered this issue at its October 2006 meeting and recommended draft legislation "Driving Under the Influence Amendments."

TRANSPORTATION CORRIDOR PRESERVATION

Background

A significant portion of a new highway's cost is the purchase of land. As Utah continues to grow rapidly, land values continue to increase faster than inflation. In addition to rising land values, new construction substantially increases the value of the parcel and impacts property owners when the state must condemn property for a new highway. Transportation corridor preservation attempts to minimize the effects of land purchases on taxpayers and landowners by preserving land for future transportation corridors.

The Committee reviewed recent efforts by the Legislature to preserve transportation corridors and considered additional funding mechanisms to increase preservation efforts.

Action

The Committee considered this issue at its April, October, and November 2006 meetings and recommended draft legislation "Funding for Purchase of State Highway Rights of Way."

OTHER STUDIES

Commercial Driver License Amendments

Utah's CDL (Commercial Driver License) must comply with the federal MCSIA (Motor Carriers Safety Improvement Act). The Driver License Division recommended changes to keep CDL in compliance with MCSIA, including requiring CDL disqualification in certain instances, penalizing employers who allow violations of certain CDL or traffic provisions, and increasing certain CDL fees. The Committee considered this issue at its October and November 2006 meetings and recommended draft legislation "Commercial Driver License Amendments."

Driver License Fee Amendments

The Driver License Division proposed increasing 24 license fees in order to meet the following driver license program needs:

- rebuilding the restricted account,
- constructing a new building in Salt Lake County,
- providing new facility leases around the state, and
- funding additional staffing needs.

The Committee considered this issue at its November 2006 meeting and recommended draft legislation "Driver License Fee Amendments."

Highway Jurisdictional Transfers

Public highways in the state may be owned and maintained by various government entities. State highways are used primarily for interstate or inter-region movement of goods and people, higher traffic volumes, and connections between major population centers. The official list of state highways is contained in *Utah Code* 72-4-106 through 137. County and city highways are used primarily for access to homes, businesses, or property. As the demographics of an area change, highway characteristics also change. In areas of rapid growth, a highway that was once local in nature can become a primary thoroughfare. In other instances, the state has jurisdiction of a road that serves a local purpose. In these instances, highway jurisdiction can shift from the state to a local government or from a local government to the state. The Committee considered potential highway transfers based on recommendations made by the Transportation Commission and local governments. The Committee considered this issue at its June and November 2006 meetings and recommended draft legislation "State Highway Amendments."

Required Headlight Use on Vehicles

Utah Code 41-6a-1603 requires the use of headlights (1) from a half hour after sunset to a half hour before sunrise; and (2) any other time when, due to insufficient light or unfavorable atmospheric conditions, persons and vehicles on the highway are not clearly discernible at a distance of 1,000 feet. The Committee discussed creating an additional requirement to utilize headlights when operating windshield wipers. The Committee considered this issue

in its November 2006 meeting and recommended draft legislation "Required Headlight Use on Vehicles."

Traffic Code Amendments

To improve the flow of traffic on Utah's highways, the Committee considered changes to the Utah Traffic Code to:

- increase the maximum speed limit that the Department of Transportation may set on highways,
- require the speed limit be based on a traffic and engineering study,
- prohibit a vehicle in the left lane from impeding the flow of traffic, and
- prevent a careless driving violation.

The Committee considered this issue at its November 2006 meeting and recommended draft legislation "Traffic Code Amendments."

Traffic Code Revisions

The Legislature recodified the Traffic Code during the 2004 General Session. The recodification included an amendment that combined sections of the Utah Code dealing with different types of motor vehicle accidents. Law enforcement officials explained the reporting difficulties they have experienced with the combined sections. The Committee considered this issue at its September 2006 meeting and recommended draft legislation "Traffic Code Revisions."

Uninsured Motorist Amendments

Though Utah has a relatively low rate of uninsured drivers, the actual number of uninsured drivers still represents a problem on Utah's highways. The Uninsured Motorist Identification Database Program was created by the Legislature to locate uninsured drivers and get them insured or off the road. The Committee reviewed the effectiveness of changes made to the Program in the 2006 General Session and discussed possible changes. The Committee considered this issue at its October 2006 meeting and recommended draft legislation "Uninsured Motorist Identification Database Program Amendments."

