

2007 LEGISLATIVE INTERIM REPORT

A report to the 57th Legislature on recommended
legislation and studies from the 2007 Legislative Interim
Committees



OFFICE OF LEGISLATIVE RESEARCH AND GENERAL COUNSEL

Utah State Legislature

2007 LEGISLATIVE INTERIM REPORT

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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>.

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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.

BUSINESS AND LABOR INTERIM COMMITTEE

Captive Insurance Company Amendments, H.B. 55 -

This bill addresses fee amounts that are nonlapsing; modifies and enacts definitions; makes changes related to a captive insurance company formed as a limited liability company; addresses applicable law; addresses the applicability of reorganization, receivership, and injunction statutes; addresses permissive areas of insurance; addresses sponsored captive insurance companies; addresses reporting to the commissioner; enacts the Special Purpose Financial Captive Insurance Company Act including: defining terms; outlining applicable law; imposing reporting requirements; imposing requirements related to books and records; providing for a transition to the new certificate of authority; establishing a process to issue a certificate of authority; addressing revocation, suspension, amendment, or modification of a certificate of authority; requiring commissioner approval of certain actions; addressing sponsored captives; addressing the formation, assets, investments, and securities of a special purpose financial captive insurance company; addressing reinsurance; and providing for enforcement and delinquency; and making technical and conforming amendments (page 27).

Consumer Sales Practice Act Amendments, S.B. 30 -

This bill subjects a supplier to a penalty under Title 13, Chapter 11, Utah Consumer Sales Practices Act, if the supplier misrepresents the geographical location of the supplier's business; and makes technical changes.

Disclosure of Information by the Department of Workforce Services, H.B. 64 -

This bill authorizes the Unemployment Insurance Division to disclose information to the Division of Occupations and Professional Licensing for certain purposes; updates language related to industry codes or classifications; and makes technical and conforming changes (page 26).

Impact of Administrative Rules on Small Businesses, H.B. 53 -

This bill requires a state agency to consider methods to minimize the impact of an agency's proposed administrative rule on small businesses; requires a state agency, as part of a five-year review of its administrative rules, to explain in writing how the economic impact of a rule on small businesses may be minimized by the agency's intent to continue, amend, or repeal the rule; changes the time allowed for a party to challenge an agency rule by judicial review from six months to one year from the date of the final agency rulemaking action; and makes technical corrections regarding cross references.

Legislative Review of Health Insurance Mandates, H.B. 60 -

This bill modifies the process by which the Business and Labor Interim Committee reviews health insurance mandates; removes provisions related to the legislative auditor general assisting with a review; requires the Department of Insurance to take certain actions in relationship to a review; and makes technical and conforming amendments (page 27).

Repeal Provisions Related to Assumption of Indebtedness on Residential Real Property, H.B. 56 -

This bill repeals provisions related to assumption of indebtedness on residential real property; and makes technical and conforming changes.

Trustees Sale - Process for Excess Proceeds, S.B. 27 -

This bill lengthens the period of time during which a person may contest another person's claim against the excess proceeds from a trustee's sale of real property from 20 days to 45 days; and makes technical changes.

Utah Business Resource Centers Act, H.B. 37 -

This bill enacts the Utah Business Resource Centers Act; provides that the Governor's Office of Economic Development shall establish business resource centers as one-stop resource and assistance centers to provide business support, education, sources of funding, training, and networking to Utah businesses; provides for the composition and

SUMMARY OF RECOMMENDED LEGISLATION

administration of the business resource centers; provides duties and responsibilities for the centers; and creates the Utah Business Resource Centers Executive Board and allows the executive board to appoint an advisory board. This bill appropriates as an ongoing appropriation subject to future budget constraints, \$2,500,000 from the General Fund for fiscal year 2008-09 to the Governor's Office of Economic Development (page 27).

CHILD WELFARE LEGISLATIVE OVERSIGHT PANEL

Child Abuse and Neglect Registry - Management and Licensing Information Systems Amendments, S.B. 17-

This bill provides that reports that are found to be without merit and false may not be included in the Management Information System; provides that contract providers for the Division of Child and Family Services and designated court clerks may only have access to reports on the Management Information System that are substantiated or supported; places limitations on the use of certain reports on the Management Information System as evidence in proceedings for child custody, a protection order, or divorce; requires that, when the division or a court makes a finding that a report is without merit, the division or the court must also determine whether the report is false; describes how long a report remains on the Management Information System; provides that proceedings for judicial review of a final agency action relating to a report on the Management Information System are closed to the public; grants rulemaking authority to the Judicial Council to ensure the confidentiality of the proceedings described above; and makes technical changes (page 30).

Child Welfare Amendments, H.B. 36 - This bill defines terms; provides that the requirement that a child in state custody may not be placed with a prospective foster or adoptive parent until the Department of Human Services conducts a comprehensive background check, does not prohibit the Division of Child and Family Services or a court placing the child with a noncustodial parent, or with a relative, pending further investigation of the appropriateness of the placement; provides exceptions to certain background check requirements if the exceptions are permitted by federal law or rule; modifies background

check requirements for prospective foster or adoptive placements; clarifies the rulemaking authority of the Office of Licensing, within the Department of Human Services; provides that priority shall be given for placing a child with a noncustodial parent, relative, or friend, over placing the child in a shelter; modifies provisions relating to the placement and custody of a child who has been removed from the custody of the child's parents; provides that, in order to be considered a "willing relative or friend" for purposes of determining placement of a child following a shelter care hearing, the friend or relative must be willing to cooperate with the child's permanency goal; describes the limited background check or investigation that must be completed before a child in state custody is placed with a noncustodial parent or relative; and makes technical changes (page 30).

Child Welfare Definitions, H.B. 31 - This bill eliminates overlapping portions of definitions; modifies definitions; adds new definitions; simplifies and consolidates definitions; establishes consistency between definitions in the Child and Family Services chapter of the Utah Human Services Code and the Juvenile Court Act of 1996; modifies portions of the Child and Family Services chapter of the Utah Human Services Code and the Juvenile Court Act of 1996 to conform with the changes to, and addition of, definitions in this bill; and makes technical changes (page 30).

Waivers of Immunity - Exceptions, H.B. 33 - This bill provides that the immunity of a person, official, or institution who participates or assists in a child protection matter does not apply if the person intentionally, willfully, or knowingly engages in certain misconduct; provides that the immunity of a government employee during the performance of an employee's duties, within the scope of employment, or under color of authority does not apply if the employee intentionally or knowingly engages in certain misconduct; and makes technical changes (page 30).

EDUCATION INTERIM COMMITTEE

Charter and Online Schools - Participation in Extracurricular Activities, S.B. 36 - This bill provides that

SUMMARY OF RECOMMENDED LEGISLATION

a charter school student is eligible to participate in extracurricular activities not offered by the student's charter school at: the public school within whose boundaries the student's custodial parent or legal guardian resides; or a public school that is open for the enrollment of nonresident students; provides that a student who participates in an online education program sponsored or supported by a school district or charter school is eligible to participate in extracurricular activities at: the public school within whose boundaries the student's custodial parent or legal guardian resides; or a public school that is open for the enrollment of nonresident students; and allows a board of education of a school district to establish a fee for the participation of a charter school student or online education student in an extracurricular activity at a district school (page 34).

Differentiated Pay for Teachers, S.B. 35 - This bill directs the Legislature to annually appropriate money for market incentives in the form of additional compensation for mathematics and science teachers who fill positions for which there is a critical shortage of qualified personnel; requires the State Board of Education to conduct an annual survey to identify mathematics and science positions for which there is a shortage of qualified personnel; and requires a school district or charter school to provide a salary supplement of \$5,000 to a teacher who fills a mathematics or science position for which there is a critical shortage of qualified personnel. This bill appropriates as an ongoing appropriation subject to future budget constraints, \$7,000,000 from the Uniform School fund for fiscal year 2008-09 (page 38).

Educator Relicensure Initiative, H.B. 68 - This bill provides for the reinstatement of an educator's license subject to payment of a licensing fee; successful completion of a criminal background check; and verification that the applicant's previous license had not been revoked, suspended, or surrendered; and requires the principal of a school at which an educator whose license is reinstated is employed to create, in consultation with the educator, a professional development plan for the educator (page 38).

Extended School Year Incentive, S.B. 41 - This bill creates the Extended School Year Incentive Program to provide grants to school districts to pay for costs relating to converting to an extended school year schedule; requires the State Board of Education to solicit grant proposals from school districts and award grants on a competitive basis; and directs the State Board of Education, in selecting grant recipients, to consider certain benefits that may be achieved by a school district's proposed conversion to an extended school year schedule; and the unique circumstances of small, rural school districts. This bill appropriates for fiscal year 2008-09 only, \$32,000,000 from the Uniform School Fund (page 38).

Extended Year for Special Educators, H.B. 67 - This bill directs the Legislature to annually appropriate money for stipends for special educators in the amount of \$200 per day for up to ten additional days of work; and requires special educators to schedule the additional days of work before or after the school year; and use the additional days of work to perform duties related to the IEP process (page 38).

Home School and Extra Curricular Activities Amendments, S.B. 37 - This bill requires a local school board to issue a certificate excusing a minor from attendance within 30 days of receipt of a signed affidavit stating that the minor will attend a home school; provides that a minor who is enrolled in a private school or a home school shall be eligible to participate in extracurricular activities at a public school; provides that, with certain exceptions, a private school or a home school student may only participate in extracurricular activities at the public school within whose boundaries the student's custodial parent or legal guardian resides or a public school from which the student withdrew; and provides that, with certain exceptions, private school students and home school students shall be eligible for extracurricular activities at a public school consistent with eligibility standards for fully enrolled public school students (page 34).

SUMMARY OF RECOMMENDED LEGISLATION

Mathematics, Science, and Technology Education Task Force, S.B. 39 - This bill creates a Mathematics, Science, and Technology Education Task Force; designates task force membership and staffing; requires the task force to first study issues relating to mathematics education, including mathematics standards, the state's mathematics core curriculum, and articulation of mathematics education between public education and higher education; requires the task force, as time permits, to study issues relating to science and technology education; and requires the task force to make a report to the Education Interim Committee. This bill appropriates \$15,225 to the Senate; and \$21,315 to the House of Representatives (page 33).

Paraeducator to Teacher Scholarship Program, H.B. 66 - This bill creates the Paraeducator to Teacher Scholarship Program which provides scholarships of up to \$10,000 to paraeducators employed by school districts and charter schools who are pursuing an associate's degree or bachelor's degree to become a licensed teacher; provides that scholarship monies may only be used for tuition costs for an associate's degree program that fulfills credit requirements for the first two years of a bachelor's degree program leading to teacher licensure; or the first two years of a bachelor's degree program leading to teacher licensure; and directs the State Board of Education to establish a committee to select scholarship recipients; and make rules to administer the Paraeducator to Teacher Scholarship Program. This bill appropriates as an ongoing appropriation, \$1,000,000 from the Uniform School Fund for fiscal year 2008-09 (page 38).

Resolution Encouraging the Advertisement of Alternative Routes to Teaching, S.J.R. 1 - This resolution encourages the State Board of Education, superintendent of public instruction, school districts, charter schools, and institutions of higher education to advertise alternative routes to teaching, including placing prominent, simple information on appropriate websites; requests that the superintendent of public instruction shall, in 2008, 2009, and 2010, annually send a letter to school district superintendents and principals to encourage the training of administrators about the alternative routes to

teacher licensing, including the competency-based licensing program; and directs a copy of the resolution be sent to various parties (page 34).

Task Force to Study Performance Incentives for Teachers, H.B. 81 - This bill establishes the membership of the task force and provides for compensation of legislative members; outlines the duties of the task force; provides for staffing of the task force; and requires the task force to give a final report to the Education Interim Committee. This bill appropriates \$36,540 from the General Fund for fiscal year 2007-08 only (page 37).

EQUALIZATION TASK FORCE

Equalization of School Capital Outlay Funding, S.B. 48 - This bill defines terms; increases the property tax rate a school district may impose to receive a distribution from the Capital Outlay Foundation Program from .0024 per dollar of taxable value to .0030 per dollar of taxable value; appropriates \$52,858,000 to the State Board of Education to be distributed in accordance with the Capital Outlay Foundation Program; and makes technical changes. This bill appropriates as an ongoing appropriation subject to future budget constraints, \$52,858,000 from the Uniform School Fund for fiscal year 2009-10, to the State Board of Education (page 40).

New School District Amendments, S.B. 49 - This bill extends the time frame within which a new school district may begin to provide educational services if a statewide equalization funding bill has not been approved by the Legislature and governor; and makes technical changes (page 40).

GOVERNMENT COMPETITION AND PRIVATIZATION SUBCOMMITTEE

Accounting for Competitive Activities of Local Entities, S.B. 45 - This bill defines terms; requires a county, city, or local district to account for a competitive activity in a separate fund or in a program budget; requires annual reviews to determine whether an activity is a

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competitive activity; and allows for the withholding of state funds for violations (page 42).

Anti-flow Control Amendments, S.B. 46 - This bill defines terms; prohibits a public entity from requiring a private waste management service for commercial solid waste to use a specific waste facility unless the public entity holds a public hearing; and finds that private waste management service is inadequate or endangering the public health; and makes technical changes (page 42).

Government Competition and Privatization Act, H.B. 76 - This bill repeals provisions related to the Privatization Policy Board; defines terms; creates the State Government Competition and Privatization Commission; requires the creation of one or more local government competition and privatization commissions; establishes the duties of the state and local commissions, including granting rulemaking authority to the state commission; imposes requirements for when a government entity may compete with a private enterprise; addresses issues specific to an institution of higher education; addresses privatization; and provides for enforcement including exempting administrative actions from the Administrative Procedures Act; providing a complaint process; providing for injunctions; and providing for enforcement (page 41).

Inventory and Review of Commercial Activities, H.B. 75 - This bill defines terms; creates the Government Competition and Privatization Council; establishes the duties of the council, including creating an inventory of activities of government entities; requires the governor to review certain commercial activities; and creates conforming processes (page 41).

Local Government Bonding Act - Public Hearings, S.B. 32 - This bill addresses a requirement that a local political subdivision conduct a public hearing to issue a bond; addresses the scope of the public hearing to include potential economic impacts on the private sector; and makes technical changes (page 42).

GOVERNMENT OPERATIONS INTERIM COMMITTEE

Access to Voter Date of Birth Records, H.B. 25 - This bill adds the date of birth from a voter registration record to the list of records classified as private and classifies the voter's age as a public record (page 45).

Allowance of Polling Places for Early Voting, H.B. 43 - This bill amends early voting polling place location provisions to permit the election officer to use a nongovernment building or office for a polling place if there is no government building or office available that meets certain requirements; and makes technical amendments (page 43).

Campaign Finance Disclosure Revisions, S.B. 21 - This bill requires that election-related financial reports that were previously due on September 15, are due by August 31; requires that reports due on August 31 be filed by every candidate, rather than only by those that are opposed; removes outdated filing guidelines; requires that election-related financial reports that were previously due seven days before a political convention, are due by May 15; requires that reports due before a political convention or primary election be filed by all candidates, rather than only by those candidates that are opposed in the political convention or primary election; requires that beginning with the 2008 regular general election, a former candidate for state office, legislative office, or school board office must file an annual summary report by January 5 of each year if the former candidate has not filed a statement of dissolution of the former candidate's campaign account; requires that political action committees be required to file a statement of organization after receiving \$50 or more in donations, rather than \$750, in order to be consistent with the threshold for political issues committees; removes requirements for corporations to file reports on March 1 and June 1 in relation to donations to political issues committees; removes requirements for political issues committees to file reports on March 1 and June 1; adds a requirement for political issues committees to file a financial report at the time a verified referendum packet is submitted; requires a state school board office candidate

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to file a May 15 financial report; and makes technical changes (page 43).

Candidate Residency Requirements, S.B. 13 - This bill modifies provisions of the Election Code by establishing residency requirements for state and local boards of education (page 43).

Declaration of Candidacy Revisions, H.B. 44 - This bill modifies election provisions in Title 17B, Limited Purpose Entities - Local Districts and changes the dates for filing a declaration of candidacy for local district board positions to be consistent with the filing dates required for municipal office candidates (page 43).

Election Law Modifications, S.B. 12 - This bill consolidates provisions for calculating time when dates of interest fall on a Saturday, Sunday, or legal holiday; consolidates the date for the lieutenant governor's certification of candidates, ballot measures, and other matters to a single date; modifies the date for circulation of the voter information pamphlet to accommodate the early voting period; removes outdated ballot formatting requirements; provides alternative deadlines for submissions to the voter information pamphlet to accommodate voter information pamphlets issued for elections other than the regular general election; modifies language to clarify differences between a statewide voter information pamphlet and a local voter information pamphlet; modifies inaccurate references to reporting years for campaign finance reports; clarifies certain definitions; and makes technical changes (page 43).

Lieutenant Governor Powers - Administration of Oaths, H.B. 27 - This bill modifies the State Officers and Employees title by amending powers of the lieutenant governor. This bill allows the lieutenant governor and designated employees to administer oaths (page 43).

Notary Public Revisions, H.B. 26 - This bill amends the definition of "satisfactory evidence of identity" to provide that personal identification issued by another nation must be a passport and that a driving privilege card is not satisfactory evidence of identity; eliminates requirements

for a notary's address to appear on the notary's seal; provides that a notary's change of address must be given to the lieutenant governor; and makes technical changes (page 46).

Recodification of Title 63 State Affairs in General, H.B. 63 - This bill renumbers and moves almost all chapters in Title 63 to different or new titles, chapters, and parts of the code; creates new titles into which many chapters of Title 63 are renumbered and moved; renumbers and moves several other chapters to related titles of the code; amends cross-references to coincide with renumbering of sections; repeals certain redundant provisions; and makes technical changes (page 44).

Revision to Polling Requirements, S.B. 23 - This bill repeals the requirement that the local clerk or recorder transmit the pollbook (the record of names of voters) to the county clerk after the canvass of a November municipal election, local district election, bond election, or special election (page 43).

Timing of Ballot Items, S.B. 22 - This bill requires that, unless otherwise specifically provided for by law, all ballot questions be submitted to the elections officer at least 60 days before the date of the election (page 43).

HEALTH AND HUMAN SERVICES INTERIM COMMITTEE

Adoption and Termination of Parental Rights, H.B. 46 - This bill defines terms; provides that a child-placing agency has a direct, tangible, and legitimate interest in the vital records of a child that has been placed with the agency pending finalization of an adoption; modifies and clarifies the definition of "adoption related expenses" that a person may pay or accept without violating the crime of "sale of a child"; amends the offense of "sale of a child" to make it a third degree felony to offer to sell or dispose of a child, or to give, or attempt to give, money or another thing of value to a person with the intent to induce the person to sell or dispose of a child; makes incarceration for a felony a factor that a court must consider in determining whether a parent is unfit or has neglected a child, regardless of whether the child is in the custody of

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the Division of Child and Family Services; modifies requirements relating to taking consents and relinquishments for adoption; clarifies which code provisions must be complied with in order for a court to waive the requirement that adoptive parents and the child to be adopted appear before the court prior to entry of a final decree of adoption; requires a child-placing agency and a petitioner for adoption to comply with the Indian Child Welfare Act in an adoption proceeding involving an "Indian child"; and makes technical changes (page 53).