UTAH INTERNATIONAL TRADE COMMISSION

UTAH INTERNATIONAL TRADE COMMISSION

Membership

Sen. Mark B. Madsen, Senate Chair
Rep. Sheryl L. Allen, House Chair
Sen. Brent H. Goodfellow
Sen. Carlene Walker
Rep. Roger E. Barrus
Rep. Jackie Biskupski
Rep. Lorie D. Fowlke
Rep. Brad King
Mr. Brian Farr
Mr. Brett W. Heimburger
Mr. Miguel R. Rovira

Staff

Richard C. North, Policy Analyst
Christopher R. Parker, Associate General Counsel
Glenda S. Whitney, Legislative Secretary

OVERVIEW

In 2006, the Commission was created as a response to the growing number of international trade treaties and their impact on state government and Utah business. Because international treaties ratified by the U.S. Senate have the effect of federal law, all states, including Utah, are subject to their provisions. In some areas, such as gambling, there may be a conflict between Utah state laws and international treaty provisions.

International imports and exports to Utah can also be affected by the terms of global treaties. The Commission's other statutory charge is to assist and promote local businesses in developing international trade opportunities.

FEDERAL TRADE AUTHORITY

Background

Federal Trade Authority or "Fast Track" is a congressionally authorized process (1974) that allows the president to negotiate international treaties under certain conditions. Two key conditions are that Congress sets the objectives for major trade agreements, such as NAFTA (North American Free Trade Act), and agrees to vote on

the proposed treaty without amendments during a specified period of time.

The existing "Fast Track" law expires on July 1, 2007 unless Congress votes to re-authorize the program.

Action

The Commission considered this issue at its October and November 2006 meetings but did not recommend legislation.

INTERNATIONAL TREATY IMPACTS: STATE GOVERNMENT

Background

International treaties via World Trade Organization agreements are ratified by national governments with little or no input from sub-national governments such as states. In the United States' federalist system, certain powers and duties are allocated by the U.S. Constitution between the federal government and state governments. State government constitutions also recognize certain powers and duties unique to the states.

International treaties have the potential to supersede state laws thereby undermining a state government's constitutional authority.

Action

The Commission considered this issue at its August and September 2006 meetings but did not recommend legislation.

ITDO (UTAH INTERNATIONAL TRADE AND DIPLOMACY OFFICE)

Background

The ITDO is part of the Governor's Office of Economic Development and is designed to increase Utah's role in the global economy. ITDO leads trade missions, provides expertise in import/export matters, promotes Utah products, and opens trade opportunities through diplomatic contacts.

UTAH INTERNATIONAL TRADE COMMISSION

The ITDO has seven foreign trade representatives providing expertise in Europe, Latin America, Canada, and Asia. These trade representatives prepare and introduce Utah companies to foreign markets.

Action

The Commission considered this issue at its September and October 2006 meetings but did not recommend legislation.

UITC (UTAH INTERNATIONAL TRADE COMMISSION)

Background

UITC was created in the 2006 General Session for the purpose of promoting Utah business in international trade and reviewing impacts of international treaties on legislative actions.

UITC heard testimony from Utah businesses, the Utah World Trade Center, and the governmental entities involved in the Fall 2006 China Trade Mission.

One purpose of these hearings was to determine how the Legislature may assist Utah companies in international trade. As a result, the UITC learned that an expedited visa policy is critical to allowing businesses and trade officials to reach agreements in a timely fashion.

All of the businesses, trade associations, and governmental entities testifying at these hearing endorsed the Legislature having a commission solely focused on international trade issues.

Action

The Commission considered this issue at its November 2006 meeting and recommended draft legislation "Utah International Trade Commission."

USTR (UNITED STATES TRADE REPRESENTATIVES OFFICE)

Background

The USTR is located within the Executive Office of the President and was created through executive order and

legislation. The USTR is the lead governmental entity in trade discussions and negotiations. It also provides expertise in foreign investment, market access, World Trade Organization negotiations, and intellectual property protection.

USTR consults with state and local governments through the Intergovernmental Policy and Advisory Committee and reports to various congressional oversight committees. State approval is required when the USTR seeks to expressly bind a state.

Action

The Commission considered this issue at its October 2006 meeting but did not recommend legislation.

UTAH WORLD TRADE CENTER

Background

A World Trade Center is an organization dedicated to the expansion of world trade, promoting international business relationships, and fostering increased understanding between nations. There are over 300 World Trade Centers around the globe that perform these functions.

Utah exports over \$6 billion worth of products accounting for nearly 20 percent of the state's manufacturing jobs. The Utah World Trade Center serves the more than 2,100 medium and small companies in their efforts to develop overseas markets for Utah products.

The Utah World Trade Center, the Utah International Trade Office, and the Utah International Trade Commission represent private and public entities that can work together to promote international trade for Utah businesses.