Amendments to Utah Digital Health Service Commission Act, H.B. 24 - This bill renames the commission the "Utah Digital Health Service Committee"; amends the appointment of the members; requires the chairperson of the committee to report to the executive director of the Department of Health; and amends the duties of the committee, including requires the committee to advise and make recommendations to the department concerning patient privacy related policies; and place an emphasis on helping rural health care providers and special populations (page 58).

Cancer Screening and Mortality Reduction Program, H.B. 17 - This bill expands the Department of Health's breast cancer mortality reduction program to include other cancers; identifies the program as the "Cancer Screening and Mortality Reduction Program"; and deletes a reference to a mammogram quality assurance advisory committee which no longer exists. This bill appropriates as an ongoing appropriation subject to future budget constraints, \$2,300,000 from the General Fund for fiscal year 2008-09 to the Department of Health (page 54).

Child Welfare Amendments, H.B. 36 - This bill defines terms; provides that the requirement that a child in state custody may not be placed with a prospective foster or adoptive parent until the Department of Human Services conducts a comprehensive background check, does not prohibit the Division of Child and Family Services or a court placing the child with a noncustodial parent, or with a relative, pending further investigation of the appropriateness of the placement; provides exceptions to certain background check requirements if the exceptions

are permitted by federal law or rule; modifies background check requirements for prospective foster or adoptive placements; clarifies the rulemaking authority of the Office of Licensing, within the Department of Human Services; provides that priority shall be given for placing a child with a noncustodial parent, relative, or friend, over placing the child in a shelter; modifies provisions relating to the placement and custody of a child who has been removed from the custody of the child's parents; provides that, in order to be considered a "willing relative or friend" for purposes of determining placement of a child following a shelter care hearing, the friend or relative must be willing to cooperate with the child's permanency goal; describes the limited background check or investigation that must be completed before a child in state custody is placed with a noncustodial parent or relative; and makes technical changes (page 54).

Child Welfare Definitions, H.B. 31 - This bill eliminates overlapping portions of definitions; modifies definitions; adds new definitions; simplifies and consolidates definitions; establishes consistency between definitions in the Child and Family Services chapter of the Utah Human Services Code and the Juvenile Court Act of 1996; modifies portions of the Child and Family Services chapter of the Utah Human Services Code and the Juvenile Court Act of 1996 to conform with the changes to, and addition of, definitions in this bill; and makes technical changes (page 54).

Control and Prevention of Sexually Transmitted Diseases, H.B. 15 - This bill requires the Department of Health and local health departments to provide information to the public and health care professionals about the health consequences of untreated sexually transmitted diseases; medical options for treatment of sexually transmitted diseases; and services and medical benefits that are available for treatment of sexually transmitted diseases. This bill appropriates as an ongoing appropriation subject to future budget constraints, \$350,000 from the General Fund for fiscal year 2007-08 to the Department of Health (page 55).

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Education and Outreach Regarding Substances Harmful During Pregnancy, H.B. 38 - This bill directs the Division of Substance Abuse and Mental Health, within the Department of Human Services, to conduct a public education and outreach program to inform pregnant women, and women who may become pregnant, of the risk of using substances that are harmful during pregnancy, of treatment available to avoid or stop the use or abuse of these substances, and legal protections pertaining to this treatment (page 56).

Resolution Supporting Obesity Awareness, S.C.R. 1 - This resolution designates January, February, and March 2008 as Obesity Awareness Months in the state; and urges healthcare suppliers, communities, businesses, and schools throughout the state to develop awareness campaigns and voluntary programs that focus on obesity and its prevention (page 57).

Smoking Ban in Motor Vehicle, S.B. 14 - This bill prohibits a person from smoking in a vehicle if a child that is less than five years of age is restrained or is required to be restrained in a child restraint device in the vehicle; provides that violating the smoking prohibition is an infraction and has a maximum fine of \$45; provides that a court may suspend the fine for a violation if the person proves that the person has enrolled in a smoking cessation program; and provides that enforcement of the smoking prohibition shall be only as a secondary action (page 57).

Standards for Exchange of Electronic Health Information, H.B. 47 - This bill authorizes the Department of Health to adopt standards for the secure exchange of electronic health information; defines terms; authorizes the department to require individuals who elect to participate in the exchange of electronic health information to use the standards adopted by the department; requires the department to report to the Legislature's Health and Human Services Interim Committee concerning the adoption of the standards for the secure exchange of electronic health information; and coordinates rulemaking authority between the Department of Health and the Insurance Department (page 54).

Supported Employment Services to a Person with a Disability, H.B. 45 - This bill establishes as an ongoing program the pilot program for provision of supported employment services, subject to a sunset provision; and makes technical changes (page 57).

HIGHER EDUCATION TASK FORCE

Utah College of Applied Technology - Governance and Operations, S.B. 42 - This bill modifies the powers and duties of the State Board of Regents relating to the Utah College of Applied Technology and its college campuses; requires Utah College of Applied Technology budget and capital facilities requests to be submitted to the State Board of Regents for review and discussion and to be accompanied by written findings; requires the promotion of certain partnerships for awarding degrees; modifies campus president appointment and compensation provisions; and requires the State Board of Regents to conduct certain studies (page 62).

JUDICIARY INTERIM COMMITTEE

Child and Family Protection, H.B. 23 - This bill defines terms; includes child abandonment as a type of child abuse; provides that a person who commits child abandonment, or encourages or causes another to commit child abandonment, or an enterprise that encourages, commands, or causes another to commit child abandonment is guilty of a felony of the third degree; or if the child abandonment results in serious physical injury to the child, or the person or enterprise receives any benefit as a result of the child abandonment, guilty of a felony of the second degree; provides that a court may order a person or enterprise to pay the costs of investigating and prosecuting a child abandonment case and the costs of securing a forfeiture provided for in this bill; provides that tangible or pecuniary benefits received from child abandonment are subject to criminal or civil forfeiture; and makes technical changes (page 66).

Exoneration and Innocence Assistance, S.B. 16 - This bill tolls the statute of limitations during a postconviction petition for DNA testing for exoneration; or

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petition claiming factual innocence; changes the current reference term "actually innocent" to "factually innocent" regarding postconviction DNA testing; establishes a process for a postconviction petition and hearing to determine factual innocence regarding a felony conviction, including defining factual innocence; grounds for filing a petition; grounds for presentation of evidence that may be considered by the court, including newly discovered evidence; right of the victims to attend the hearing; and appointment of pro bono counsel; provides that a petitioner who is convicted of a felony and is imprisoned, and is then found to be factually innocent, is entitled to financial assistance from the state for the period of imprisonment; provides that the financial assistance amount shall be the monetary equivalent of the average annual wage for a single wage earner in Utah for each year of imprisonment, for a maximum of 15 years of imprisonment; and provides that a petitioner found to be factually innocent shall receive two years' financial assistance in a lump sum, and the balance shall be paid out quarterly to the person from the Commission on Criminal and Juvenile Justice beginning no later than one year after the legislative appropriation of the funds is made and ending no later than ten years after the appropriation is made (page 66).

Expedited Parent-Time Enforcement, H.B. 22 - This bill converts the Expedited Parent-time Enforcement Program from a pilot program in the Third Judicial District to a statewide program (page 66).

Parent-time Amendments, H.B. 71 - This bill changes the following parent-time days from even to odd years July 4; Labor Day; Thanksgiving; and second portion of Christmas break; changes the following parent-time days from odd to even years Memorial Day; July 24; Halloween; and first portion of Christmas break; eliminates the following parent-time days Columbus Day; and Veteran's Day; allows for the election of an entire weekday by the noncustodial parent if school is not in session; and includes snow days, teacher development days, and other days when school is not in session in the definition of holidays (page 66).

LAW ENFORCEMENT AND CRIMINAL JUSTICE INTERIM COMMITTEE

Assault on a Peace Officer Penalty Amendments, H.B. 19 - This bill increases the penalty for committing a second or subsequent assault against a peace officer from a class A misdemeanor to a third degree felony; provides that the section amended in this bill does not affect the exercise of constitutional rights, including the right of free speech and the right of assembly; and provides a definition of "peace officer."

Controlled Substances and Paraphernalia, H.B. 12 - This bill specifies that a plea in abeyance for the offense of production or distribution of a controlled substance is considered to be a conviction for sentencing enhancement purposes; amends language regarding items used to ingest or inhale controlled substances so the language refers to all controlled substances, rather than specifically marijuana, cocaine, and hashish; clarifies that a person may be charged for an illegal drug or paraphernalia offense and may also be charged for a violation of any other section of the Controlled Substances Act or the Drug Paraphernalia Act; and makes technical changes.

Crime of Strangulation or Smothering, H.B. 65 - This bill amends the offense of aggravated assault to include the offenses of impeding a person's circulation by applying pressure to a person's neck or throat or impeding a person's normal breathing; and provides that these offenses of strangulation or smothering are third degree felonies.

Criminal Statute of Limitations Amendments, H.B. 13 - This bill provides that prosecution of a person for any first degree felony sex offense may be commenced at any time.

Discharge of Firearm Amendments, H.B. 14 - This bill provides that having the permission of the person in charge of the property when discharging a firearm is only a defense to a misdemeanor offense of discharging a firearm, not a felony offense; modifies provisions relating to felony discharge of a firearm by describing conduct that

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constitutes a first, second, or third degree felony and describing enhanced penalties for these offenses; describes circumstances under which discharge of a dangerous weapon or a firearm from a vehicle is not a crime; and makes technical changes.

Disclosure of Identity to Officer, H.B. 10 - This bill provides that it is a class B misdemeanor for a person to fail to disclose the person's name when disclosure is demanded by a peace officer after the peace officer stops the person based on a reasonable suspicion that the person has committed, is in the act of committing, or is attempting to commit, a criminal offense, and provides certain exceptions; provides that a peace officer may, without a warrant, arrest a person for failure to disclose identity if the peace officer has reasonable cause to believe that the person committed the offense; and makes technical changes.

Expungement Law Amendments, H.B. 70 - This bill provides that a person who has been granted a pardon by the Board of Pardons and Parole for a criminal offense may also petition for the expungement of the record of the pardoned offense; and provides that prior offenses that have been pardoned may not be considered regarding eligibility for an expungement.

Honoring Heroes Special Group License Plate, H.B. 28 - This bill authorizes the Honoring Heroes special group license plate to provide financial support to the families of fallen Utah Highway Patrol troopers and other Department of Public Safety employees; requires applicants for the plate to contribute \$35 annually to the Public Safety Honoring Heroes Restricted Account; creates the Public Safety Honoring Heroes Restricted Account; and makes technical changes.

Material Harmful to Minors Amendments, H.B. 18 - This bill amends the definition of "harmful to minors" to remove an amendment made in the 2007 General Session and reinstate the prior statutory language.

Parole Amendments, H.B. 11 - This bill requires that an inmate must agree, prior to being granted parole, that the

Board of Pardons may issue a warrant for the inmate and conduct a parole revocation hearing if the inmate provided false information at the parole hearing; or had committed a criminal offense the board was not aware of at the time of granting the parole.

Search Warrant Procedure Amendments, S.B. 10 - This bill requires that an inmate eligible for parole must sign an agreement that the inmate is subject as a parolee to search or seizure for parole violations at any time and with or without a search warrant, in order to be placed on parole; specifies when a law enforcement officer may conduct, with or without a warrant, a search or seizure regarding a parolee, including requirements that the law enforcement officer obtain prior approval from a parole officer or provide prompt notification to the parole officer; and prohibits searches for the purpose of harassment.

Vehicle Concealing Illegal Items, H.B. 30 - This bill provides that modifying any motor vehicle to facilitate the illegal transportation, concealment, or storage of contraband is a third degree felony; and provides that possession of a motor vehicle modified to facilitate concealing contraband, with the intent to conceal or transport contraband, is a class A misdemeanor.

LEGISLATIVE MANAGEMENT COMMITTEE

Sunset Reauthorizations and Amendments, H.B. 79 - This bill reauthorizes certain named state entities and programs that are scheduled to sunset before the 2009 Annual General Session; and makes technical changes.

MEDICAID INTERIM COMMITTEE

Medicaid 340B Drug Pricing Programs, H.B. 74 - This bill requires the department to explore the feasibility of expanding the use of 340B drug pricing programs in the state Medicaid program; requires the department to report to the Legislature's Health and Human Services Interim Committee and Health and Human Services Appropriations Subcommittee regarding implementation of the expansion of the 340B drug pricing program; and sunsets the section on July 1, 2013 (page 84).

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Medical Benefits Recovery Amendments, S.B. 50 - This bill defines terms; recodifies the Medical Benefits Recovery Act; modifies provisions related to recovery of medical assistance from a recipient's estate or a trust, so that recovery can be made as soon as an exception to recovery, relating to a surviving spouse or child, is no longer in effect; provides for the imposition of a lien, authorized by the federal Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA), against the real property of a person who is an inpatient in a care facility, during the life of that person; establishes procedures, requirements, and exemptions, relating to imposing a TEFRA lien; establishes a rebuttable presumption that a person who is an inpatient in a care facility cannot reasonably be expected to be discharged from the care facility and return to the person's home, if the person has been an inpatient in a care facility for a period of at least 180 consecutive days; provides for review and appeal of a decision to impose a TEFRA lien; provides for the dissolution and removal of a TEFRA lien; provides that an agency that the department contracts with to recover funds paid for medical assistance under the Medical Benefits Recovery Act shall be the sole agency that imposes or removes a TEFRA lien; and makes technical changes (page 86).

Notice of Changes to the State Medicaid Plan, H.B. 82 - This bill clarifies the content of the Department of Health's notice to the Legislature when the department makes a change to the state Medicaid plan; and makes technical and clarifying changes (page 85).

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENT INTERIM COMMITTEE

Affirmative Defense for Agri-tourism Activity, H.B. 32 - This bill defines agri-tourism; provides an affirmative defense for an owner or operator of an agri-tourism activity if the injured person disregarded safety measures; or any equipment, including animals, utilized during the activity was used in an unsafe manner; and provides a rebuttable presumption that the owner or operator conducted the activity in conformity with all applicable rules and regulations covering the activity (page 90).

Fire Management Areas, S.B. 26 - This bill allows the Division of Forestry, Fire and State Lands to conduct a limited fire suppression strategy under certain circumstances; and allows the division to enter into an agreement establishing a predetermined fire suppression plan for a specific fire management area (page 91).

Underground Storage Tank Amendments, H.B. 50 - This bill amends references to federal statutes regulating underground storage tanks; and makes technical corrections (page 90).

Water Right Forfeiture Protection, H.B. 51 - This bill defines terms; changes the nonuse period of a water right from five to seven years; clarifies the forfeiture procedure; allows a person that owns stock in a water company to file a nonuse application; protects a water right from forfeiture if a public water supplier holds the water for the reasonable future water requirement of the public; the land where the water is used is under a fallowing program; the water is stored in an aquifer; and another water source is available for the beneficial use; establishes how the reasonable future water requirement of the public are determined; and makes technical changes (page 90).

POLITICAL SUBDIVISIONS INTERIM COMMITTEE

Campaign Report Amendments, H.B. 41 - This bill consolidates definitions for clarity and consistency; clarifies the election officer's obligations to provide notice that certain campaign financial statements are due; specifies what information the notices sent by the election officer must contain; requires the election officer to assess an administrative fee for each campaign financial statement that is filed late by a state office candidate, a legislative candidate, a state office or legislative officeholder, a political party, a political action committee, a political issues committee, a state or local school board office candidate, or a judicial retention candidate; clarifies that financial statements may be submitted via the Internet; provides procedures for filing amended campaign financial statements; requires the election officer to assess an administrative fee for all amended campaign financial statements and provides a formula for calculation of the

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administrative fee; provides for the deposit of administrative fees and penalties assessed under the Campaign and Financial Reporting Requirements chapter; provides a process for appealing administrative fees assessed by the election officer; and makes technical changes (page 96).

Election Law - Financial Reporting, H.B. 29 - This bill requires municipalities and counties to make campaign finance disclosure statements that are filed by candidates for elective office available for public copying and inspection no later than the working day following the date of filing; requires municipalities and counties to either post an electronic copy or the contents of the disclosure statement on the municipality's or county's website and provide the link to the lieutenant governor's office; or submit a copy of the statement for posting on the lieutenant governor's campaign finance disclosure website; expands the regulation of political issues committees to include committees that receive contributions or make expenditures in relation to local ballot issues, as opposed to prior regulation of only statewide ballot issues; clarifies definitions; requires the lieutenant governor to make campaign finance disclosure statements available for public copying and inspection no later than the working day following the date of filing; provides a statutory requirement for the lieutenant governor to post campaign finance disclosure statements on the Internet; requires the lieutenant governor to post each campaign finance statement that is provided by a municipality or a county on its website; and makes technical changes (page 97).

Limited Purpose Local Government Entities Revisions, S.B. 47 - This bill repeals and reenacts, rewrites, clarifies, and modifies provisions related to special service districts; repeals and reenacts, rewrites, clarifies, and modifies provisions related to conservation districts; repeals provisions related to parking and business improvement districts, special road districts, and historic districts; reenacts historic preservation authority for counties and municipalities; modifies assessment area provisions to preserve authority eliminated through the repeal of parking and business improvement district

provisions; requires the type of local district proposed to be created to be specified in the petition or resolution proposing the creation of a local district; clarifies that a local district board of trustees member must be a registered voter at the location of the member's residence; expands the group of service areas that have a higher allowable tax rate to include service areas in second class counties, if the service area provides fire protection, paramedic, and emergency services; eliminates a cap on the number of local district board of trustees members allowed, and makes conforming changes; restricts the area that an improvement district providing electric service may include; authorizes a special service district to provide service outside its boundary; modifies the type of correctional facilities and services that a special service district is authorized to provide; authorizes a special service district in a county of the first class to provide extended police protection; eliminates a cap on the number of special service district administrative control board members allowed; modifies the qualifications of an administrative control board member; modifies the authority of a conservation district; modifies the date by which a conservation district's annual report is to be submitted to the commission; and makes technical changes (page 96).

Municipal Incorporation Amendments, S.B. 25 - This bill repeals a provision relating to the incorporation of a town; and makes the process for incorporating a town the same as the process for incorporating a city, except that in the process of incorporating a town the county legislative body may waive the feasibility study requirement; the percentage of allowable annual average revenue over average annual expenses is increased from 5 percent to 10 percent; and an incorporation petition may not be filed if the feasibility study results indicate that annual average revenue exceeds average annual expenses by more than 10 percent unless the county legislative body consents, with or without conditions (page 97).

Safe Drinking Water Revisions, H.B. 40 - This bill defines terms; requires a county to adopt an ordinance to protect a source of public drinking water; authorizes a

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municipality to adopt an ordinance to protect a source of public drinking water; allows a city ordinance to supercede another county or municipal ordinance in certain circumstances; allows a county or municipality to change a zoning designation in an industrial protection area in certain circumstances; requires the Drinking Water Board to provide guidelines and technical resources to a county or municipality; and report to the Legislature; and makes technical changes (page 97).

PUBLIC UTILITIES AND TECHNOLOGY INTERIM COMMITTEE

Email Information Required of Registered Sex Offenders, H.B. 34 - This bill defines "online identifier"; requires that a sex offender also provide online identifiers when registering as required by law; requires that sex offenders provide websites on which they are registered with online identifiers; and requires the sex offender to provide passwords to the department for certain electronic sites, but prohibits the passwords from being provided to the public.

Water Right Application for Electrical Cooperative, H.B. 42 - This bill allows the state engineer to approve an extension of time beyond 50 years for a wholesale electrical cooperative to put its water right to beneficial use; and makes technical changes.

RETIREMENT AND INDEPENDENT ENTITIES INTERIM COMMITTEE

Divestment of Certain Retirement Fund Investments, H.B. 39 - This bill provides certain definitions; requires the Utah State Retirement Board to ensure that the monies of the Utah State Retirement Investment Fund are not invested in any business operations with a publicly traded foreign company that has certain business operations with the country of Iran; exempts private equity and alternative investments from application of the section; requires the board to make rules to implement certain provisions, including identifying scrutinized companies and providing notice of potential investment withdrawal; requires the board to divest of any investments in scrutinized companies provided that divestment is not at a loss;

indemnifies board members when divesting in compliance with the section; and exempts monies invested in a defined contribution plan from the investment restrictions (page 105).

Enhanced Public Safety Retirement Systems Cola Option, S.B. 19 - This bill repeals the Public Safety Retirees' Cost-of-Living Increase Restricted Account and deposits its balance and future revenue into the public safety trust funds to fund a portion of the increase in the maximum annual cost-of-living adjustment for public safety retirees; for purposes of determining contribution rates, provides for additional subdivisions of the Public Safety Contributory Retirement System and the Public Safety Noncontributory Retirement System to allow for different maximum annual cost-of-living adjustments; provides a maximum annual cost-of-living adjustment of 4 percent for state agency public safety members and retirees in lieu of the current 2.5 percent; allows other participating employers the option to offer a maximum annual cost-of-living adjustment of 4 percent for public safety members and retirees in lieu of the current 2.5 percent; allows a participating employer to make a one-time election to offer the enhanced cost-of-living adjustment, if made within a certain period of time; provides certain eligibility requirements for covered employees and retirees to receive the increased benefit; provides for procedures and rules to make the election and have the enhanced cost-of-living adjustment to become effective; provides that the enhanced cost-of-living adjustment may not be applied to a retirement allowance already received; and makes technical changes (page 104).

Public Safety Retirement Death Benefit Modifications, S.B. 18 - This bill raises the cap on the death benefits of retired members of the Public Safety Contributory Retirement System; and raises the cap on the death benefits of retired members of the Public Safety Noncontributory Retirement System (page 105).

Retirement Death Benefits and Divorce Revisions, S.B. 24 - This bill defines benefits that are subject to a domestic relations order to include a death benefit

SUMMARY OF RECOMMENDED LEGISLATION

provided under a group insurance policy in order to allow the group insurance policy to be split along with other retirement benefits as part of a domestic relations order issued by a court for the division of assets; and makes technical amendments (page 106).

REVENUE AND TAXATION INTERIM COMMITTEE

Apportionment of Business Income, Attributing Sales to the State, and Deduction of Net Losses by a Unitary Group, S.B. 28 - This bill allows a taxpayer to elect to apportion business income to the state on the basis of a formula that weights the sales factor more heavily than the property or payroll factors; addresses a taxpayer's ability to make or revoke an election to use a particular method for apportioning business income to the state; addresses a taxpayer's ability to carry forward or carry back certain amounts; addresses the ability of a unitary group to deduct a net loss of an acquired corporation if the unitary group uses an apportionment method different than the apportionment method used by the acquired corporation prior to the date of acquisition; addresses the circumstances under which certain sales are considered to be made in this state; and makes technical changes (page 111).

Budget Reserve Account and Disaster Recovery Account Amendments, H.B. 49 - This bill changes target amounts for year-end surplus transfers to the General Fund Budget Reserve Account, Education Fund Budget Reserve Account, and State Disaster Recovery Restricted Account; modifies requirements governing deposits into the accounts; changes the conditions under which monies may be appropriated from the budget reserve accounts; designates legislative appropriations to the budget reserve accounts as repayments when specified appropriations from the accounts have not been repaid; requires the Legislative Fiscal Analyst and the Governor's Office of Planning and Budget to report to the Executive Appropriations Committee and the Tax Review Commission on revenue volatility and its relation to the balances in the General Fund Budget Reserve Account and the Education Budget Reserve Account; and makes technical changes (page 126).

Income Tax Amendments, S.B. 31 - This bill repeals provisions imposing an individual income tax on the basis of graduated brackets and rates; provides that an individual income tax is imposed on the basis of a single tax rate, including modifying and repealing definitions; modifying additions to and subtractions from adjusted gross income; addressing the taxation of a nonresident individual or part-year resident individual; and addressing provisions relating to the determination and reporting of income tax liability and information; modifies the income taxation of estates and trusts, including providing definitions; providing that the tax is calculated on the basis of unadjusted income; modifying additions to and subtractions from unadjusted income; and addressing provisions relating to the determination and reporting of income tax liability and information; addresses the taxation of pass-through entities, including providing definitions; and renumbering and amending provisions relating to pass-through entities; rennumbers and amends provisions relating to tax credits, including tax credits for a taxpayer; an investment in the Utah Educational Savings Plan Trust; or retirement income; provides nonrefundable tax credits for a trust or estate; or a contribution to a medical care savings account; modifies the refundable renewable energy tax credit to clarify that an estate or trust may claim the tax credit; addresses the apportionment of tax credits; addresses the following relating to a medical care savings account taxation; penalties; and interest; amends provisions relating to the taxation of an investment in the Utah Educational Savings Plan Trust; rennumbers and amends the individual income tax contribution provisions; addresses the administration of income tax contributions; and makes technical changes (page 125).

Motor and Special Fuel Tax Amendments, H.B. 35 - This bill authorizes the State Tax Commission to refund or credit motor fuel or special fuel tax paid on motor fuel or special fuel that is mixed with dyed diesel fuel or special fuel and is required to be re-refined; provides that a claimant of a refund or credit has the burden of proof to establish a claim for a refund or credit; specifies the evidence that is necessary to receive a refund or credit; and makes technical changes (page 113).

SUMMARY OF RECOMMENDED LEGISLATION

Property Tax Assessment Revisions, H.B. 54 - This bill defines terms; requires a county assessor of a first, second, or third class county to use a computer assisted mass appraisal system to conduct its annual update of property values; requires a county assessor to maintain a record of the last appraisal date for each parcel of real property located within the county assessor's county on the county's computer system; requires a county assessor to prepare a five-year plan to comply with the statutory appraisal requirements; requires a county assessor to include the last appraisal date for a parcel of property on the property owner's tax notice; and makes technical changes (page 113).

Repeal of Board Leeway for Reading Improvement, H.B. 69 - This bill consolidates the Base Level Program and the Guarantee Program; provides state funding for the K-3 Reading Improvement Program; modifies the distribution of program monies; and repeals the local school board leeway to fund part of a school district's K-3 Reading Improvement Program. This bill appropriates as an ongoing appropriation subject to future budget constraints, \$20,000,000 from the Uniform School Fund for fiscal year 2008-09 to the State Board of Education (page 113).

Research Activities Tax Credits Amendments, H.B. 52 - This bill addresses the taxable year for which certain tax credits for research activities may be claimed; addresses Utah Tax Review Commission study requirements for the tax credits; and makes technical changes (page 112).

Severance Tax Amendments, H.B. 58 - This bill provides that certain severance tax revenues that exceed a base amount are deposited into the permanent state trust fund or Severance Tax Holding Account; provides that the Division of Finance increase or decrease the base amount for inflation; defines terms; and makes technical changes (page 127).

Transparency in Government Finance, S.B. 38 - This bill provides for definitions; creates a website for the purpose of providing public financial information which shall be administered by the Division of Finance; requires

the state and certain other government entities to provide public financial information for the website; provides that the website shall be searchable, specifies the content of the website, and provides for website accessibility; creates the Utah Transparency Advisory Board to advise the division on website implementation and administration and to develop plans, make recommendations, and evaluate the cost effectiveness of implementing certain information resources on the website; and provides for board membership and other duties (page 114).

Truth in Taxation Amendments, S.B. 29 - This bill amends certain exemptions from property tax advertisement and hearing requirements; requires a school district to include a statement in its proposition submitted to its voters voting on the imposition or modification of a voted leeway program under certain circumstances; requires a taxing entity to submit certain property tax levies to a vote of the people prior to imposing those tax levies; provides procedures and requirements for imposing certain tax rates in excess of a taxing entity's certified tax rate; defines terms; and makes technical changes (page 113).

TRANSPORTATION INTERIM COMMITTEE

Clean Fuel Special Group License Plate Amendments, H.B. 62 - This bill changes the eligibility requirements for a clean fuel special group license plate from requiring a vehicle to maintain a clean special fuel tax certificate to requiring that the vehicle meet standards established by the Department of Transportation in administrative rules beginning on the effective date of the rules; and makes technical changes (page 118).

Confidentiality of Reports to Driver License Division, S.B. 34 - This bill provides that a person may notify the Driver License Division if the person is aware of a physical, mental, or emotional impairment of another person that is an imminent threat to driver safety; provides that the Driver License Division may require a person that is the subject of a notification to submit to certain medical reports or certain tests; provides that, if requested by the person making a notification, the notification is a protected

SUMMARY OF RECOMMENDED LEGISLATION

record and may not be disclosed by the division; prohibits the Driver License Division from accepting an anonymous notification; grants the Driver License Division rulemaking authority to establish a procedure to make a protected notification; and provides that it is a class C misdemeanor to make a notification with the intent to annoy, intimidate, or harass a person (page 117).

Designation of State Highways Amendments, H.B. 61 - This bill creates SR-252; deletes SR-184, SR-237, SR-238, SR-239, and SR-288 from the state highway system; modifies the definition of SR-89, SR-181, SR-186, and SR-270; and makes technical changes (page 119).

Driving Under the Influence Amendments, S.B. 15 - This bill amends definitions; enacts an impaired driving plea; provides that a plea to a driving under the influence violation may be entered as an impaired driving conviction in certain circumstances; provides that an impaired driving violation is a class B misdemeanor; provides requirements for a court entering a conviction of impaired driving in certain circumstances; requires the court to notify the Driver License Division of an impaired driving conviction; provides sentencing requirements for impaired driving convictions; repeals certain plea requirements when the prosecution agrees to a plea of guilty or no contest to an alcohol or drug-related reckless charge in satisfaction or substitute of an original charge of driving under the influence; provides that a tampering with an ignition interlock system violation may be tried in certain cities or counties; repeals certain alcohol or drug-related reckless driving plea restrictions; increases the administrative impound fee for a driving under the influence violation impound; and makes technical changes. This bill appropriates as an ongoing appropriation subject to future budget constraints, \$660,000 from the General Fund for fiscal year 2008-09 to the Department of Public Safety, Utah Highway Patrol; and as an ongoing appropriation subject to future budget constraints, \$660,000 from the General Fund for fiscal year 2008-09 to the Department of Public Safety, Liquor Law Enforcement Program (page 117).

Motorcycle License and Endorsement Amendments, H.B. 72 - This bill repeals the class M license; expires all existing class M licenses on June 30, 2008; prohibits the Driver License Division from issuing a motorcycle endorsement to a person who does not hold an original or provisional class D license, a CDL, or an out-of-state equivalent; and if the person is under 19 years of age, has not held a learner permit for two months and, beginning on July 1, 2009, has not completed a motorcycle rider education program; creates the motorcycle learner permit; provides that a motorcycle learner permit entitles the holder of the permit to operate a motorcycle subject to certain restrictions; grants the division rulemaking authority to implement rules for the issuance of a motorcycle learner permit and the proof requirements for demonstrating that an applicant has completed a motorcycle rider education program; requires an applicant to state whether the applicant has had a license suspended, cancelled, revoked, disqualified, or denied in the last ten, rather than six, years; and makes technical changes (page 118).

Penalties for Failing to Secure a Load or Littering on a Highway, S.B. 44 - This bill increases the fine for littering on a highway for a second or subsequent violation within three years of a previous violation; increases the fine for failing to properly secure a load when operating a motor vehicle on a highway for certain violations; creates the State Highway Litter Control Restricted Account; provides that funds in the State Highway Litter Control Restricted Account shall be used for a public education program that informs the public of the requirements of and penalties for failing to secure a load or littering on a highway; and paying the costs of picking up litter and other debris on a state highway; authorizes the Department of Transportation to make rules implementing a program to allow a person to report a secured load or litter violation; provides that a portion of the fines and forfeitures collected in a justice court or district court for a second or subsequent violation of failing to secure a load or littering on a highway shall be remitted to the State Highway Litter Control Restricted Account; and makes technical changes (page 118).

SUMMARY OF RECOMMENDED LEGISLATION

Transportation Administrative Rules - Criminal and Civil Penalty Amendments, H.B. 57 - This bill authorizes the Department of Transportation to enforce the provisions of the Junkyard Control Act or rules made under the Junkyard Control Act through administrative procedures; repeals the authority of the Department of Transportation to specify by administrative rule conduct that may constitute a misdemeanor or felony in the Transportation Code; and makes technical changes (page 119).

UTAH INTERNATIONAL TRADE COMMISSION

Resolution Addressing International Trade Issues, H.J.R. 1 - This resolution suggests provisions that should be included in and excluded from international trade agreements; and proposes other provisions related to the United States' process for negotiating, ratifying, and litigating international trade agreements.

State Trade Database, S.B. 40 - This bill requires the Governor's Office of Economic Development to maintain a database, in cooperation with the Automated Geographic Reference Center, of businesses that export a product or service internationally; and makes technical changes (page 125).

UTAH TAX REVIEW COMMISSION

Budget Reserve Account and Disaster Recovery Account Amendments, H.B. 49 - This bill changes target amounts for year-end surplus transfers to the General Fund Budget Reserve Account, Education Fund Budget Reserve Account, and State Disaster Recovery Restricted Account; modifies requirements governing deposits into the accounts; changes the conditions under which monies may be appropriated from the budget reserve accounts; designates legislative appropriations to the budget reserve accounts as repayments when specified appropriations from the accounts have not been repaid; requires the Legislative Fiscal Analyst and the Governor's Office of Planning and Budget to report to the Executive Appropriations Committee and the Tax Review Commission on revenue volatility and its relation to the balances in the General Fund Budget Reserve Account

and the Education Budget Reserve Account; and makes technical changes (page 126).

Income Tax Amendments, S.B. 31 - This bill repeals provisions imposing an individual income tax on the basis of graduated brackets and rates; provides that an individual income tax is imposed on the basis of a single tax rate, including modifying and repealing definitions; modifying additions to and subtractions from adjusted gross income; addressing the taxation of a nonresident individual or part-year resident individual; and addressing provisions relating to the determination and reporting of income tax liability and information; modifies the income taxation of estates and trusts, including providing definitions; providing that the tax is calculated on the basis of unadjusted income; modifying additions to and subtractions from unadjusted income; and addressing provisions relating to the determination and reporting of income tax liability and information; addresses the taxation of pass-through entities, including providing definitions; and renumbering and amending provisions relating to pass-through entities; renumbers and amends provisions relating to tax credits, including tax credits for a taxpayer; an investment in the Utah Educational Savings Plan Trust; or retirement income; provides nonrefundable tax credits for a trust or estate; or a contribution to a medical care savings account; modifies the refundable renewable energy tax credit to clarify that an estate or trust may claim the tax credit; addresses the apportionment of tax credits; addresses the following relating to a medical care savings account taxation; penalties; and interest; amends provisions relating to the taxation of an investment in the Utah Educational Savings Plan Trust; renumbers and amends the individual income tax contribution provisions; addresses the administration of income tax contributions; and makes technical changes (page 125).

Severance Tax Amendments, H.B. 58 - This bill provides that certain severance tax revenues that exceed a base amount are deposited into the permanent state trust fund or Severance Tax Holding Account; provides that the Division of Finance increase or decrease the base amount for inflation; defines terms; and makes technical changes (page 127).

SUMMARY OF RECOMMENDED LEGISLATION

WORKFORCE SERVICES AND COMMUNITY AND ECONOMIC DEVELOPMENT

Child Care Providers, H.B. 73 - This bill provides that criminal backgrounds checks shall be performed on child care providers who are not required by current law to undergo a check through the Department of Health, Bureau of Licensing, and are not a license exempt child care center or program; and individuals who reside in the premises where the child care is provided; provides for a waiver of the fingerprint submission requirement under certain circumstances; allows the Utah Division of Criminal Investigation and Technical Services to give the Department of Workforce Services access to the division's data base to determine if a child care provider has been convicted of a crime; provides the department with access to juvenile court records for purposes of a criminal background check of certain child care providers and individuals who reside where the child care is provided; provides that a child care provider may not allow an individual who has been convicted of a felony or certain misdemeanors to provide subsidized child care; or reside at the premises where subsidized child care is provided; requires the child care provider to pay for any costs of a background check; provides that a person who commits a severe type of child abuse or neglect shall be disqualified from receiving state funds as a child care provider; and allows three designated individuals within the Department of Workforce Services to have access to the Division of Family and Child Services' Licensing Information System for the purpose of checking the background of child care providers (page 130).

Community and Economic Development Technical Changes, H.B. 59 - This bill correctly identifies the legislative interim committee to which the Governor's Office of Economic Development and the Department of Community and Culture's Olene Walker Housing Fund Board make annual reports; provides for uniformity in referencing the Office of Rural Development and its director; provides for ongoing rather than one-time reporting of activities associated with the Economic Development Incentives Act; and makes certain other technical changes.

Department of Community and Culture - State-owned Art Inventory, S.B. 33 - This bill changes the name of the State-Owned Art Collections Inventory Study Act to the State-Owned Art Inventory Program Act; defines "entity" for purposes of the act; requires an entity in possession of state-owned art to create a comprehensive and consistent inventory of that art; and certify the inventory with the Division of Arts and Museums; requires the Division of Arts and Museums to provide an annual report to the Workforce Services and Community and Economic Development Interim Committee on inventoried state-owned art; and provides for educational outreach and technical training by the Division of Arts and Museums to entities in possession of state-owned art to assist in the creation of a required art inventory and compliance with certification requirements (page 131).

Economic Development Incentives Modifications, H.B. 20 - This bill modifies the definition of high paying jobs in the Economic Development Incentives Act by replacing "median wage of a community" with "average wage of a community" (page 130).