Action

The Commission considered this issue at its November 2006 meeting but did not recommend legislation.

WTO (WORLD TRADE ORGANIZATION)

Background

The WTO was created as part of the Uruguay Round agreements of the General Agreement on Tariffs and Trade on January 1, 1995. It is located in Geneva, Switzerland and is comprised of 149 member nations.

Functions include administering trade agreements, serving as a forum for trade negotiations, serving as an arbiter for trade disputes, and monitoring national trade policies.

Understanding the WTO's role in international trade treaties is critical for state governments because treaties ratified by the U.S. Senate take on the force of federal law and may supersede state law.

The philosophy behind the creation of the WTO was to create an international organization for the streamlined negotiation of trade agreements among its member nations. Key to the success of the WTO is that member countries' national governments become the sole participant in treaty negotiations, excluding states, provinces, and other forms of sub-national governments.

Action

The Commission considered this issue at its August 2006 meeting but did not recommend legislation.

UTAH TAX REVIEW COMMISSION

Membership

Mr. M. Keith Prescott, Chair
Mr. David J. Crapo, Vice Chair
Sen. Brent H. Goodfellow
Sen. Lyle W. Hillyard
Rep. Wayne A. Harper
Rep. Rosalind J. McGee
Mr. Lawrence R. Barusch
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Staff

Phillip V. Dean, Policy Analyst
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Bryant R. Howe, Assistant Director
Angela D. Oakes, Associate General Counsel
Rebecca L. Rockwell, Associate General Counsel
Phalin L. Flowers, Legislative Secretary

OVERVIEW

The TRC (Utah Tax Review Commission) was created by the Legislature to "establish an ongoing and comprehensive review of... the tax laws of this state and the political subdivisions of this state... and... all issues related to revenue and taxation." The TRC is required to "make recommendations to the governor and the Legislature... on specific tax issues... and... tax policy of the state and the political subdivisions." Members of the TRC are appointed by the governor, the Speaker of the House of Representatives, the President of the Senate, and by the TRC itself.

EXEMPTION FOR PROPERTY UPON WHICH A SALES OR USE TAX WAS PAID TO SOME OTHER STATE – SALES AND USE TAX EXEMPTION

Background

State law directs the TRC to review each exemption to the sales and use tax once every eight years to determine whether the exemption should be retained, modified, or repealed.

The TRC reviewed the sales and use tax exemption for property upon which a sales or use tax was paid to some other state. The purpose of this exemption is to prevent double taxation of property upon which a tax has already been paid. If a taxpayer purchases tangible personal property in another state and moves that item to Utah, the taxpayer is not subject to a use tax if the tax in the other state is higher than the use tax in Utah. However, if the use tax is higher than in the original state, the taxpayer is technically liable for the difference. The TRC reviewed the states that have a similar exemption and selected legal and administrative highlights associated with this exemption.

Action

The TRC voted to retain this exemption. The TRC studied this issue at its May, July, and October 2006 meetings and recommended draft legislation "Sales and Use Tax Exemptions for Certain Property Brought into the State."

LAND VALUE TAX

Background

During its 2005 General Session, the Legislature enacted S.B. 53, "Land Value Tax Study," directing the TRC to study the feasibility and desirability of establishing a land value property tax system. As proposed, this property tax would not replace the existing property tax system. New revenues would be earmarked for transportation infrastructure improvements.

During the 2005 interim, the TRC reviewed land value tax systems in other U.S. cities and in other countries. It also considered reasons why a land value tax has not been

UTAH TAX REVIEW COMMISSION

more widely used. Reasons include the challenge of accurately valuing land as if it were vacant, possible and unknown property tax shifts, and political opposition by large land owners.

During the 2006 interim, the TRC reviewed the effects of land value tax on residential, commercial, industrial, and agricultural land. The TRC also reviewed how a land value tax would affect different types of property within a specific class. For example, all else being equal, a land value tax will impose a greater burden on property where the value of the land is a higher proportion of fair market value than on property where the value of land is a smaller proportion of fair market value.

Action

At its October 2006 meeting, the TRC adopted the following findings with regards to a land value tax:

- (1) Because the supply of land is fixed, land taxes have a neutral and non-distorting economic impact, unlike almost every other potential tax base. This feature has led most economists to endorse the concept of a land tax as the most preferred tax.
- (2) The positive economic benefit of the additional transportation investment is likely to be much larger than the cost of the tax. There is also evidence suggesting a land tax would encourage more efficient land use.
- (3) Transportation projects, through no effort on the part of the land owner, improve access, increase demand for the affected land, and raise property values. Some portion of the increased value could appropriately be used to fund the improvements.
- (4) The impact on individual taxpayers of a land value tax will vary depending on the value of their land as a percent of the total property value. The impact of a land value tax can be broadly summarized as follows:
 - (a) Imposing a tax on land will affect owners differently depending upon the value of their land. An important exception is farm land currently valued under green belt provisions. Such land would see only a minimal impact.
 - (b) For homeowners, evidence suggests that the tax would be slightly progressive.