Employment Security Act Amendments, H.B. 21 - This bill clarifies that a claimant for unemployment benefits is not required to personally report at an employment office as a condition of ongoing eligibility to receive benefits; provides for the waiver of certain filing requirements for unemployment compensation benefits if a disaster is declared by the President of the United States or the governor; and makes certain technical changes (page 130).

Mobile Home Owners' Rights, H.B. 48 - This bill requires 180 days' notice before a lease may be terminated because of a change in land use or condemnation; requires 365 days' notice before a resident of a mobile home park may be forced to vacate the park because of a change in land use or condemnation; addresses the provision of notice of certain governmental proceedings surrounding a change in land use or condemnation; addresses the provision of notice to a resident who is not a resident of the mobile home park at the time notice is initially given of a change in land use or condemnation;

SUMMARY OF RECOMMENDED LEGISLATION

provides a limitation on the amount which rent may increase for a mobile home space during the period between the provision of notice of a change in land use or condemnation and the day on which the resident is required to vacate the mobile home park; and makes technical changes.

Utah Venture Capital Enhancement Act Amendments, S.B. 11 - This bill increases the ceiling on the amount of aggregate outstanding contingent tax credit certificates that can be issued by the Utah Capital Investment Board from \$100,000,000 to \$300,000,000; increases the ceiling on the redemption reserve from \$100,000,000 to \$300,000,000; and makes certain technical changes (page 131).

ADMINISTRATIVE RULES REVIEW COMMITTEE

ADMINISTRATIVE RULES REVIEW COMMITTEE

Membership

Sen. Howard A. Stephenson, Senate Chair
Rep. Ben C. Ferry, 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, an appropriation was provided for staff to review existing rules as a component of the Committee's review process. The Committee directed staff to prepare legislation that would delete 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

recognized that this review process could require several years to complete.

As part of an agreement between the Administrative Rules Review Committee and the governor, legislation passed during the 1989 General Session that granted the Committee authority to prepare annual legislation reauthorizing all state agency rules except rules specified in that year's bill. The Committee delayed 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 consider future rule changes. This process prompted agencies to make more concise, carefully prepared rules consistent with Utah statutes.

In the 2002 General Session, for the first time, the annual reauthorization legislation repealed written statements of state agencies that met the definition of a rule 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 conforming to the definition of a rule can only be enforced if it has gone through the statutorily required rulemaking process, including publication and public comment.

Today, the Committee meets regularly to address specific concerns raised by legislators and the public regarding existing and proposed state agency administrative rules.

ANNUAL ADMINISTRATIVE RULES REAUTHORIZATION LEGISLATION

Background

During the 1989 General Session, the Legislature passed legislation requiring annual reauthorization of state agency rules, except for the repeal of rules specified in the legislation.

The Committee met with various state agencies throughout the year regarding specific rules of concern to

ADMINISTRATIVE RULES REVIEW COMMITTEE

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 did not change a rule, the Committee weighed whether to reauthorize or repeal the rule when preparing its annual legislation.

Action

The Committee will consider this issue at its January 9, 2008 meeting and plans to recommend draft legislation, "Administrative Rules Reauthorization."

CONCEALED FIREARM PERMITS FOR APPLICANTS LIVING OUTSIDE THE UNITED STATES

Background

The Department of Public Safety proposed changes to its concealed firearm permit rule to restrict individuals from receiving a concealed firearm permit who live outside the United States and whose possible criminal background could not be verified.

The Department of Public Safety emphasized the difficulty in verifying whether a non-U.S. resident applicant has a criminal record, particularly since other nations do not include in their criminal histories all of the offenses that the United States Government requires to be included in order for a U.S. resident to obtain a concealed firearm permit. Some committee members also expressed concern with an outright ban on all out-of-country applicants.

The Committee worked with the Department of Public Safety to address concerns about the ease in obtaining a Utah concealed firearm permit while allowing individuals from outside the United States to obtain a concealed firearm permit under certain conditions.

Action

The Committee considered this issue at its September 25 and October 23, 2007 meetings and plans to discuss the issue at its January 9, 2008 meeting to recommend draft legislation, "Concealed Firearm Permit Amendments."

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

Background

In 2005, 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. This began a major effort by the Committee to identify statutes that grant state agencies the authority to determine, by administrative rule, what conduct could potentially place a citizen in jail.

Over a two and a half year period, the Committee met with representatives of the agencies with statutory grants. Several agencies expressed a willingness to see their statutes amended to remove the authority to set criminal penalties by rule; others resisted losing this authority. Several agencies noted that no prosecutions had ever taken place that were based on a criminal penalty established by rule; others indicated that they have prosecuted criminal offenses established by rule. Several agencies also discussed the possibility of amending affected state rule provisions into state statutes. Concern about agency compliance with federal requirements was also raised.

Over the course of these discussions, the Committee focused on whether unelected state employees should be given authority to determine, by rule, what actions could put a citizen in jail, or whether the Legislature should exclusively make these determinations.

Legislation passed in the 2007 General Session that repealed from several agencies' statutes the authority to determine criminal conduct by rule. During the 2007 Interim, the Committee received input from several interim committees who reviewed the issue at the Committee's request. Generally, the committees expressed concern with the delegations of authority to establish criminal penalties by agency rule. Several committee members supported a delayed effective date for certain statutes in order to give those agencies more time to address the issue. The Committee directed staff to prepare legislation

ADMINISTRATIVE RULES REVIEW COMMITTEE

to repeal remaining state agency authority to determine, by rule, what conduct constitutes a criminal penalty, and suggested a delayed effective for certain statutes.

Action

The Committee discussed this issue at its November 27 and December 12, 2007 meetings, and at its January 9, 2008 meeting the Committee may recommend draft legislation, "Administrative Rule Penalty Amendments."

STUDENT PARTICIPATION IN EXTRACURRICULAR ACTIVITIES

Background

The Committee continued discussions, begun in the 2006 Interim, of limitations on high school students' participation in extracurricular activities. The focus in 2007 was the Utah High School Activities Association's authority to determine a student's eligibility to participate in extracurricular activities. The Committee indicated that the State Board of Education, not the Association, should be making these determinations.

Committee members reiterated that the State Board of Education should be making rules regarding student participation in extracurricular activities, and not deferring to the High School Activities Association. The Board of Education explained why it interprets state law to allow the Board to defer to the Utah High School Athletic Association in establishing eligibility policies. The Association explained the process used in the development of its bylaws which govern students' participation in these activities.

Action

The Committee discussed this issue at its June 12, June 25, July 26, and August 13, 2007 meetings, but did not recommend draft legislation.

OTHER STUDIES

Impact of Administrative Rules on Small Businesses

Legislation endorsed by the Business and Labor Interim Committee will be proposed that requires state agencies,

as part of their preparation of administrative rules, to consider a series of alternatives that would reduce the impact of the rules on small businesses.

The Division of Administrative Rules, while not taking an official position for or against the bill, pointed out that in its present form, the bill would make greater demands on state agency resources for drafting rules and that a fiscal note may be attached to the bill. The Committee discussed this issue at its November 27 and December 12, 2007 meetings, and plans to review a compromise draft at its January 9, 2008 meeting.

Student Enrollment Options

In the 2007 General Session, the Legislature voted to sunset a State Board of Education rule whose definition of "capacity" was being used to determine under what circumstances a student may transfer to a another school. During the 2007 Interim, the State Board of Education met with the Committee to provide input on proposed versions of a revised rule. The Committee determined that the revised rule appropriately addressed concerns raised by the previous rule. The Committee discussed this issue at its June 25 and September 25, 2007 meetings, but did not recommend draft legislation.

BUSINESS AND LABOR INTERIM COMMITTEE

BUSINESS AND LABOR INTERIM COMMITTEE

Membership

Sen. Kevin T. Van Tassell, Senate Chair
Rep. Stephen D. Clark, House Chair
Sen. Gene Davis
Sen. Dan R. Eastman
Sen. John W. Hickman
Sen. Ed Mayne
Sen. Wayne L. Niederhauser
Rep. Jackie Biskupski
Rep. David Clark
Rep. Carl W. Duckworth
Rep. James A. Dunnigan
Rep. Ben C. Ferry
Rep. Kevin S. Garn
Rep. Todd E. Kiser
Rep. Karen W. Morgan
Rep. Michael T. Morley
Rep. Paul A. Neuenschwander
Rep. Gordon E. Snow
Rep. Mark W. Walker

Staff

Allison M. Nicholson, Policy Analyst
Stewart E. Smith, 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, employer-employee relationships, professional licensing, affordable health insurance, insurance regulation, workers' compensation, regulation of financial services providers, consumer protection, and real estate activities.

EMPLOYMENT ISSUES

Employee Classification and Payment Methods

Whether a worker is classified as an employee or independent contractor has ramifications on that worker's rights and benefits and on the employer's obligations. The tests used to classify a worker as an "employee" or an "independent contractor" differ depending on the underlying regulation. Certain inappropriate pay practices such as the mis-classification of employees as independent contractors arguably have a detrimental effect on competition, tax revenue, government services, and employee benefits. The Committee discussed possible solutions to this problem, including amending the requirements for workers' compensation coverage waivers and the creation of an independent contractor database that would allow agencies to share information to potentially identify employee mis-classification and identity theft. The Committee discussed this issue at its July, September, and November 2007 meetings.

Employee Verification

One of the initial responsibilities of employers is to verify the employment eligibility of potential workers by having the employee complete a federal I-9 form and submit certain documents to prove eligibility. Employers have access to a new resource available through the United States Department of Homeland Security and the Social Security Administration called the E-Verify Program. This free program allows an employer to check the validity of a submitted social security number. However, some have raised concerns with E-Verify and feel that there are too many inaccuracies for it to be a reliable source. Additionally, E-Verify only confirms the data given, but it does not prove that the individual presenting the social security card is the individual listed on the card.

BUSINESS AND LABOR INTERIM COMMITTEE

The Committee discussed this issue at its July and November 2007 meetings and stressed the need for information sharing among agencies that deal with employment issues. The Committee also discussed draft legislation that would allow for a memorandum of understanding between the Department of Workforce Services and DOPL (Division of Occupational and Professional Licensing) to facilitate collaboration and data sharing.

PEO (Professional Employer Organization)

APEO generally provides services such as payroll, human resource compliance, risk management, and benefits administration to a client (worksite employer) through a coemployment relationship. DOPL licensed PEOs as early as 1993. In 2003, the licensing act was changed to a registration act. The Committee conducted a sunset review of the PEO Registration Act in 2006 and recommended that the Act be reauthorized without a sunset date.

At its June and November 2007 meetings, the Committee discussed the adequacy of the current oversight and regulation of PEOs in the state, which state regulatory agency should have oversight of PEOs, and whether the PEO Registration Act should be returned to a licensing act.

Action

The Committee considered these issues at its June, July, September, and November 2007 meetings and recommended draft legislation, "Disclosure of Information by the Department of Workforce Services."

INSURANCE ISSUES

Captive Insurance Companies

A captive insurance company is a limited purpose insurer formed to insure all or part of the risks of its parent corporation and affiliates. Some of the reasons why a corporation may choose to create a captive insurance company include lower insurance costs, the possible lack of affordable insurance in the commercial market for its

business risk, certain tax advantages, and retention of premiums and income within the corporation.

The Committee discussed draft legislation at its November 2007 meeting that would amend Title 31A, Chapter 37, Captive Insurance Companies Act, and among other things, adds a new chapter that creates a new type of captive insurance company. Issues addressed in the draft bill include application of the law to association and industrial insured captive companies, formation of captive companies as limited liability companies, accounting methods for captive companies, and rehabilitation and liquidation of captive insurance companies.

Health Insurance Including Mandates

The Committee has shown a great interest in affordable health insurance in recent years, especially how small businesses can afford to offer health insurance to their employees. Health benefits are one of the most significant issues businesses face today. During the 2007 General Session, the Legislature appropriated \$350,000 to GOED (the Governor's Office of Economic Development) to develop a plan to increase the availability of health insurance to small business employees. During its September 2007 meeting, the Committee discussed the causes and possible solutions to the problem, including receiving an update from GOED and private organizations addressing this issue.

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 October and November 2007 meetings.

Title and Escrow

The Legislature created the five-member Title and Escrow Commission in 2005 to assist and advise the Department of Insurance and the Insurance Commissioner on issues

BUSINESS AND LABOR INTERIM COMMITTEE

relating to title insurers and the title industry, including rulemaking, licensing, fees, continuing education, and the conduct of licensees.

27 at its June 2007 meeting and recommended the reauthorization of the Act with no sunset date.

The Committee received a report on title insurance complaints that are reported to the Department of Insurance and reviewed the regulation of the title insurance industry in general at its July 2007 meeting.

Action

The Committee considered these issues at its July, September, October, and November 2007 meetings and recommended draft legislation, "Legislative Review of Health Insurance Mandates" and "Captive Insurance Company Amendments."

OTHER STUDIES

Business Resource Centers

Businesses today face complex issues and government regulations from many different agencies. Understanding the requirements of and accessing this collection of government regulations can be an obstacle to the growth and success of a business. GOED is proposing to create online resources and a statewide system of business resource centers that would serve as one-stop locations providing support, assistance, education, sources of funding, mentoring, and networking for Utah businesses. The Committee considered this issue at its October and November 2007 meetings and recommended draft legislation, "Utah Business Resource Centers Act."

Sunset Review of Mechanics' Liens and SCR (State Construction Registry)

During the 2004 General Session, the Legislature amended the mechanics' lien statute to create the SCR, an online statewide database of commercial and residential construction projects with the associated notices of commencement, preliminary notices, and notice of completion. The Committee conducted a sunset review of mechanics' liens provisions in *Utah Code* 38-1-30 through 38-1-37, and provisions of the SCR including the form and contents of notice of completion found in *Utah Code* 38-1-

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 was created following the 1993 Legislative Auditor General's report identifying problems with the state's child welfare system, the passage of the 1994 Child Welfare Reform Act, and the 1994 consent decree entered into by the state in response to the class action lawsuit filed by the National Center for Youth Law, *David C. v. Leavitt*. The Legislature charged the Panel to:

- examine and observe the process and execution of laws governing the child welfare system by the executive branch and the judicial branch;
- receive testimony from the public...and from all state agencies involved with the child welfare system;
- receive reports identifying the cases not in compliance with judicial time limits;
- study and recommend proposed changes to laws governing the child welfare system;
- recommend, as it considers advisable, budgetary proposals;
- study actions the state can take to preserve, unify, and strengthen a child's family ties whenever possible in the child's best interest; and
- perform such other duties related to the oversight of the child welfare system as the panel considers appropriate.

During the 2007 interim, the Panel:

- reviewed the terms of the exit agreement to which the state stipulated in 2007 to terminate federal court oversight of Utah's child welfare system;
- reviewed the Office of the Guardian ad Litem's FY 2009 budget request;
- considered legislation proposed for the 2008 General Session;
- studied ways to expand the use of kinship placements for children removed from their homes by the Division of Child and Family Services; and
- received reports required by state law and the 2007 exit agreement.

DAVID C. EXIT AGREEMENT

Background

On June 28, 2007, the U.S. District Court dismissed the *David C.* lawsuit, without prejudice, pursuant to an exit agreement entered into by the state and plaintiffs to the suit. Unless a motion is filed by the plaintiffs before December 31, 2008, the case will be dismissed with prejudice on that date and court oversight will be terminated permanently.

Originally known as *David C. v. Leavitt*, the child welfare case filed by the National Center for Youth Law in 1993 resulted in a highly prescriptive four-year settlement agreement, followed by a more principle-based plan ordered by the court in 1999, followed by the June 28, 2007 exit agreement, which included dismissal of the case.

Final dismissal of the case, with prejudice, will depend on the state's maintaining the progress made to date and demonstrating the capacity to make ongoing improvements in response to well-established performance measurement processes. A final report on the state's performance will be prepared by the court monitor near the end of 2008. Unless the plaintiff files a motion and the court finds that the state is not in compliance with the terms of the exit agreement, the case will be dismissed with prejudice December 31, 2008, meaning that court oversight cannot be reestablished

CHILD WELFARE LEGISLATIVE OVERSIGHT PANEL

except through subsequent litigation. In very few cases around the country has similar litigation come to an end.

Action

The Panel considered this issue at its June and October 2007 meetings, but did not recommend draft legislation.

DRAFT LEGISLATION FOR 2008 GENERAL SESSION

Background

The Panel considered the following draft legislation:

- "Child Abuse and Neglect Registry - Management and Licensing Information Systems Amendments" — This bill changes various provisions related to the content and use of the child welfare Management Information System, including limiting the use of certain data as evidence in court proceedings for child custody, protective orders, or divorce.
- "Waivers of Immunity - Exceptions" — This bill provides exceptions to the immunity granted to persons other than government employees performing certain functions related to a child abuse or neglect investigation. The legislation also provides exceptions to government employee immunity.
- "Child Welfare Amendments" — This bill amends background check and child placement provisions adopted previously in response to the federal Adam Walsh Child Protection and Safety Act of 2006.
- "Child Welfare Definitions" — This bill simplifies, consolidates, and makes other changes to statutory definitions related to child abuse and neglect.
- "Training of Division of Child and Family Services Caseworkers" — This bill requires that the mandatory education and training of Division of Child and Family Services caseworkers include training in recognizing and responding to an attempt to manipulate or misuse the child welfare system in order to gain advantage in a proceeding relating to the custody of a child or to retaliate against a person.

Action

The Panel considered this issue at its June, October, and November 2007 meetings and recommended the following draft legislation:

- "Child Abuse and Neglect Registry - Management and Licensing Information Systems Amendments,"
- "Child Welfare Amendments,"
- "Child Welfare Definitions," and
- "Waivers of Immunity - Exceptions."

KINSHIP PLACEMENTS

Background

The Health and Human Services Interim Committee requested that the Panel identify and study barriers that prevent more frequent placement of abused and neglected children with relatives and report on actions the state could take to make kinship care more practical and commonplace.

Action

The Panel considered this issue at its October and November 2007 meetings and recommended that the Legislature continue to consider kinship placement issues, including access to health care, access to education, caregiver's rights, and increasing the availability of Department of Workforce Services specified relative grants.

OFFICE OF THE GUARDIAN AD LITEM'S FY 2009 BUDGET REQUEST

Background

The Panel reviewed the Office of the Guardian ad Litem's FY 2009 budget request. The proposal calls for an additional \$761,900 (\$706,700 ongoing, \$55,200 one-time) to fund the following:

- an increase in attorney salaries;
- six additional attorneys and three additional support staff;
- an increase in the hourly rate and cap paid to outside counsel for cases where the Guardian ad Litem has a conflict of interest; and
- two additional motor pool vehicles.

CHILD WELFARE LEGISLATIVE OVERSIGHT PANEL

Action

The Panel considered this issue at its November 2007 meeting and recommended that the Executive Offices and Criminal Justice Appropriations Subcommittee recommend adoption of the Office of the Guardian ad Litem's \$761,900 FY 2009 budget proposal.