(c) For commercial and industrial taxpayers, land intensive operations in highly urbanized areas would see the largest dollar increases in overall tax burden.

- (5) The *Utah Constitution* may need to be amended to allow the Legislature to authorize the imposition of a land value tax. The *Utah Constitution* does not presently allow the Legislature to classify property in a manner that creates a differential tax burden on tangible property. The Legislature may not tax land differently than other tangible property.
- (6) A property tax levy of one-tenth of one percent imposed on the fair market value of land could yield about \$37 million statewide annually for transportation projects. These revenues could be used for ongoing expenditures or could be used to service a \$200 million to \$300 million bond. This would result in an average \$38 property tax increase on each parcel of land.
- (7) With regards to locally assessed property, county assessors currently estimate the fair market value of land. While there are many challenges to accurately value land as if it were vacant, county assessors now determine an assessed value for both land and improvements.
- (8) With regards to centrally assessed property, the Utah State Tax Commission may require modest additional resources to accurately determine the land values associated with centrally assessed taxpayers.
- (9) County assessors are concerned with the possibility of a taxpayer being able to appeal only the value of land. However, the TRC also received testimony that limiting the appeal rights of taxpayers may be problematic.

The TRC reviewed this issue at its July, September, and October 2006 meetings but did not recommend legislation.

OIL AND GAS SEVERANCE TAX

Background

Utah imposes a tax on the value of oil, natural gas, and natural gas liquids. The tax rate is three or five percent,

depending on the price of the oil or gas. During the 2005 interim, the TRC recommended that a portion of the revenues from the severance tax on oil and gas, above a base amount of \$32 million, be placed in the Permanent State Trust Fund. To implement this recommendation, the Legislature considered, but did not enact, S.J.R. 4, "Resolution Enlarging Revenues and Assets in the State Trust Fund" and S.B. 202 "Use of Oil and Gas Tax Revenues" during the 2006 General Session.

As part of this year's study, the TRC reviewed oil and gas trust funds in other states, oil and gas severance tax revenue trends, funding sources for counties where oil and gas is produced, and received testimony from the oil and gas industry regarding the effects of falling commodity prices on state revenue. The TRC also reviewed the disposition of royalties from production on federal-owned lands and certain state-owned lands.

Action

The TRC studied this issue at its April, May, June, July, and October 2006 meetings and recommended draft legislation "Resolution Regarding Permanent State Trust Fund" and "Use of Oil and Gas Revenues."

SALES OR LEASES OF VEHICLES BY AN AUTHORIZED CARRIER

Background

The TRC reviewed the sales and use tax exemption for sales or leases of vehicles to or use of vehicles by an authorized carrier. The purpose of this sales and use tax exemption is administrative simplicity. An "authorized carrier" is a firm that operates a vehicle used over the public highways that is registered under the International Registration Plan and the International Fuel Tax Agreement. Essentially these are trucks and cargo vans engaged in interstate commerce.

Action

As part of its review of this sales and use tax exemption, the TRC learned of a Utah Supreme Court decision ruling that the installation of a satellite unit onto a truck prior to the first use of the truck does not qualify the satellite unit

for the exemption. The TRC voted to recommend legislation overturning this ruling.

The TRC studied this issue at its September and October 2006 meetings and recommended draft legislation "Sales and Use Tax Exemption for Authorized Carriers."

SALES OF MOTOR VEHICLES TO NON-RESIDENTS

Background

The TRC reviewed the sales and use tax exemption for sales of a vehicle of a type required to be registered under the motor vehicle laws of this state if the vehicle is both: (1) registered in this state; and (2) used in this state except as necessary to transport the vehicle to the borders of the state. The purpose of this exemption is to promote the sale of motor vehicles to nonresidents and to encourage the aftermarket modification of certain vehicles to be performed in Utah. The TRC also reviewed an administrative rule that provides a *de minimis* exception, allowing the exemptions to be claimed if vehicles or boats are used in the state for a nonbusiness purpose for not more than 14 days in a calendar year.