EDUCATION INTERIM COMMITTEE**Membership**

Sen. Howard A. Stephenson, Senate Chair
Rep. Gregory H. Hughes, House Chair
Sen. Curtis S. Bramble
Sen. Margaret Dayton
Sen. Lyle W. Hillyard
Sen. Patricia W. Jones
Sen. Mark B. Madsen
Sen. Ross I. Romero
Rep. Sylvia S. Andersen
Rep. Brad L. Dee
Rep. Craig A. Frank
Rep. James R. Gowans
Rep. Kory M. Holdaway
Rep. Bradley G. Last
Rep. Rebecca D. Lockhart
Rep. Carol Spackman Moss
Rep. Merlynn T. Newbold
Rep. Patrick Painter
Rep. LaWanna "Lou" Shurtliff
Rep. Kenneth W. Sumsion
Rep. Stephen H. Urquhart
Rep. Mark A. Wheatley

Staff

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

OVERVIEW

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

MATHEMATICS EDUCATION**Background**

During the 2006 interim, 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. The Committee adopted a resolution endorsing a plan for a full revision of math curriculum standards by the State Board of Education, and the State Board of Education initiated the math curriculum revision.

The State Board of Education appointed an advisory group consisting of mathematicians and math educators to revise the math curriculum and adopted the revised math curriculum effective for the 2007-08 school year.

The Committee received both supportive and critical testimony on the revised math curriculum. Some questioned whether the new math standards were "world class" standards. A university mathematics professor noted that the high school math curriculum is not aligned with college math courses. Others stressed the importance of other factors, such as teacher preparation, in developing students' math competency.

Action

The Committee considered this issue at its May, September, October, and November 2007 meetings and recommended draft legislation, "Mathematics, Science, and Technology Education Task Force."

UTAH BASIC SKILLS COMPETENCY TEST AND DIPLOMA REQUIREMENTS**Background**

Beginning with the graduating class of 2006, a high school student must pass the UBSCCT (Utah Basic Skills Competency Test) to receive a basic diploma. Under State Board of Education rule, a basic diploma is one that states on the diploma that the graduate passed the test. If a student does not pass all three subtests of UBSCCT, reading, writing, and math, the student receives a diploma that indicates the student did not pass all three subtests.

In the 2006 and 2007 General Sessions, bills were introduced to modify provisions regarding the UBSCCT and high school diploma requirements. Some of the issues addressed by the bills were whether students should be denied a diploma if they did not pass the UBSCCT and, if

EDUCATION INTERIM COMMITTEE

so, should certain students, such as students with disabilities, receive an exemption.

The committee staff gave a presentation on other states' requirements to pass a high school exit exam as a condition of earning a diploma. Staff reported that approximately two-thirds of the nation's high school students are required to pass an exit exam to receive a diploma. Many states with high school exit exams provide exceptions for students with a disability, and in a few states exceptions are provided for regular students who do not pass the exit exam. If a regular student does not pass the exit exam, the student must demonstrate competency in the state standards by an alternative method, such as passing other tests or by a review of the student's classroom work.

The Committee reviewed draft legislation that prohibits a student who does not pass the UBSCT from receiving a high school diploma, except with certain exceptions. A student with an IEP (Individual Education Program) may be exempt from passing all subtests of the UBSCT. The draft bill also allows a student to receive a diploma by demonstrating competency in basic skills through a review of the student's work.

Action

The Committee considered this issue at its July and October 2007 meetings, but did not recommend draft legislation.

OTHER STUDIES

Agreements Implementing Federal Education Programs

The Committee reviewed draft legislation requiring gubernatorial and legislative approval for certain agreements that implement federal education programs. Under the proposed law, a school official is required to submit to the governor, for approval or rejection, any agreement that may cost state or local education entities more than \$100,000 annually to implement. If an agreement may cost state or local education entities more than \$1,000,000 annually to implement, the agreement

must be submitted for approval to the governor and the Legislature in a general session or special session. The Committee considered this issue at its November 2007 meeting, but did not recommend draft legislation.

Alternate Routes to Teaching

Most teachers obtain a license to teach by completing an accredited teacher preparation program offered by a college or university. However, Utah law provides for alternative routes to licensing. A college graduate may earn a teacher's license by completing an alternative preparation program designed by the State Board of Education. In addition, a person may obtain a competency-based license at the request of the school district or charter school that hires the teacher. These alternative routes to teaching are not well-known by the public or employers of teachers. The Committee considered this issue at its November 2007 meeting and recommended draft legislation, "Resolution Encouraging the Advertisement of Alternative Routes to Teaching."

Extracurricular Activities

S.B. 81, "Home School and Extracurricular Activity Amendments," introduced in the 2007 General Session, addressed eligibility requirements for home school and private school students to participate in extracurricular activities at a public school. The Committee reviewed the issue of home school and private school students' participation in public school extracurricular activities as well as charter school students' participation in extracurricular activities at a public school other than the student's charter school. Some school districts allow charter school students to participate in extracurricular activities and others do not. The Committee considered this issue at its July and November 2007 meetings and recommended draft legislation, "Home School and Extracurricular Activities Amendments" and "Charter and Online Schools - Participation in Extracurricular Activities."

Indicators of School Quality

The Center for the School of the Future at Utah State University has developed a comprehensive survey system for school administrators to evaluate the school learning environment. ISQ (Indicators of School Quality) measures

parent, teacher, and student perceptions of characteristics of the school environment that correlate with academic achievement. The Committee was asked to devise ways to make the Center's program available to more schools in the state. The Committee considered this issue at its June 20, 2007 meeting, but did not recommend draft legislation.

Public Education Costs of Undocumented Children

The Office of the Legislative Auditor General conducted an audit which shows that the additional cost, excluding property costs, to Utah's public education system for illegal immigrant children was \$55 to \$85 million in fiscal year 2006. This estimate does not include the cost of educating children born in the United States to illegal immigrant parents. The Committee considered this issue at its July 2007 meeting and directed staff, with the advice of legislative leadership from both parties, to write a letter to the U.S. Department of Education, the Immigration and Naturalization Service, and Utah's congressional delegation requesting reimbursement of the public education costs of undocumented children.

School Building Equalization

The costs of school buildings are borne almost exclusively by school districts. The state contributes less than \$30 million annually for school building construction. Since school districts must rely on property taxes to pay for school buildings, the ability of a school district to generate money for school buildings depends on the value of property within the school district. School district assessed valuation per student and enrollment growth varies considerably throughout the state, so the tax burden to pay for school buildings varies also. The Committee reviewed proposals to equalize taxes to pay for school buildings on a countywide basis and on a statewide basis. The Committee considered this issue at its May and August 2007 meetings and recommended draft legislation, "School Capital Outlay Equalization" and "School District Facility Funding Equalization," for the 2007 First Special Session.

School District Creation

Utah law allows a city, town, or county to submit for voter approval a proposal to create a new school district. The Committee received testimony urging the Legislature to amend the law to allow a city or town to include some, but not all, of the area within its boundaries in the new school district. The Committee considered this issue at its July and August 2007 meetings and recommended draft legislation, "Creation of New School District Amendments," for the 2007 First Special Session.

State Board of Education - Legal Counsel

The Committee received a briefing from representatives of the Utah Attorney General's Office on who may appoint legal counsel for the State Board of Education. They explained that the attorney general has broad constitutional and statutory powers and duties to provide legal counsel to all state entities and offices unless otherwise provided by the state constitution or statutes. The State Board of Education does not have any constitutional or statutory exemption that allows the Board to hire its own attorney. Therefore, the attorney general is the board's sole legal counsel. The Committee considered this issue at its June 20, 2007 meeting, but did not recommend draft legislation.

State Board of Education - Selection of Members

Utah Constitution, Article X, Section 3, states, "The members of the board [State Board of Education] shall be established and elected as provided by statute." Utah statute directs the governor to: (1) appoint a committee to recruit and nominate candidates for election to the board and (2) select two candidates for each school board district subject to an election. Rather than having the governor select the candidates for the State Board of Education that will be on the ballot, the Committee considered a proposal to require State Board of Education members to be elected in partisan elections. The Committee considered this issue at its June 13, and November 14, 2007 meetings, but did not recommend draft legislation.

EDUCATION INTERIM COMMITTEE

State Superintendent of Public Instruction - Appointment

The Utah Constitution grants authority to the State Board of Education to appoint the State Superintendent of Public Instruction. The State Superintendent is the executive officer of the Board and supervises the Board's staff, known as the Utah State Office of Education. The Committee received a proposal to amend the Utah Constitution to allow the governor to appoint the State Superintendent of Public Instruction. The Committee considered this issue at its November 2007 meeting, but did not recommend draft legislation.

Workforce Preparation

The Committee received a presentation from members of the New Commission on the Skills of the American Workforce, which was formed to examine the challenges of preparing the workforce for an increasingly competitive global economy. The Commission's recommendations include the following: (1) provide early childhood education to assure that children are ready for school; (2) increase teacher salaries to recruit the best and brightest college graduates; (3) offer different benefit options to teachers, including different retirement programs; (4) contract out the operation of public schools, and compensate schools based on performance; (5) give additional support to disadvantaged students; and (6) use standardized diagnostic tests to assess the progress of students. The Committee considered this issue at its October 2007 meeting, but did not recommend draft legislation.

EDUCATION SUBCOMMITTEE ON TEACHER SHORTAGES, QUALITY, AND COMPENSATION

EDUCATION SUBCOMMITTEE ON TEACHER SHORTAGES, QUALITY, AND COMPENSATION

Membership

Sen. Howard A. Stephenson, Senate Chair
Rep. Gregory H. Hughes, House Chair
Sen. Patricia W. Jones
Sen. Mark B. Madsen
Rep. Craig A. Frank
Rep. James R. Gowans
Rep. Bradley G. Last
Rep. Merlynn T. Newbold
Rep. LaWanna "Lou" Shurtliff

Staff

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

OVERVIEW

At the request of the Education Interim Committee, the Legislative Management Committee authorized the creation of a subcommittee of the Education Interim Committee to study issues relating to teacher shortages, quality, and compensation. The Subcommittee was authorized for two meetings.

TEACHER QUALITY AND COMPENSATION

Background

In most public school systems, teacher compensation is solely based on years of experience, earning advanced degrees, and professional development credits earned. In recent years, a number of school districts and states have initiated compensation systems that incorporate bonuses or salary increases based on a teacher's performance. School districts and states have adopted performance-based pay to: (1) create an incentive to improve teaching performance and student success; (2) reward high-performing teachers; and (3) attract and retain talented and effective teachers.

The Subcommittee staff reviewed performance-based compensation plans adopted by three states and several school districts. To date, the research on the effects of performance-based compensation for teachers is slender and is not sufficiently robust to prescribe how performance-based compensation systems should be designed. Experts in improving teacher quality, however, have suggested that performance-based compensation systems for teachers:

- use multiple measures of teacher performance;
- use objective measures of student achievement;
- make incentives available to all teachers at a school;
- give significant performance rewards; and
- incorporate input from teachers and administrators.

Action

The Education Interim Committee considered this issue at its April 18 and November 14, 2007 meetings and recommended draft legislation, "Task Force to Study Performance Incentives for Teachers."

TEACHER SHORTAGES

Background

The Utah public education system has an existing shortage of teachers in certain areas, particularly in special education, mathematics, and science. In the future, teacher shortages may be more severe and extend to other subject areas due to a number of factors: (1) the state's school-age population is projected to significantly increase over the next decade; (2) baby boom era teachers will be retiring; and (3) fewer individuals are choosing to enter the teaching profession. The Subcommittee examined several proposals to enhance the retention and recruitment of teachers.

Educator Relicensure - Under existing State Board of Education rule, formerly licensed teachers who are no longer teaching must incur the time and expense of taking additional classes to have their license reinstated. To encourage former teachers to reenter the profession, the Subcommittee considered a proposal to allow a teacher's license to be reinstated upon payment of the licensing fee

EDUCATION SUBCOMMITTEE ON TEACHER SHORTAGES, QUALITY, AND COMPENSATION

and completion of a criminal background check. The principal of the school at which a relicensed teacher is hired is required to provide training to assist the teacher in performing the teacher's assigned position.

Paraeducator Scholarships - Paraeducators who provide instruction to students under the supervision of a teacher are a potential source of new teachers. To encourage paraeducators, who receive low wages, to pursue a four-year degree to become a teacher, the Subcommittee considered establishing a scholarship program for paraeducators. To qualify for scholarship monies, the paraeducator must be in active employment with a school district or charter school.

Extended Year for Teachers in Critical Shortage Areas - The Subcommittee received two proposals to increase compensation of teachers in critical shortage areas by extending their contract year. One proposal provides an optional, extended year contract for secondary teachers in the math and science fields. The additional work may include summer courses, student camps, and remedial classes. The other proposal provides a stipend for up to ten additional days of work for special educators to perform duties relating to preparing IEPs (Individualized Education Program) for special education students.

Differential Pay for Math and Science Teachers - Math and science teachers are in short supply, because individuals with math and science expertise can earn considerably higher wages in other jobs. The Subcommittee considered a proposal to provide an annual salary supplement of \$5,000 to math and science teachers.

Extended School Schedules and Calendars - The Special Task Force on Teacher Shortages formed by Utah's K-16 Alliance explored alternative school schedules that would result in a more efficient use of school buildings and human resources. By extending the school day and school year, teachers will have the opportunity to work more hours and earn more pay. Public education costs will not increase appreciably, because the required number of

hours of school per student is not increased. Other benefits of extended school schedules and calendars include reduced capital facilities costs and smaller class sizes. A major challenge in adopting an extended school schedule is building public support, because students' schedules will be different from the typical nine-month school schedule.

The Subcommittee reviewed a proposal to create a financial incentive to school districts to adopt extended school schedules. The proposal creates a competitive grant program that provides funds to up to three school districts to pay for costs associated with converting to an extended school schedule.

Action

The Education Interim Committee considered this issue at its April 18, May 16, June 13, and November 14, 2007 meetings and recommended draft legislation, "Education Relicensure Initiative," "Paraeducator to Teacher Scholarship Program," "Extended Year for Special Educators," "Differentiated Pay for Teachers," and "Extended School Year Incentive."

EQUALIZATION TASK FORCE**Membership**

Sen. Dan R. Eastman, Senate Chair
Rep. David Clark, House Chair
Sen. D. Chris Buttars
Sen. Mike Dmitrich
Sen. Lyle W. Hillyard
Sen. Scott D. McCoy
Sen. Howard A. Stephenson
Sen. Michael G. Waddoups
Rep. Melvin R. Brown
Rep. Brad L. Dee
Rep. James R. Gowans
Rep. Carol Spackman Moss
Rep. Merlynn T. Newbold
Rep. LaWanna "Lou" Shurtliff
Rep. Aaron Tilton
Rep. Carl Wimmer

Staff

Phillip V. Dean, Policy Analyst
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Andrea Wilko, Chief Economist
Ben Leishman, Fiscal Analyst
Chelsea Barrett, Legislative Secretary

OVERVIEW

In the 2007 First Special Session, the Legislature created the Equalization Task Force to study and make recommendations on school capital outlay funding equalization.

SCHOOL CAPITAL OUTLAY EQUALIZATION**Background**

Because the distribution of property values statewide does not perfectly align with the distribution of the total student population and enrollment growth throughout the state, school districts have widely differing property tax bases from which to fund education costs, including buildings. Charter schools cannot impose property taxes, so they currently rely on state, federal, or other funding sources for operations and capital needs.

One method of comparing the property tax base disparity among school districts is to examine each district's property tax base per enrolled student. In 2007, school district property tax bases per enrolled student are estimated to range from a low of about \$140,000 per student in Tintic School District to a high of about \$2,360,000 per student in Park City School District, with a statewide average of about \$360,000 per student.

Many school districts currently experiencing rapid enrollment growth are at the lower end of the property tax base per student scale.

Because of the property tax base disparity among school districts, a district with a comparatively low property tax base per student must impose a higher tax rate to generate the identical amount of revenue as a district with a higher property tax base per student. For example, in order to generate an identical amount of revenue, Tintic School District (with a property tax base of about \$140,000 per student) would have to impose a tax rate about two and a half times the tax rate of a school district at the statewide average of \$360,000 per student ($\$360,000 / \$140,000 = 2.57$).

On the operations side of the education budget, the basic program and its WPU (weighted pupil unit) distribution methodology offset the inequality in property tax base distribution. Under the basic program, each school district: (1) imposes a uniform property tax rate, called the basic levy; and (2) is guaranteed to receive a certain amount per WPU, with the state making up any difference between the guaranteed funding level and the amount generated locally by the basic levy.

However, on the capital outlay side of school district budgets, property taxes currently fund about 95 percent of total ongoing capital outlay costs, with the state contributing about 5 percent. In other words, unlike the operations side of the budget where significant state funding equalizes the basic program, school districts must rely predominantly on the unequal property tax to fund capital outlay costs.

EQUALIZATION TASK FORCE

In 2007, combined capital outlay and debt service tax rates range from a high of 0.005123 in Tintic School District to a low of 0.001019 in Emery School District. Not surprisingly, most of the school districts with the highest capital-outlay-related tax rates are districts with a lower property tax base per student, whereas most of the school districts with the lowest capital-outlay-related tax rates are districts with a higher property tax base per student.

The pending division of the Jordan School District has highlighted the disparities in property tax bases and enrollment growth among districts. The east portion of the district has more of the property tax base but less of the total enrollment and either relatively flat or declining enrollment. The west portion of the district has less of the property tax base and more of the total enrollment, along with rapid enrollment growth.

Currently, property taxes are equalized among the entire Jordan School District, with the entire district bearing the capital outlay costs equally. When the district division occurs, the new east district will have a higher property tax base per student than the previously existing Jordan School District and little or no enrollment growth. The remaining west portion of the district will have a lower property tax base per student than the previously existing Jordan School District and substantial enrollment growth.

The Task Force received background information from staff on education finance and enrollment trends, including information on the current school capital outlay funding system and the property tax base disparity among school districts.

The Task Force considered the following equalization proposals:

- allocate additional funding and make changes to the existing state capital outlay foundation and enrollment growth programs;
- allocate funds based on student enrollment growth, property tax base per student, and the existing state capital outlay foundation program and fund the allocations through an equalized statewide property tax levy for capital outlay;

- increase funding distributed under the equalized basic program by increasing and freezing the basic levy and requiring offsetting reductions to other school district property tax levies;
- create a state capital facility board to allocate funds for capital projects submitted by school districts; and
- reduce certain school property tax levies, increase the basic levy, offset the net property tax decreases with an earmarked sales tax increase, and allocate the earmarked sales tax funds through the equalized basic program.

The Task Force also considered a proposal that would delay the division of a school district unless the Legislature establishes an equalization program meeting certain criteria.

Action

The Task Force considered equalization issues at its September 20, October 9, October 15, October 29, November 19, and December 3, 2007 meetings. The Task Force recommended draft legislation, "Equalization of School Capital Outlay Funding," and "New School District Amendments."