Action

The TRC voted to retain this exemption. The TRC studied this issue at its July and October 2006 meetings and recommended draft legislation "Sales and Use Tax Exemptions for Vehicles, Boats, Boat Trailers, or Outboard Motors Not Registered in the State."

USE OF VEHICLES USED IN SPORTING EVENTS – SALES AND USE TAX EXEMPTION

Background

The TRC reviewed the sales and use tax exemption for the lease or use of a vehicle issued a temporary sports event registration certificate. As part of its review, the TRC found that this exemption was created to allow automobile dealers to lease new vehicles at a discounted rate to a temporary sporting event, such as the 2002 Winter Olympic Games, the Goodwill Games, or bowling and golf tournaments, exclusively for the duration of the event for a period not to exceed 180 days. This exemption allows

UTAH TAX REVIEW COMMISSION

such transactions to take place without making them subject to the sales and use tax. The TRC also found that during the last 12 months only one motor vehicle dealer utilized this exemption for a single sporting event involving fewer than 50 vehicles.

Action

The TRC voted to repeal this exemption to the sales and use tax. The TRC studied this issue at its September and October 2006 meetings and recommended draft legislation "Registration and Taxation of Vehicles Used for a Sports Event."

OTHER STUDIES

Property Brought into the State by a Nonresident – Sales and Use Tax Exemption

The TRC reviewed the sales and use tax exemption for property brought into the state by a nonresident for personal use or enjoyment. The purpose of this exemption is to simplify administration because it would be difficult for the Utah State Tax Commission to identify transactions and establish a reporting mechanism for nonresidents who do not work in the state. The TRC voted to retain this sales and use tax exemption. The TRC studied this issue at its July 2006 meeting but did not recommend legislation.

Property Taxes on Business Personal Property

During the 2006 General Session, the Legislature enacted H.J.R. 1 "Resolution Regarding Property Tax on Personal Property" and H.B. 338 "Property Tax Exemption for Business Personal Property." The TRC reviewed some of the implementation and administrative aspects of this legislation. Among other issues, the TRC reviewed an option that Salt Lake County offers to simplify taxpayer compliance with the property tax on personal property owned by a business. Under this option, a taxpayer may elect to either declare that the value of the taxpayer's property is below a certain threshold amount and pay the property tax on that threshold amount or make an accounting of the taxpayer's personal property and pay the property tax based on actual value. The TRC studied

this issue at its May and July 2006 meetings but did not recommend legislation.

Reporting of Sales Price in Real Property Transactions

Thirty-five states require the public disclosure of sales price in real property transactions. Sales price information is used by the professional appraisal profession and property tax administrators in appraising the fair market value of property. The Utah Legislature has considered, but never enacted, a sales price disclosure law. The TRC considered this issue at its October 2006 meeting but did not recommend Legislation.

Sales by and to the Heber Valley Historic Railroad Authority – Sales and Use Tax Exemption

The Heber Valley Historic Railroad Authority is a quasi-state agency whose board is appointed by the governor. It operates an historic railway in Heber County. Sales to and by the authority are exempt from the sales and use tax. The TRC received testimony from the authority regarding how this exemption helps it remain financially solvent. The TRC voted to retain this sales and use tax exemption. The TRC considered this issue at its October 2006 meeting but did not recommend legislation.

UTAH TECHNOLOGY COMMISSION

Membership

Sen. Beverly Ann Evans, Senate Chair (until 11/1/06)
Rep. John Dougall, House Chair
Sen. Karen Hale
Sen. David L. Thomas
Rep. David Clark
Rep. Brad L. Dee
Rep. Neal B. Hendrickson
Rep. David Litvack
Mr. Daniel J. Becker
Mr. J. Stephen Fletcher
Mr. Jason Perry
Mr. Richard Siddoway
Dr. Gary S. Wixom

Staff

Richard C. North, Policy Analyst
Christopher R. Parker, Associate General Counsel
Tracey Fredman, Legislative Secretary

OVERVIEW

The Utah Technology Commission was established in 2003 by the Utah Legislature to study, coordinate, and promote the development of technology policy and budgets. The Utah Technology Commission replaces the Utah Information Technology Commission created in 1994. The Commission has authority to study any technology issues and practices in all areas of state government including the legislative, executive, and judicial branches, as well as the education community.

The Utah Technology Industry Council was also created to jointly meet with the Commission and present assessments and recommendations regarding Utah's private sector technology industries. Together, the Commission and Council review and study technology issues that affect the public and private sectors in Utah.