GOVERNMENT COMPETITION AND PRIVATIZATION SUBCOMMITTEE

GOVERNMENT COMPETITION AND PRIVATIZATION SUBCOMMITTEE

Membership

Sen. Howard A. Stephenson, Senate Chair

Rep. Craig A. Frank, House Chair

Sen. Brent H. Goodfellow

Sen. Wayne L. Niederhauser

Rep. Tim M. Cosgrove

Rep. Carl W. Duckworth

Rep. Kevin S. Garn

Rep. Michael T. Morley

Rep. Mark W. Walker

Staff

Leif G. Elder, Research Analyst

Patricia Owen, Associate General Counsel

Phalin L. Flowers, Legislative Secretary

OVERVIEW

In March 2007, the Legislative Management Committee authorized a subcommittee comprised of members of the Business and Labor Interim Committee and the Revenue and Taxation Interim Committee. This Government Competition and Privatization Subcommittee was approved to study issues relating to government competition with the private sector and privatization.

A final report of the Subcommittee was made to the Business and Labor Interim Committee and the Revenue and Taxation Interim Committee in November 2007.

EVALUATION PROCEDURES

Background

States have taken a variety of approaches to evaluating issues of competition and privatization. Utah's current approach is primarily to have these issues heard by the Privatization Policy Board. The Board, established in 1989, reviews privatization requests, recommends whether to privatize services, reviews issues concerning agency competition with the private sector, and determines ways to eliminate unfair competition.

The Subcommittee reviewed evaluation processes in other states and past efforts by the Legislature to give the Board, or a similar entity, greater authority to enforce its decisions. The Subcommittee studied the functions and authority of the Board to see how they might be modified to create a more effective procedure to evaluate and govern government competition with the private sector and privatization.

Action

The Subcommittee considered this issue at its June 27, July 31, October 25, and November 7, 2007 meetings and recommended draft legislation, "Government Competition and Privatization Act" and "Inventory and Review of Commercial Activities."

LOCAL ENTITY COMPETITION WITH THE PRIVATE SECTOR

Background

The Subcommittee received testimony concerning local entities providing services and facilities that are in competition with services and facilities the private sector provides. The Subcommittee also heard from representatives of local entities about the nature of their activities. Some of the services and facilities cited include: golf courses, recreation centers, catering and other food services, reception and conference centers, meeting halls, waste management services, and ambulatory services.

The Subcommittee studied various topics related to local government competition with the private sector including:

- use of the transient room tax and the tourism, recreation, cultural and convention facilities tax;
- funding, management, and business activities of convention centers;
- municipal power systems;
- waste disposal services;
- government accounting practices for competitive activities;
- charges for the private use of a public facility; and
- feasibility and economic impact studies.

GOVERNMENT COMPETITION AND PRIVATIZATION SUBCOMMITTEE

Action

The Subcommittee considered this issue at its July 31, September 6, September 26, October 25, and November 7, 2007 meetings and recommended draft legislation, "Local Government Bonding Act - Public Hearings," "Anti-Flow Control Amendments," and "Accounting for Competitive Activities of Local Entities."

Action

The Subcommittee considered this issue at its September 6, September 26, and October 25, 2007 meetings, but did not recommend draft legislation.

MUNICIPAL ENTITIES AND CABLE OR TELECOMMUNICATION SERVICES

Background

With the rise of internet usage over the past decade, the infrastructure used to provide cable and telecommunication services has become increasingly important to daily life and to the economy. Local governments around the country have explored funding and building broadband infrastructure to provide the desired services for their residents. In 2004, two municipal broadband projects were launched in Utah: UTOPIA (Utah Telecommunication Open Infrastructure Agency) and iProvo.

UTOPIA is a consortium of Utah cities engaged in deploying and operating infrastructure used to take cable and telecommunication services to every business and household in its member communities. UTOPIA is set up to allow the addition of member cities that fulfill certain requirements. However, during the 2004 General Session, the Legislature imposed a three-year moratorium on additional UTOPIA members. The moratorium ended July 1, 2007.

The Subcommittee discussed various aspects of this issue including:

- the effect of cable and telecommunication infrastructure projects on government competition with the private sector;
- measures the Legislature could take to address the growth in an interlocal cooperative agency, such as UTOPIA, that provides telecommunication services; and
- the willingness of the private sector to build infrastructure that meets demand.

GOVERNMENT OPERATIONS INTERIM COMMITTEE

GOVERNMENT OPERATIONS INTERIM COMMITTEE

Membership

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Rep. Glenn A. Donnelson, House Chair
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Staff

Benjamin N. Christensen, Policy Analyst
Eric N. Weeks, Associate General Counsel
A. Brooke Ollerton, Legislative Secretary
Chelsea Barrett, 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; the Governor's Office of Planning and Budget; the Department of Administrative Services; and the

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.

ELECTION LAW CHANGES

Background

Utah Code, Title 20A, Election Code, contains detailed provisions for the administration of Utah elections. Each year, a number of issues are raised that require consideration by the Legislature. Although many of the issues are technical and administrative in nature, others may require a more substantive policy determination. In the 2007 interim, the Office of the Lieutenant Governor and the Association of County Clerks brought a number of issues to the Committee for consideration. The issues that were technical and administrative in nature were addressed in draft legislation prepared for the Committee's consideration. The other issues were presented separately by representatives of the lieutenant governor and county clerks, and selected issues were addressed by draft legislation at the direction of the Committee. Table 1 (on page 48) provides a list of the issues and final committee actions.

Action

The Committee considered these issues at its July, September, October, and November 2007 meetings and recommended the following legislation:

- "Allowance of Polling Places for Early Voting,"
- "Campaign Finance Disclosure Revisions,"
- "Candidate Residency Requirements,"
- "Declaration of Candidacy Revisions,"
- "Election Law Modifications,"
- "Lieutenant Governor Powers - Administration of Oaths,"
- "Revision to Polling Requirements," and
- "Timing of Ballot Items."

GOVERNMENT OPERATIONS INTERIM COMMITTEE

RECODIFICATION OF TITLE 63, STATE AFFAIRS IN GENERAL

Background

Utah Code, Title 63, State Affairs in General, was last recodified in 1953, and has been a "catch all" title for many years. At its June 2007 meeting, the Committee voted to recommend recodification of Title 63. This recommendation was approved by the Legislative Management Committee at its July 2007 meeting. An announcement dated July 19, 2007 and a potential outline for renumbering of the chapters were prepared and sent to state agencies for their review and input by July 31, 2007.

A list was prepared to show the existing sections in Title 63 and where each section will be moved. The final version of the draft legislation affects 11 percent of the *Utah Code*.

This recodification is classified as a renumber. It renumbers the existing sections, fixes all associated cross-references, and, where they exist, changes "articles" to "parts." Because of the size of the project, only some grammatical, gender neutral, structural, or other technical changes were included. No substantive changes were made in this recodification effort. Renumbering sections results in a cleaner, better organized code.

Action

The Committee considered this issue at its June, July, October, and November 2007 meetings and recommended draft legislation, "Recodification of Title 63 State Affairs in General."

TOTAL COMPENSATION OF STATE EMPLOYEES STUDIES

Background

The Legislature must annually establish compensation levels of state employees. State employee compensation constituted an average of 15.9 percent of the state's operating budget (all funds and all revenues) over the last 10 years with an annual average cost of \$1,088.90 billion (see Slide 1 on page 49). The number of state employees

as a percent of the state population has decreased during each of the last eight years from a high of 0.896 percent in 1999 to 0.796 percent in 2007.

Selected state compensation spending facts (as of October 2007) (see Slide 2 on page 49)

- On average, in the last 10 years, 68.7 percent of the cost of employee compensation is for salaries and 25.5 percent is for benefits (see Slide 2 on page 49).
- In FY 2007, the state spent \$865.9 million on salaries and \$407.1 million on benefits for state employees; 64.3 percent and 30.2 percent respectively.
- Health insurance premiums for state employees have doubled in the last eight years.

Selected state employee salary facts (as of October 2006) (See Slide 2 on page 49)

- The average salary for state employees is \$40,730 per year (see Slide 3 on page 50).
- The median annual salary for state employees is \$36,561, that is, 50 percent of state employees are paid "at or below" or "at or above" this figure (see Slide 4 on page 50).
- A state employee who makes \$58,005 per year is in the 85th salary percentile for all state employees.
- Only 12.3 percent of state employees make more than \$60,000 per year.
- State employee salary increases (merit plus cost-of-living adjustment salary increases only) are now just above the consumer price index when compounded over the last 10 years and are substantially below local government increases.

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; 96 of them have been selected as benchmark jobs for comparative purposes. According to this year's study, actual salaries for state employees are an average of 16.8 percent below the market and salary ranges are on average 12.8 percent below the market. The study showed that employees in 75 percent of the state's

GOVERNMENT OPERATIONS INTERIM COMMITTEE

benchmark positions could receive substantial pay increases for the same work with other employers. The study indicates particular salary challenges for correction officers, skilled trades, workforce service specialists, and engineers. The Department reports that the value of benefits for state employees is eight percent above the state's peer group.

Traditionally, pay increases for state employees are provided by COLAs (cost-of-living adjustments) applied to all state employees, by providing agency funding for merit increases, and by providing funding for MCAs (market comparability adjustments) to allow agencies to bring up the salary for targeted positions. However, during the 2007 General Session the legislature provided, for FY 2008, a traditional COLA of 3 percent, funding for MCAs, and in lieu of merit funding a 1.5 percent discretionary increase designed to allow agencies to put money towards the agency's own most important salary increase needs (see Slide 5 on page 51). For FY 2009 the Department is recommending a 3 percent COLA, funding for MCAs, and 3 percent discretionary finding.

Action

The Committee considered this issue at its October 2007 meeting, but did not recommend draft legislation.

OTHER STUDIES

Access to Voter Registration Date of Birth Information

Utah Code, Section 63-2-301, provides that voter registration records are public. An exception is made for a voter's driver license number, ID card number, and Social Security number, which are classified as private under Subsection 63-2-302(1)(i). The county clerks and the lieutenant governor's office have requested that this issue be examined to determine whether additional GRAMA (Government Records Access and Management Act) protections are appropriate for classifying date of birth information provided during voter registration. Two opposing arguments were made on the issue: (1) the press and third party information vendors use this information for their purposes, and (2) birth date information required to vote should not be allowed to be

used by anyone that may lead to harm of the voter. After hearing testimony on this issue at the May 2007 meeting, the Committee asked for more information regarding other state's practices and the relationship of this information to identity theft. The Committee received a report that nine states and the District of Columbia prohibit access to birth date information in voter registration records. Only three states allow access to the year of birth in voter registration information. A representative of the Attorney General's Office, with expertise in identity theft, testified that birth date information is a significant piece of information leading to identity theft. The AG representative urged the compromise position to allow age information to be public but not the birth month or day. The Committee considered this issue at its May and October 2007 meetings and recommended draft legislation, "Access to Voter Date of Birth Records."

Bonding for Veterans' Nursing Home in Ogden – Sunset Review

During the 2005 First Special Session, the Legislature authorized \$4,600,000 in general obligation bonds for a veterans' nursing home in Ogden. *Utah Code*, Section 63B-14-101, which was enacted by the authorizing bill, includes an intent statement that the State Bonding Commission may not issue the bonds until it receives a letter from the adjutant general of the National Guard certifying that federal funds for the project have been authorized. The bill included a provision repealing the bond authorization on December 31, 2006. The repeal date was extended to December 31, 2008 in the 2006 General Session. The Committee was assigned to review the issue and recommend whether the bond authorization should be reauthorized, allowed to sunset, or whether another option is desirable. Representatives of the Division of Veterans Affairs and the Utah National Guard urged an extension of the sunset. The Committee voted to recommend extending the sunset date of bonding authorization for the Veterans Nursing Home in Ogden to December 31, 2013. This recommendation may be included in the omnibus sunset legislation, "Sunset Review and Reauthorizations."

GOVERNMENT OPERATIONS INTERIM COMMITTEE

DFCM (Division of Facilities Construction and Management) Five-Year Building Program and Master Plan for State Office Space Needs

Under *Utah Code*, Section 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 needed 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 2007 General Session, the Legislature approved \$271 million from the General Fund in state funded building projects and \$83.4 million in projects from other funding sources. As of May 2007, DFCM had 26 projects in design at a projected construction cost of \$498.6 million and 32 projects in construction totaling \$576.4 million. DFCM completed a Salt Lake Area State Government Office Building Master Plan that shows an immediate shortage of 154,000 sq. ft. of office space and a 10-year office space need of an additional 325,000 sq. ft. Among the issues currently under consideration are: replacing the Human Services Building, the overcrowding of state office buildings, and the potential demolition and reconstruction of the State Office Building. The Committee considered this issue at its May 2007 meeting but did not recommend draft legislation.

Government Agency Overviews

Under the direction of the committee chairs, some 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 provide information on 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 2007 Interim the Department of Administrative Services and the State Planning Coordinator appeared before the Committee.

The Committee considered this issue at its April and July 2007 meetings, but did not recommend draft legislation.

Notary Seal Information Provisions

Utah Code, Section 46-1-3, requires the lieutenant governor to commission qualified applicants as a notary to perform legal notary acts, including acknowledgments, copy certifications, jurats, and oaths or affirmations. The lieutenant governor has requested changes to the Notaries Public Reform Act related to a change of a notary's address and what identification patrons are required to present to a notary. The Committee considered this issue at its October 2007 meeting and recommended draft legislation, "Notary Public Revisions."

Ombudsman Functions

Not all citizens are educated on how to obtain certain state government services. Four ombudsmen are currently included in Utah statute: (1) a property rights ombudsman; (2) a long-term care ombudsman; (3) a child protection ombudsman; and (4) an obscenity and pornography complaints ombudsman. Ombudsman generally provide information, investigation, and mediation to assist citizens and agencies in resolving disputes with the provision of government services.

Members of the Committee were interested in finding out whether ombudsman-type functions should be expanded in state government to provide additional assistance to citizens. A 211 information and referral call center is currently operating in Utah as a statewide program of Utah Food Bank Services. This call center directs callers to the appropriate agency or organization for their questions and

GOVERNMENT OPERATIONS INTERIM COMMITTEE

issues. Government and private sources provide its funding.

In addition, the Alternative Dispute Resolution Act in *Utah Code*, Section 78-31b-3 offers "an alternative or supplement to the formal processes associated with a court trial and to promote the efficient and effective operation of the courts of this state by authorizing and encouraging the use of alternative methods of dispute resolution to secure the just, speedy, and inexpensive determination of civil actions filed in the courts of this state."

After hearing testimony from representatives involved in these types of services, the Committee voted to support the expansion of ombudsman-type functions and the availability of the 211 telephone number which provides information on available public services. The Committee considered this issue at its June and September 2007 meetings, but did not recommend draft legislation.

State Capital Complex Construction Projects and Plans

In 1998, the Legislature enacted Title 63C, Chapter 9, State Capitol Preservation Board, which provides that the Board shall exercise complete jurisdiction and stewardship over Capitol Hill facilities, Capitol Hill grounds, and the Capitol Hill Complex. However, certain areas are under legislative control. The Board is required to preserve, maintain, and restore the Capitol Hill Complex, facilities, grounds, and their contents. The Board's duties are accomplished by an executive director through an annual work plan and a long-range master plan.

Restoration of the Capitol, which began in August 2004, is due for completion in January 2008. On June 7, 2007, the last base isolator providing earthquake protection to the Capitol was released, resulting in the Capitol being seismically prepared for earthquakes on the Wasatch Front. The Capitol re-dedication is scheduled for January 4, 2008, and public open house events are scheduled January 5th through the 12th. Each day will focus upon a unique aspect of the restoration project, culminating with Capitol Discovery Day, which will take place on January

12th. The employee parking structure east of the Capitol is also scheduled for completion and occupancy in December 2007. The Committee considered this issue at its June 2007 meeting, but did not recommend draft legislation.

State Government Efficiency Efforts

Currently, the following initiatives are underway to increase the efficiency of state government: (1) the Governor's Balanced Scorecard Initiative, which is a performance evaluation tool being implemented in all state agencies; (2) the Department of Administrative Services Strategic Plan, which delivers support services of the "highest quality" and "best value" to government agencies and the public; and (3) a state-wide strategic planning effort to extend strategic planning and customer service to all state agencies. Representatives of the Governor's Office of Planning and Budget, the State Planning Coordinator, and the Department of Administrative Services briefed the Committee on these programs and their implementation. The Committee considered this issue at its June 2007 meeting, but did not recommend draft legislation.

Voter Designation of Political Party Affiliation for Primary Elections – Sunset Review

Utah Code, Section 20A-2-107.5, allows an unaffiliated voter to designate or change political party affiliation at the polling location in order to vote in a regular primary election. This section sunsets on July 1, 2008 (see Section 63-55b-120). Unaffiliated voters who wish to vote in a closed primary election will have to designate their political party affiliation with the county clerk 30 days prior to the primary election. During its April 2007 meeting, the Committee heard testimony from the three registered political parties. One of the parties asked to have more time to develop a recommendation on the issue. The party came back with a recommendation to extend the sunset five years to allow additional study on the issue. The Committee considered this issue at its May 2006 meeting and recommended that the section be reauthorized for an additional five years, and will be included in the omnibus sunset legislation, "Sunset Review and Reauthorizations."