BIOTECHNOLOGY FOUR-YEAR DEGREE PROGRAM

Background

Salt Lake Community College, via a U.S. Department of Labor grant, created a two-year degree program to train biotechnology workers and place them in an internship with local biotechnology companies. The program also allows interested high school students to enroll.

The program has received national awards and is considered a model for other colleges and universities. At issue is extending the program to offer a four-year degree. Salt Lake Community College and Utah Valley State College have signed a memorandum of agreement to offer the program if funding is provided by the Legislature.

Action

The Commission considered this issue at its October 2006 meeting but did not recommend legislation.

BROADBAND CONNECTIVITY - RESIDENTIAL

Background

UTOPIA (Utah Telecommunications Open Infrastructure Agency) was created in 2002 to provide ultra-highspeed, broadband Internet connectivity to the 18 cities that formed it. It is an interlocal-governmental local agency that serves approximately one-third of Utah's population.

At issue is extending UTOPIA type connectivity to other Utah cities and unincorporated areas of the county. Local governmental entities can apply for membership but must be willing to pay for the service.

Action

The Commission considered this issue at its November 2006 meeting but did not recommend legislation.

BROADBAND CONNECTIVITY - WOMEN, INFANTS, AND CHILDREN PROGRAM

Background

WIC (Women, Infants, and Children program) is designed to provide basic health and nutrition benefits for low

UTAH TECHNOLOGY COMMISSION

income families with children up to the age of five. WIC is administered through 51 local clinics and is fully funded by the federal government's Food and Nutrition Service, U.S. Department of Agriculture.

The Commission discussed broadband connectivity of the 51 state sites for the delivery of WIC benefits. Research indicates the sites are not connected because software is windows-based rather than web-based and the cost of broadband connectivity is prohibitive. Work is in progress to correct the software issue but costs of integrating state and local government networks have not been resolved. Local government would be responsible for upgrading to broadband because the program is community-based rather than state.

Action

The Commission considered this issue at its October 2006 meeting but did not recommend legislation.

INFORMATION TECHNOLOGY AGENCY CONSOLIDATION

Background

Two years ago the Legislature authorized the consolidation of all state information technology assets and personnel. A new state agency, the Department of Technology Services, was created to administer the delivery of all information technology services.

Per statute, the executive director of the Department of Technology Services reported to the Commission that the consolidation has taken place successfully and the agency is now providing statewide information technology services. The agency will provide an annual progress report on the delivery of information technology services to the commission.

Action

The Commission considered this issue at its October 2006 meeting but did not recommend legislation.

OTHER STUDIES

One-Stop Electronic Business Application

A demonstration of the web-based business application process was provided to the Commission with statistics for its use. The Commission discussed this issue at its November 2006 meeting.

Phishing

Illegally soliciting personal information via email for criminal purposes is known as phishing. The Commission heard from both public and private entities regarding how widespread phishing has become, how difficult it is to block, and what efforts could be made to reduce this practice. The Commission discussed this issue at its October 2006 meeting.

State Science Camp

The State Science Camp program is offered through a variety of venues such as public and private colleges and universities as well as entities such as Clark Planetarium and the Utah Museum of Natural History. It is designed to expose high school students and others to possible careers and how to obtain the training for those professions. The Commission discussed this issue at its October 2006 meeting.

WATER ISSUES TASK FORCE

Membership

Sen. Peter C. Knudson, Senate Chair
Rep. David Ure, House Chair
Sen. Patrice M. Arent
Sen. Mike Dmitrich
Sen. Beverly Ann Evans (until 11/1/06)
Sen. Thomas V. Hatch (until 11/8/06)
Sen. Dennis E. Stowell (from 11/15/06)
Sen. Kevin T. VanTassel (from 11/15/06)
Rep. David N. Cox
Rep. Margaret Dayton
Rep. Ben C. Ferry
Rep. James R. Gowans
Rep. Brad King
Rep. Michael T. Morley
Rep. Patrick L. Painter

Staff

J Brian Allred, Policy Analyst
Mark B. Steinagel, Policy Analyst
Christopher R. Parker, Associate General Counsel
Emily R. Brown, Associate General Counsel
Joy L. Miller, Legislative Secretary

OVERVIEW

Water issues have become more important to the state due to rapid population growth and increased water use. Historical water use practices are no longer sustainable because water resources are becoming more scarce. In many areas of the state, more water rights have been allocated than can be supported within the local water system.

The original Water Issues Task Force was a two-year Task Force created in the 2004 General Session to address the following six water issues: (1) groundwater management; (2) water right enforcement and penalties; (3) title for water rights; (4) administration of groundwater and surface water; (5) instream flow; and (6) water conservation and reuse, including the recycling of treated municipal effluent. The Task Force addressed nearly all the issues assigned to it, but certain issues remained

when the Task Force expired in November 2005. In order to address remaining water issues, the Legislature created another Water Issues Task Force.

The Water Issues Task Force was a one-year task force created in the 2006 General Session to address the following water issues: (1) instream flow, (2) water conservation, (3) issues relating to financing water resource development, and (4) any other issue that affects the state's development or management of water. The Task Force was repealed November 30, 2006.

INSTREAM FLOW

Background

Water rights holders in Utah are required to put their water to beneficial use to maintain their right to use the water. The theory of beneficial use has developed over time in statute, caselaw, and administrative practice. One of the long-held principles of beneficial use is that water flowing in a streambed is water not beneficially used.

Various water users would like to acquire water rights that leave water in the streambed for purposes that have typically not been considered a beneficial use including recreation, water quality, and ecology. The Task Force considered two proposals during 2006: instream flow rights to protect trout habitat, and instream flow to preserve water quality.

Action

The Task Force considered this issue at its June 9, July 13, August 4, August 31, September 14, September 28, October 11, November 2, and November 16, 2006 meetings and recommended draft legislation "Instream Flow to Protect Trout Habitat" and "Instream Flow to Preserve Water Quality."

NONPROFIT CORPORATION AMENDMENTS

Background

The Task Force studied various concerns regarding nonprofit corporation provisions that affect water companies including: (1) provisions that require one vote

WATER ISSUES TASK FORCE

per shareholder, regardless of the number of shares the shareholder owns; and (2) procedures to manage a nonprofit corporation when it has dissolved.

Action

The Task Force considered this issue at its September 28, October 11, and November 2, 2006 meetings and recommended draft legislation "Nonprofit Corporation Amendments."

WATER CONSERVATION

Background

While the amount of water available for use in Utah has changed little over the last century, Utah's population has increased from 276,749 to 2,233,169. The increased population has subsequently increased the pressure on developed water resources. Additional development of water resources will meet a significant portion of the state's future water needs, but the remainder of the state's water needs will also be met through water conservation practices.

The Task Force considered various policies to promote water conservation including: (1) prohibiting local landscaping ordinances from limiting water-wise landscapes, (2) creating a state Office of Water Conservation, (3) implementing a state building water conservation program, (4) funding and implementing water conservation matching grants to municipalities, and (5) establishing a commemorative week entitled State Water Week.

Action

The Task Force considered this issue at its July 13, October 25, November 2, and November 16, 2006 meetings and recommended draft legislation "State Declaration of State Water Week."

OTHER STUDIES

Notice of Water Conveyance Easements

The Task Force discussed whether to permit the holder of a prescriptive easement for water conveyance to file a

notice describing the easement with the county recorder. The Task Force considered this issue at its November 16, 2006 meeting and recommended draft legislation "Water Conveyance Easements."

Share Assessment Act

Shareholders within a nonprofit water corporation are required to pay share assessments that enable the corporation to meet its purposes. Water company shares need to be treated differently than shares in other nonprofit corporations in certain instances. In addition, Utah's current share assessment provisions need to be updated. The Task Force considered this issue at its November 2 and November 16, 2006 meetings and recommended draft legislation "Share Assessment Act."

Use of State Engineer Fees

The Legislature passed a provision in 2000 that requires water users to file a ROC (Report of Conveyance) when a change application is approved. A fee of \$25 is charged for each ROC that is filed, but the statute only allows the fee to be used for the cost of publishing a notice for a water rights application or change application, rather than for the State Engineer's staff costs to review the applications. The Task Force considered this issue at its October 11, 2006 meeting and recommended draft legislation "Use of State Engineer Fees."

WORKFORCE SERVICES AND COMMUNITY AND ECONOMIC DEVELOPMENT INTERIM COMMITTEE

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Staff

Arthur L. Hunsaker, Policy Analyst
James L. Wilson, Associate General Counsel
Glenda S. Whitney, Legislative Secretary

OVERVIEW

The Legislature created the Department of Workforce Services in 1997 in order to make welfare and job training programs of Utah more efficient. The following programs were consolidated into this new department: Quality Control and the Office of Family Support from the Department of Human Services; the Department of Employment Security, Job Training and the Office of Child Care from the Department of Community and Economic Development; and the Turning Point Program from the State Office of Education.

During the 2001 Interim, the Committee's area of responsibility was expanded by Legislative Management to include the Department of Community and Economic Development. In 2005, the Legislature approved legislation transferring the Department's economic development and tourism components from the Department to a newly created Governor's Office of Economic Development. The Department of Community and Economic Development was then renamed the Department of Community and Culture.