GOVERNMENT OPERATIONS INTERIM COMMITTEE

Table 1

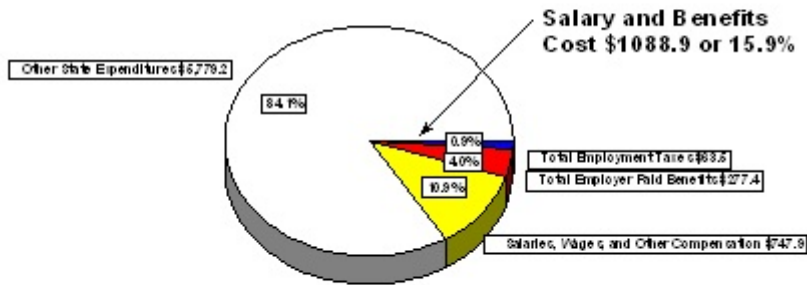
Issue	Advocate	Final Committee Action
1. Address technical and administrative issues in a technical amendment bill	Office of the Lieutenant Governor and Association of County Clerks	Draft legislation recommended by the Committee: "Election Law Modifications"
2. Allow the lieutenant governor and staff to administer oaths	Office of the Lieutenant Governor	Draft legislation recommended by the Committee: "Lieutenant Governor Powers - Administration of Oaths"
3. Provide more uniform financial disclosure dates	Office of the Lieutenant Governor	Draft legislation recommended by the Committee: "Campaign Finance Disclosure Revisions"
4. Adjust the date for statewide initiatives	Office of the Lieutenant Governor	Motion to draft legislation failed
5. Provide a residency requirement for state and local school board candidates	Office of the Lieutenant Governor	Draft legislation recommended by the Committee: "Candidate Residency Requirements"
6. Permit polling places for early voting to be located in non-governmental buildings	Association of County Clerks	Draft legislation recommended by the Committee: "Allowance of Polling Places for Early Voting"
7. Require all ballot items, including ballot questions, to be submitted to the clerk by a uniform date	Association of County Clerks	Draft legislation recommended by the Committee: "Timing of Ballot Items"
8. Remove the requirement for clerks to post official notice of the election results in the newspaper	Association of County Clerks	Committee did not move to have bill drafted
9. Remove the obligation for local school board candidates to file financial disclosure reports on September 15	Association of County Clerks	Withdrawn by the county clerks
10. Require non-county entities (e.g. school districts or service districts) to sign the ballot certifications for non-county ballot issues rather than the county clerk	Association of County Clerks	Draft legislation withdrawn by the county clerks
11. Eliminate the requirement to return the poll book to the county clerk after the canvass	Association of County Clerks	Draft legislation recommended by the Committee: "Revisions to Polling Requirements"
12. Remove obsolete language requiring the use of arrows when designing certain ballots	Association of County Clerks	Draft legislation recommended by the Committee - "Election Law Modifications"
13. Change candidate declaration deadlines to conform to city deadlines	Association of County Clerks	Draft legislation recommended by the Committee: "Declaration of Candidacy Revisions"

GOVERNMENT OPERATIONS INTERIM COMMITTEE

14. Clarify the separation of the county and special district elections and make sure that code references to coordination with the county are removed because special district elections now happen on the municipal year	Association of County Clerks	Item on hold at the request of the county clerks
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Slide 1
Distribution of All State Operating Expenditures
 (All Funds all Sources)
for Costs of Compensation – State Employees
 Total Average Annual State Expenditures \$6,868 (in millions)

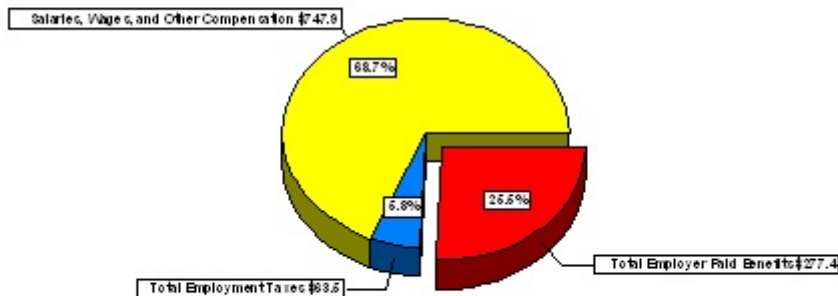
Ten-Year Average FY 1998 - 2007



Prepared by the Office of Legislative Research and General Counsel – October 2007
 Source: Division of Finance, 12 October 2007

Slide 2
Distribution of State Paid Costs
for Compensation – State Employees
Annual Average Expenditure = \$1,088.9 - in millions

Ten-Year Average FY 1998 - 2007



Prepared by the Office of Legislative Research and General Counsel – October 2007
 Source: Division of Finance, September 28, 2007

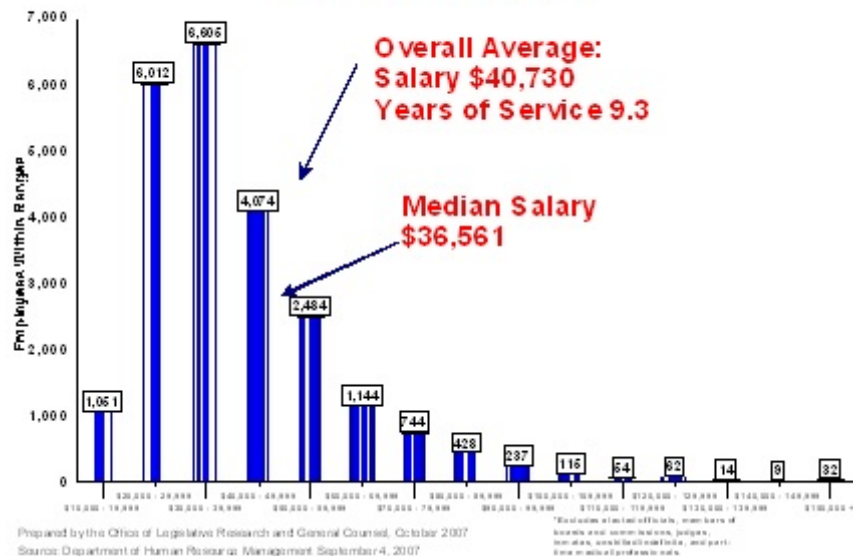
GOVERNMENT OPERATIONS INTERIM COMMITTEE

Slide 3 Salary Facts 2007

	FY 2007	FY 2008	Change
• The average annual salary	\$38,469	\$40,730	\$2,261
• The median annual salary	\$34,237	\$36,561	\$2,324
• 85th percentile salary	\$54,330	\$58,005	\$3,675
• Percent of all state employees making less than federal poverty guidelines for a family of four (\$20,650 in 2007)	8.3%	5.1%	-3.2%
• Percent of all state employees meeting federal food stamp gross income tests for a family of four (\$26,004 in 2007)	21.6%	20.6%	-1.0%
• Percent of state employees making more than \$60,000 per year	10.1%	12.3%	2.2%

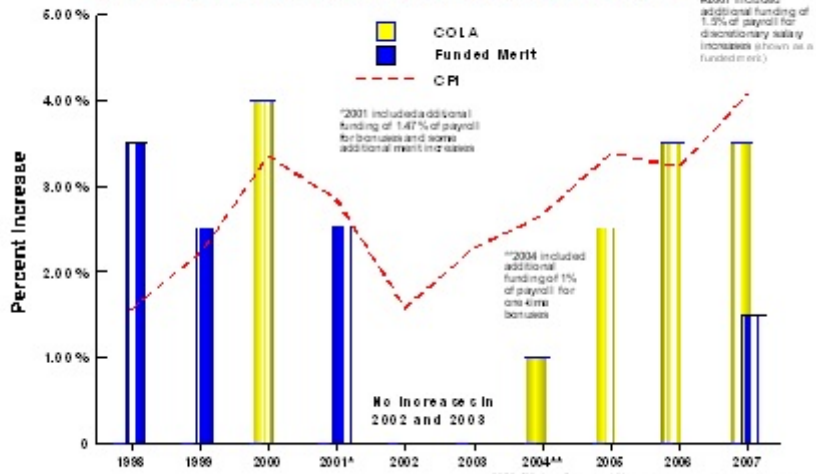
Prepared by the Office of Legislative Research and General Counsel, October 2007
 Source: Based on Statistics obtained from the Department of Human Resource Management, U.S. Department of Health and Human Services; and U.S. Department of Agriculture, Food, and Nutrition Services, September 2007.

Slide 4 State Employees Distribution by Annual Salary FY 2008 -- 23,065 Total Employees*



Slide 5
10-Year Salary Increase History – State Employees

Cost of Living, Funded Merit, and the Consumer Price Index
 Shown By Calendar Year Passed (effective for next Fiscal Year)



Prepared by the Office of Legislative Research and General Counsel, October 2007
 Source: Department of Human Resource Management, October 2007 and U.S. Department of Labor for CPI (All Urban Consumers)

MCA (Merit Contingency Adjustments) were also funded in '98, '99, '00, '01, '02, '04, '05, and '07

2007 CPI is based on the Bureau of Economic Analysis of the year

HEALTH AND HUMAN SERVICES INTERIM COMMITTEE

HEALTH AND HUMAN SERVICES INTERIM COMMITTEE

Membership

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Rep. Paul Ray, House Chair
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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.

ADOPTION

Background

The Committee considered draft legislation, "Adoption and Termination of Parental Rights," developed and recommended by the Utah Adoption Council. The bill:

- provides that a child-placing agency has a direct, tangible, and legitimate interest in the vital records of

a child that has been placed with the agency pending finalization of an adoption;

- modifies and clarifies the definition of "adoption related expenses" that a person may pay or accept without violating the crime of "sale of a child";
- amends the offense of "sale of a child" to make it a third degree felony to offer to sell or dispose of a child, or to give, or attempt to give, money or another thing of value to a person with the intent to induce the person to sell or dispose of a child;
- makes incarceration for a felony a factor that a court must consider in determining whether a parent is unfit or has neglected a child, regardless of whether the child is in the custody of the Division of Child and Family Services;
- modifies requirements relating to taking consents and relinquishments for adoption;
- clarifies which code provisions must be complied with in order for a court to waive the requirement that adoptive parents and the child to be adopted appear before the court prior to entry of a final decree of adoption; and
- requires a child-placing agency and a petitioner for adoption to comply with the Indian Child Welfare Act in an adoption proceeding involving an Indian child.

Action

The Committee considered this issue at its November 2007 meeting and recommended draft legislation, "Adoption and Termination of Parental Rights."

CANCER PREVENTION

Background

The Committee considered draft legislation, "Cancer Screening and Mortality Reduction Program," that expands the Department of Health's breast cancer mortality reduction program to include cervical, colorectal, and other cancers, and appropriates \$2,300,000 to increase screening for specified populations. The Committee received testimony from the American Cancer Society and Utah Cancer Action Network indicating that: (1) the Department of Health's existing cancer screening program is able to fund only 6.6 percent of those

HEALTH AND HUMAN SERVICES INTERIM COMMITTEE

estimated to be eligible for screenings; (2) rates of cancer screening for all cancers are, for the most part, lower in Utah than in other states; (3) cancer is the second leading cause of death in Utah; and (4) every dollar spent on screening saves five dollars in other costs.

Action

The Committee considered this issue at its September 2007 meeting and recommended draft legislation, "Cancer Screening and Mortality Reduction Program."

CHILD WELFARE

Background

Each interim, the Committee receives a report from the Child Welfare Legislative Oversight Panel. The Panel was created by the Legislature in 1995 to study and recommend improvements to Utah's system of preventing and responding to allegations of child abuse and neglect. During the 2007 interim, the Committee received the Panel's report, gave additional consideration to two pieces of legislation recommended by the Panel, and tracked the progress of efforts to end federal court oversight of the state's child welfare system.

In its report to the Committee, the Panel recommended the following legislation:

- "Child Abuse and Neglect Registry - Management and Licensing Information Systems Amendments,"
- "Waivers of Immunity - Exceptions,"
- "Child Welfare Amendments," and
- "Child Welfare Definitions."

The Panel also recommended further study of issues related to kinship care for abused and neglected children, and increasing the Office of the Guardian ad Litem budget by \$761,900 to increase attorney salaries, hire six additional attorneys and three additional support staff, increase the hourly rate and cap paid to outside counsel, and pay for two additional motor pool vehicles.

On June 28, 2007, the U.S. District Court dismissed the *David C.* lawsuit, without prejudice, pursuant to an exit agreement entered into by the state and plaintiffs to the

suit. *David C.* has been the basis for federal court oversight of the state's child welfare system since 1994. The Committee received reports before and after adoption of the exit agreement from the Office of the Attorney General, the Department of Human Services, and committee staff.

Additional detail about the *David C.* exit agreement and the Child Welfare Legislative Oversight Panel's work is included in the report on page 29.

Action

The Committee considered this issue at its April, July, September, October, and November 2007 meetings and recommended draft legislation, "Child Welfare Amendments" and "Child Welfare Definitions."

COMMUNITY HEALTH INFORMATION NETWORK

Background

In health care, the development and implementation of systems that allow the electronic management and sharing of personal health information, with proper controls, is widely viewed as having the potential to reduce high rates of spending growth and improve outcomes. The Committee considered draft legislation, "Standards for Exchange of Electronic Health Information," that requires the Department of Health to adopt standards for the secure exchange of electronic health information between health care systems and periodically report to the Legislature on the financial impact of those standards.

Action

The Committee considered this issue at its November 2007 meeting and recommended draft legislation, "Standards for Exchange of Electronic Health Information."

CONTROL AND PREVENTION OF SEXUALLY TRANSMITTED DISEASES

Background

Although the prevalence of sexually transmitted disease is lower in Utah than the rest of the nation, it has been increasing rapidly, particularly for chlamydia and

HEALTH AND HUMAN SERVICES INTERIM COMMITTEE

gonorrhea. The Department of Health receives approximately \$440,000 per year from the federal Centers for Disease Control and Prevention for sexually transmitted diseases control efforts. Fifty percent of the money goes to local health departments. Much of the funding pays for chlamydia and gonorrhea testing.

The Committee considered draft legislation, "Control and Prevention of Sexually Transmitted Diseases," that appropriates \$350,000 to the Department of Health to distribute information to health professionals and the public about sexually transmitted diseases, their probable side effects if left untreated, and locally available treatment providers.

Action

The Committee considered this issue at its July and September 2007 meetings and recommended draft legislation, "Control and Prevention of Sexually Transmitted Diseases."

DISABILITY SERVICES

Background

Some of the services provided by the Division of Services for People with Disabilities are mandatory and must be provided to any eligible individual. Other services are optional and are provided based on available funding. For many years, the demand for optional services has exceeded available funding. The Committee received testimony from the Department of Human Services, the Board of Services for People with Disabilities, and the Disability Law Center on options for addressing the needs of those awaiting services.

The Department of Human Services outlined several options for addressing either all or various portions of the needs of persons waiting for optional services. Providing services to all of the 1,798 persons currently waiting and the 1,750 expected to also become eligible over the next five years would require an estimated ongoing increase of \$11.76 million in state funding.

The Board of Services for People with Disabilities spoke in support of continuing the Supported Employment Pilot Program and the Family Preservation Pilot Program. The Board also encouraged the Committee to consider other strategies to provide services to those waiting, including:

- increasing funding for services,
- increasing payment to providers for direct-care staff wages and infrastructure, and
- creating an After School Disabilities Pilot Program and a Respite Care Pilot Program.

The Disability Law Center recommended:

- establishing a statewide network of high school and college students and/or Americorps/Vista volunteers to provide respite care;
- making respite care, supported employment, day supports, personal care, and other cost effective proactive services more widely available through state plan options;
- enabling families with income up to 300 percent of poverty to purchase Medicaid as wraparound coverage for their medically needy children under the Family Opportunity Act;
- seeding a public-private respite care endowment for the aging and disabled population;
- consolidating the institution-based and community-based care budgets into a single line item so that the money is able to follow the person rather than the person following the money; and
- adopting a resolution encouraging our congressional delegation to support the continued shift toward community-based supports in Medicaid.

Action

The Committee considered this issue at its October 2007 meeting, but did not recommend draft legislation.

EDUCATION AND OUTREACH REGARDING HARMFUL SUBSTANCES DURING PREGNANCY

Background

The Committee considered draft legislation, "Education and Outreach Regarding Substances Harmful During Pregnancy," that establishes a public education and

HEALTH AND HUMAN SERVICES INTERIM COMMITTEE

outreach program to inform women of: (1) the risks of using alcohol, tobacco, or other harmful substances during pregnancy; (2) available treatment; and (3) legal protections associated with treatment.

Action

The Committee considered this issue at its November 2007 meeting and recommended draft legislation, "Education and Outreach Regarding Substances Harmful During Pregnancy."

EXEMPTIONS FROM CHILD CARE LICENSING REQUIREMENTS

Background

During the 2007 interim, the Department of Health sought clarification of *Utah Code 26-39-106 (6)*, which exempts child care from licensing that is related to certain education institutions.

The Department explained three situations where the Department is unclear how the statute should be applied. After explaining the situations to the Committee, the Department met with representatives of the child care industry and other stakeholders to develop recommendations for clarifying the statute. The Committee received a report of those recommendations and testimony from stakeholders.

Action

The Committee considered this issue at its October and November 2007 meetings, but did not recommend draft legislation.

HEALTH CARE REFORM

Background

In 2005, Governor Jon M. Huntsman, Jr. convened the Summit for Health Insurance Coverage for the Uninsured. This effort to focus attention on reducing the number of uninsured in Utah reflected efforts underway in many other states. More recently, the Legislature appropriated \$350,000 to the Governor's Office of Economic Development in FY 2008 to develop a plan to make health

insurance more available to employees of small businesses. Many groups and individuals have developed guiding principles, or even specific proposals, to reform Utah's health care system. During the 2007 interim, the Committee received reports from many of these groups and individuals, including:

- Department of Health,
- Governors Initiative on Health Insurance for the Uninsured,
- Governor's Office of Economic Development,
- Representative Steven R. Mascaró,
- UHA (Utah Hospital and Health Systems),
- United Ways of Utah,
- Utah Association of Health Underwriters,
- Utah Health Insurance Association,
- Utah Health Policy Project, and
- Utah Medical Association.

Reports by these groups and individuals addressed the demographic characteristics of the uninsured and how health care coverage could be extended to more individuals either by expanding or modifying existing public programs or otherwise modifying the health care system.

Action

The Committee considered this issue at its May and September 2007 meetings, but did not recommend draft legislation.

INSURANCE COVERAGE FOR PROSTHETICS

Background

A basic prosthetic to replace an amputated arm or leg costs \$6,000 to \$8,000. A complex prosthetic costs \$50,000 to \$60,000. Health insurance plans do not necessarily cover the cost of acquiring, maintaining, or replacing prosthetics.

The Amputee Coalition of America is recommending that states adopt legislation that would require health insurers to cover prosthetics. Legislation to mandate coverage of prosthetics has been adopted in seven states and is under consideration in 28 other states.

HEALTH AND HUMAN SERVICES INTERIM COMMITTEE

The Committee received testimony from the Amputee Coalition of America, a local medical doctor, and a local prosthetist on the costs and benefits of mandating health insurance coverage for prosthetics.

Action

The Committee considered this issue at its September 2007 meeting, but did not recommend draft legislation.

MORBID OBESITY

Background

Several types of surgery are available for the treatment of morbid obesity but are not necessarily covered by a person's health insurance plan. The Committee received testimony from the Utah Obesity Coalition, the Obesity Action Coalition, a bariatric surgeon, a person who had undergone bariatric surgery, Bariatric Support Centers International, and the Utah Health Insurance Association on surgical treatments for morbid obesity.

The Committee considered draft legislation, "Obesity Health Insurance Coverage," that would require health insurance carriers to offer at least one plan that includes coverage for morbid obesity. The Committee also considered draft legislation, "Resolution Supporting Obesity Awareness," that urges health care suppliers, communities, businesses, and schools to develop obesity awareness campaigns and voluntary programs that focus on the causes, consequences, prevention, and treatment of obesity. The Committee also considered the Utah Prader-Willi Syndrome Association's request for a \$68,200 appropriation to fund a case manager for persons with the syndrome. Morbid obesity is a condition associated with the syndrome.

Action

The Committee considered this issue at its June and October 2007 meetings and recommended draft legislation, "Resolution Supporting Obesity Awareness."

SMOKING WITH A YOUNG CHILD IN A MOTOR VEHICLE

Background

The Committee considered draft legislation, "Smoking Ban in Motor Vehicle," that prohibits a person from smoking in a vehicle where a child is required to be in a child restraint device or is under five years of age. Similar legislation was considered but did not pass during the 2007 General Session. The Committee received testimony from the American Cancer Society, a pediatric medical doctor resident, and the Utah Eagle Forum.

Action

The Committee considered this issue at its September 2007 meeting and recommended draft legislation, "Smoking Ban in Motor Vehicle."