MISUSE OF SOCIAL SECURITY NUMBERS

Background

Sen. Carlene Walker, the Department of Workforce Services, and the Attorney General expressed concern with the misuse of social security numbers uncovered when apparent victims applied for state benefits at the Department. Efforts to inform affected citizens or to alert law enforcement have been stymied, in part, by state and federal privacy laws crafted to protect personal information.

The Committee asked the various parties to work on draft legislation that would allow disclosure of the misuse of social security numbers to affected persons and appropriate law enforcement agencies and urge Congress to take steps to address the problem of identity theft on the federal level.

Action

The Committee considered this issue at its September and November 2006 meetings and recommended draft legislation "Workforce Services - Reporting Misuse of Personal Identifying Information" and "Resolution Urging Congress to Address Social Security Number Identity Theft."

RURAL ECONOMIC DEVELOPMENT AND THE INDUSTRIAL ASSISTANCE FUND

Background

The purpose of the Industrial Assistance Fund, in part, is to foster development of industry in rural Utah. Currently, up to 50 percent of the fund's fiscal year balance is available as loans, grants, or other financial assistance for expenses related to the establishment, relocation, or development of industry in economically disadvantaged rural areas.

The Committee studied ways in which the structure of the fund could be modified to more effectively target these rural areas. The Governor's Office of Economic Development worked with the Committee to develop a

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rural fast track proposal mandating 20 percent of the Industrial Assistance Fund's fiscal year balance be used for rural economic development.

Action

The Committee considered this issue at its May, July, September, October, and November 2006 meetings and recommended draft legislation "Industrial Assistance Fund Amendments - Rural Fast Track Program."

TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF) REAUTHORIZATION

Background

In 2006, Congress reauthorized the TANF program. However, many tougher standards, including higher work participation rates, must now be met for states to receive federal TANF monies.

The Department of Workforce Services discussed with the Committee potential changes to the Family Employment Program, including eligibility requirements for receiving cash assistance benefits, to address the higher federal standards.

Action

The Committee considered this issue at its September 2006 meeting and recommended draft legislation "Family Employment Program Amendments."

OTHER STUDIES

Electronic Filing of Contribution Reports

The Unemployment Insurance Division pointed out the increased filing of unemployment contributions by electronic means and explained the need for rules to govern electronic filings.

The Division presented proposed legislation in the September meeting, but the Committee requested that the Division solicit comment from the business community to ensure that the Division had a full assessment of the draft legislation's impact on businesses.

Minimal comment was received by the Division. The Committee discussed this issue at its October 2006 meeting and recommended draft legislation "Employment Security Act Amendments."

Employment Support Act - Technical Changes

The Department of Workforce Services made note of some archaic language in the Employment Support Act, including a reference to the Utah Tomorrow Strategic Planning Committee, an entity that no longer exists. The Committee reviewed the issue at its November 2006 meeting and recommended legislation "Employment Support Act - Technical Changes."

Unemployment Compensation - Social Security Offset

In 2004, the Legislature provided that persons collecting Social Security who still work, but then become unemployed, could collect unemployment benefits offset by 50 percent of their Social Security benefit. Representatives of the Department of Workforce Services recommended that the 50 percent offset be extended for four years, and that the offset be funded out of federal Reed Act monies. This recommendation passed as legislation in the 2005 General Session.

In May 2006, the Department of Labor expressed concern that the legislation provided for the funding of the offset using federal Reed Act monies, and stated that offset funding would have to come from the employer. The Department shared this communication with the Committee and recommended that the statute be amended to remove the Reed Act funding provision. The Committee discussed this issue at its September 2006 meeting and recommended legislation "Unemployment Compensation - Social Security Offset."

Utah Athletic Foundation Resolution

The Utah Athletic Foundation was created to manage the disposition of lands purchased as venues for the 2002 Olympic Winter Games. The Foundation has concluded that it is in the best interests of the state to sell some of these lands, but can only do so if approved by the Legislature.

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The Committee discussed this issue at its October 2006 meeting and recommended legislation "Utah Athletic Foundation Resolution."

Workforce Services' Work Experience or Training Programs

Representatives of the Department of Workforce Services proposed that the words "client" or "applicant" should replace "customer" when referring to those individuals who are directed to participate in a work experience or training program and receive workers' compensation medical benefits. The Committee discussed this issue at its November 2006 meeting and passed legislation "Workforce Services' Work Experience or Training Programs."