SUPPORTED EMPLOYMENT SERVICES PILOT PROGRAM

Background

In 2006, the Legislature created a pilot program for the provision of supported employment services by the Division of Services for People with Disabilities. The program is scheduled to sunset in 2008. The Committee considered draft legislation, "Supported Employment Services to a Person with a Disability," that makes the pilot program permanent and extends the sunset date to July 1, 2013.

Action

The Committee considered this issue at its November 2007 meeting and recommended draft legislation, "Supported Employment Services to a Person with a Disability."

TELEHEALTH

Background

Although private home health care providers use telemonitoring devices to monitor the health condition of their patients, Utah's Medicaid program does not provide reimbursement for the use of such devices. The Committee considered draft legislation, "Medicaid Coverage for Certain Telehealth Services," that requires

HEALTH AND HUMAN SERVICES INTERIM COMMITTEE

the Department of Health to adopt rules under which services already covered by Medicaid may be reimbursed when provided by means of telemedicine. Similar legislation was considered but did not pass during the 2007 General Session.

Action

The Committee considered this issue at its September 2007 meeting and recommended draft legislation, "Medicaid Coverage for Certain Telehealth Services."

UTAH DIGITAL HEALTH SERVICE COMMISSION

Background

The Committee received testimony from the Department of Health and the Utah Digital Health Service Commission and considered draft legislation, "Amendments to Utah Digital Health Service Commission Act," that would modify the membership requirements and duties of the Utah Digital Health Service Commission to better support the Utah Department of Health's e-health initiative.

Action

The Committee considered this issue at its October 2007 meeting and recommended draft legislation, "Amendments to Utah Digital Health Service Commission Act."

VACCINES FOR UNDERINSURED CHILDREN

Background

Payment for the vaccines given to most children in Utah is made either through private insurance, Medicaid, the Children's Health Insurance Program, or, for uninsured children, the federal Vaccines for Children program. For children who are underinsured, that is for children with private health insurance that does not cover vaccines, payment is made by the Department of Health Immunization Program. The Department estimates that this program pays for vaccines given to approximately 10 percent of Utah children.

Public health officials have several concerns about vaccines in Utah.

- Utah ranks about 40th in the nation in terms of the rate at which children receive all recommended vaccines by age two.
- Notwithstanding the coverage provided by private insurance plans, parents may be deterred by copays or deductibles.
- The Department of Health Immunization Program's ability to pay for vaccines is diminishing due to increases in vaccine costs and the number of eligible children.

The Committee received testimony from the Department of Health, the Salt Lake Valley Health Department, the Utah Vaccine Advisory Committee, and the Utah Health Insurance Association on options to increase the use of vaccines. Options discussed include:

- educating health care plans about the importance of covering vaccines;
- prohibiting enrollee cost sharing for vaccines in private health care plans;
- requiring health care plans to cover vaccines; and
- requiring health care plans to clearly inform consumers about vaccine coverage.

Action

The Committee considered this issue at its July 2007 meeting, but did not recommend draft legislation.

OTHER STUDIES

Autism

Autism is the fastest growing serious developmental disability in the U.S. In Utah, it is estimated that one out of every 133 children will be diagnosed with an autism spectrum disorder. A working group called UAI (the Utah Autism Initiative) was formed in 2007 by the Department of Health to identify autism service needs and resources. UAI is attempting to coordinate resources already provided by the Department of Health, the Department of Human Services, and the State Office of Education, and to develop recommendations for improving services.

HEALTH AND HUMAN SERVICES INTERIM COMMITTEE

The Committee received reports from UAI and the Autism Council of Utah on the nature of autism and options for improving services to those with the disorder.

The Committee considered this issue at its July 2007 meeting, but did not recommend draft legislation.

Cost Data for Risk-adjusted Episodes of Care

The Committee received a report from the Department of Health on the implementation of 2007 General Session H.B. 9, "Health Care Cost and Quality Data." The bill authorized the Health Data Committee, within available funding, to develop a plan for collecting and publishing health care data that measures the costs of risk-adjusted episodes of care. An advisory panel required by the bill has been created and is beginning to develop the plan. Implementation of the plan is expected to cost approximately \$1 million annually.

The Committee considered this issue at its June 2007 meeting, but did not recommend draft legislation.

Gold Medal Schools Program

The Department of Health's Gold Medal Schools Program has been functioning since FY 2002 and is designed to help public and private schools create opportunities for students to eat healthy, be active, and stay tobacco free. The Department reported that 299 of 494 elementary schools and 5 of 138 middle and junior high schools have participated in the program. The program relies on various funding sources totaling \$909,600. Expanding the program to 40 more elementary schools and 20 more middle or junior high schools would require an additional \$289,800 in FY 2009.

The Committee considered this issue at its June 2007 meeting, but did not recommend draft legislation.

Health Insurance Market Evaluation

The Insurance Department presented to the Committee "2006 Health Insurance Market Report," the Department's annual evaluation of Utah's health insurance market. The department recommended that the Legislature take the

following actions, in priority order, to improve Utah's health insurance market:

- fund the HIPUtah (Utah Comprehensive Health Insurance Pool) so that it is actuarially sound;
- encourage the development of electronic data interchange standards and require their use to foster development of a level four system of electronic medical records;
- create a prescription drug purchasing plan;
- create a no-fault dispute resolution system modeled after workers' compensation insurance to reform the current medical malpractice system;
- require transparency of health insurance sales;
- exempt the small group market (employers with 2–50 employees) from state health insurance mandates, but require carriers to offer employers the previously mandated feature at an appropriate cost; and
- create a fully-funded joint executive branch and legislative branch task force to study the rising costs of health care.

The Committee considered this issue at its April 2007 meeting, but did not recommend draft legislation.

Medicaid Interim Committee

As in many other states where commissions or other groups have been created in recent years to study Medicaid, the Legislature created the Medicaid Interim Committee in 2006 to identify ways to reduce the high rate of spending growth and federal partnership that pays for health care services to many of Utah's expectant mothers, aged, and disabled. The Medicaid Interim Committee reported to the Committee on its work, including recommendations for increasing client accountability, consolidating eligibility services, and limiting spending growth. Details about these recommendations and other topics studied by the Medicaid Interim Committee are included on page 81.

Methamphetamine

The Committee received a briefing from a member of the Utah Methamphetamine Joint Task Force on the governor's campaign to increase public awareness about methamphetamine use among women. The campaign was

created with the assistance of the Task Force and the Utah Association of Counties.

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

Organ Donations

Medical doctors from the University of Utah School of Medicine briefed the Committee on organ donation in Utah. The Committee considered this issue at its September 2007 interim meeting, but did not recommend draft legislation.

Pandemic Preparedness

The Governor's Task Force for Pandemic Influenza Preparedness met six times between September 2006 and February 2007 and developed recommendations in the following eight areas:

- effective and credible decisionmaking,
- communications,
- health care surge capacity,
- maintaining essential business and community services,
- support for vulnerable populations and essential responders,
- purchase and use of a stockpile of antiviral medications,
- use of a pandemic influenza vaccine, and
- community mitigation measures to slow the spread of the virus.

The Committee received a brief report from the Task Force on its recommendations and discussed whether executive branch emergency powers for responding to an influenza pandemic should be modified.

The Committee considered this issue at its July 2007 meeting, but did not recommend draft legislation.

Planning by Local Departments of Health

The Committee received a report from the Bear River Health Department on the implementation of 2007 General Session S.B. 46, "Health Care Amendments," which appropriated \$500,000 to the Utah Department of Health to assist local health departments with the development and implementation of plans to investigate disease outbreaks, expand outreach and education efforts, and

expand local capacity to respond to disasters or disease outbreaks. The Department said that General Fund appropriations to local health departments has remained constant over the past 20 years and requested that the amount be increased by \$2,000,000 during the 2008 General Session.

The Committee considered this issue at its October 2007 meeting, but did not recommend draft legislation.

Surgical Centers

The Utah Ambulatory Surgery Center Association explained that many of its members are not included on the provider panels created by managed care organizations under contract with the Department of Health to deliver Medicaid services. The Association said that including the centers would reduce Medicaid costs. The Department of Health indicated that it is willing to consider any option that would reduce costs.

The Committee considered this issue at its October and November 2007 meetings, but did not recommend draft legislation.

HIGHER EDUCATION TASK FORCE

Membership

Sen. Gregory S. Bell, Senate Chair
Rep. Kory M. Holdaway, House Chair
Sen. Mike Dmitrich
Sen. Brent H. Goodfellow
Sen. Peter C. Knudson
Sen. Dennis E. Stowell
Rep. Ron Bigelow
Rep. Melvin R. Brown
Rep. John G. Mathis
Rep. Carol Spackman Moss
Rep. Stephen H. Urquhart
Rep. Mark A. Wheatley

Staff

Allison M. Nicholson, Policy Analyst
Constance C. Steffen, Policy Analyst
Dee S Larsen, Associate General Counsel
Glenda S. Whitney, Legislative Secretary

OVERVIEW

H.B. 396, "Higher Education Task Force," enacted in the 2007 General Session, created a one-year legislative task force known as the Higher Education Task Force. The Task Force was directed to review and make recommendations on: (1) the missions of the state's higher education institutions, any overlap in missions, and opportunities for partnerships between institutions; (2) transfer of credits between institutions; (3) higher education preparation, participation, and completion rates; and (4) other issues concerning the state system of higher education.

COLLEGE COMPLETION

Background

Utah students generally take more than four years to graduate from college. Although they typically take 11 to 12 semesters to graduate, when calculated on a credit basis, the number of years to graduate is just 4.3 to 5 years.

Accumulating excess credits hours is costly for the state, because the state subsidizes about two-thirds of the cost of undergraduate tuition. Some of the factors affecting the number of credit hours at graduation include: (1) undecided major upon entrance; (2) changing majors; (3) taking elective credits to enhance opportunities for employment or graduate school; (4) taking advanced placement or concurrent enrollment classes in high school that do not correspond to credits needed for a bachelor's degree; (5) repeating a course to strengthen mastery of the topic or improve a grade point average; and (6) taking remedial courses due to inadequate preparation for college work.

Action

The Committee considered this issue at its June 2007 meeting, but did not recommend draft legislation.

TRANSFER OF CREDITS

Background

In 2004, H.B. 320, "Transfer of Credit among Higher Education Institutions," was enacted to improve course transfer by mandating common course numbers and course prefixes for general education, pre-major, and elective courses. Since the enactment of H.B. 320, commonly numbered courses grew from 35 to more than 523 lower-division courses.

Data provided by the Utah System of Higher Education indicate that transfer students are able to complete degrees in a timely manner. The average number of credits taken by transfer students who complete a bachelor's degree at the University of Utah is only six more (145 credits) than the number of credits taken by native University of Utah students who complete a bachelor's degree (139 credits).

To improve the transfer of credits, college students receive academic advising prior to transfer so that they select courses that further their education goals, and they receive orientation and advising from the receiving institution to support their success.

HIGHER EDUCATION TASK FORCE

Action

The Committee considered this issue at its June 2007 meeting, but did not recommend draft legislation.

UTAH COLLEGE OF APPLIED TECHNOLOGY

Background

In 2001 UCAT (Utah College of Applied Technology) was created to deliver applied technology education to secondary and post-secondary students. Although UCAT is a part of the state system of higher education and is under the governance of the Board of Regents, it has some independent authority. For example, UCAT's budgets and capital facilities plans are not subject to Board of Regents approval. There has been some concern that a lack of coordination of UCAT budgets and capital facilities plans with those of other higher education institutions may result in an inefficient use of state resources. Alternatively, some legislators and applied technology education supporters advocate for greater UCAT independence to assure continued development of applied technology education programs throughout the state.

The Commissioner of Higher Education outlined the following policy options to better integrate and coordinate UCAT as part of the Utah System of Higher Education:

- The Board of Regents, in cooperation with the UCAT Board of Trustees, should conduct a space utilization study for the UCAT campuses.
- The Board of Regents, in cooperation with the UCAT Board of Trustees, should conduct a facilities master plan projecting capital needs of UCAT campuses for the next five- to ten-year periods.
- UCAT should explore and exhaust all options for sharing facilities and creating partnerships for new facilities with other higher education institutions and school districts.
- The UCAT budget should be presented to the Board of Regents for review and discussion at the same time as other institutional budgets are presented.
- UCAT capital facilities requests and priorities should be presented to the Board of Regents for review and

discussion at the same as other capital facilities requests are made.

- The Board of Regents and UCAT Board of Trustees should authorize the creation of partnerships across institutions to create career pathways and degree programs resulting in the development of Associate of Science and Applied Science degrees.

Action

The Committee considered this issue at its May, July, August, and November 2007 meetings and recommended draft legislation, "Utah College of Applied Technology - Governance and Operations."

OTHER STUDIES

Minority and Disadvantaged Students

The Task Force received recommendations from the Utah System of Higher Education on how to increase the number of minority and disadvantaged students entering and completing higher education, including: (1) designating a senior-level administrator at each institution to improve participation and completion rates for underrepresented populations; (2) improved preschool through grade 12 preparation; (3) financial aid; (4) college mentoring and outreach; and (5) a public relations/communications campaign. The Task Force considered this issue at its June 2007 meeting, but did not recommend draft legislation.

Substance Abuse on College Campuses

A representative of the Office of the Commissioner of Higher Education reported that Utah is at or below the national average for substance abuse of alcohol and drugs. The Commissioner's Office is working with student services leaders at the campuses to address alcohol and drug use on campuses. The Task Force considered this issue at its June 2007 meeting, but did not recommend draft legislation.

JUDICIAL RETENTION ELECTION TASK FORCE

JUDICIAL RETENTION ELECTION TASK FORCE

Membership

Sen. D. Chris Butters, Senate Chair
Rep. Curtis Oda, House Chair
Sen. Gregory S. Bell
Sen. Lyle W. Hillyard
Sen. Ross I. Romero
Rep. Jackie Biskupski
Rep. DeMar "Bud" Bowman
Rep. Glenn A. Donnelson
Rep. Lorie D. Fowlke
Rep. Eric K. Hutchings
Rep. Rosalind J. McGee
Judge Hans Q. Chamberlain
Chief Justice Christine M. Durham
Judge Gary D. Stott

Staff

Jerry D. Howe, Policy Analyst
Mark B. Steinagel, Policy Analyst
Esther Chelsea-McCarty, Associate General Counsel
Christopher R. Parker, Associate General Counsel
Amanda K. Majers, Legislative Secretary

OVERVIEW

Utah's judges are selected, evaluated, and retained in office by a unique merit selection process designed to balance the interests of an independent judiciary while still providing sufficient information to allow the public to decide whether a judge should continue in this special position of public trust.

The Judicial Retention Election Task Force was charged to review and make recommendations to the Judicial Council and the Legislature on the following issues:

- judicial selection procedures;
- the value of the formal judicial evaluation program established by rule of the Judicial Council pursuant to *Utah Code 78-3-21*, in providing the public with sufficient information to make an accurate assessment of a judge's performance; and
- an evaluation of and potential changes to:

- ▶ the questions on the attorneys' surveys for appellate and trial court judges;
- ▶ selection methods of attorney respondents for judicial performance surveys; and
- ▶ the certification process of judges to stand for a retention election.

JUDICIAL PERFORMANCE EVALUATION COMMISSION

Background

The Legislature delegated to the Judicial Council the responsibility to provide for the Judicial Performance Evaluation Program. The Judicial Branch produces the judicial performance evaluation information that is disseminated to the public in the *Voter Information Pamphlet*. The Task Force's primary charge was to review and determine whether the process provides the public with sufficient information to make an informed decision regarding whether to retain a judge in office.

The Task Force considered many issues affecting judicial retention elections including the following:

- Which entity can best and most independently conduct the judicial performance evaluations?
- What minimum performance standards should be adopted?
- Should others who interact with judges, rather than only attorneys, be included in the survey of judicial performance?
- How often should the survey be taken and how much of a judge's term should it cover?
- How should the collected information be reported to the public to best assist the public in making an informed determination about whether a judge should be retained?

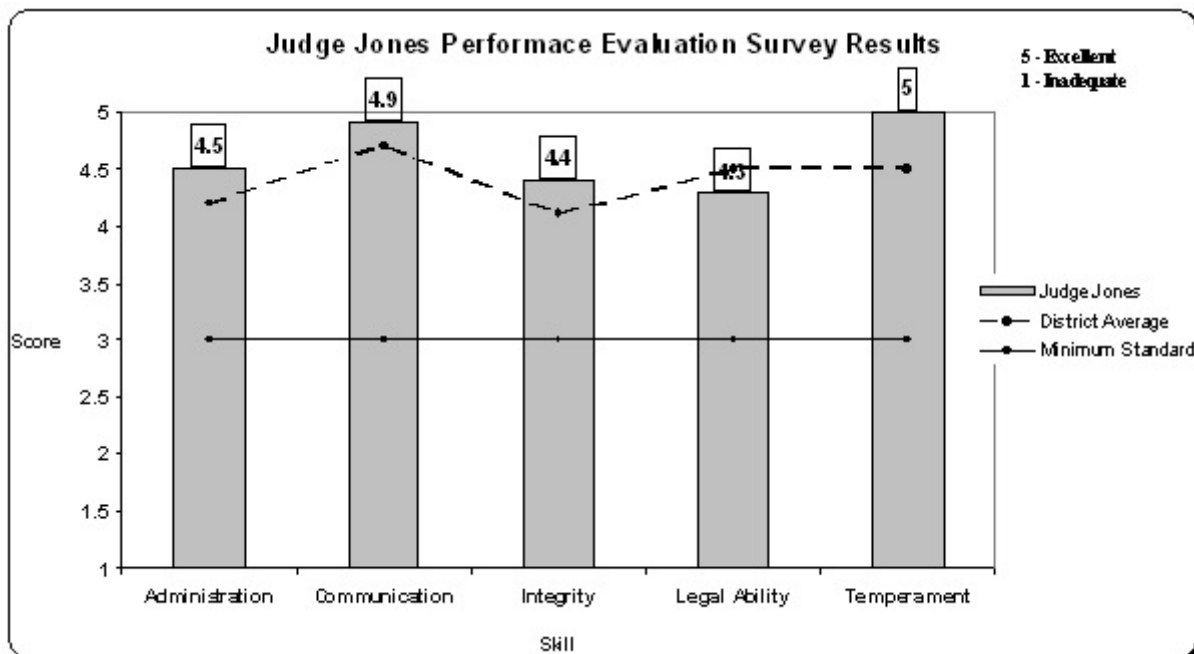
The Task Force carefully considered the above issues and determined that an independent commission representing all three branches of government should be created to produce and administer judicial performance evaluations, and that the survey results be reported in the *Voter Information Pamphlet* substantially following the form of the chart on page 64.

JUDICIAL RETENTION ELECTION TASK FORCE

The Task Force could not come to a consensus regarding the minimum standard on the judicial performance evaluation survey. The chairs of the Task Force favored the minimum standards employed by either Arizona or Colorado, but the judicial members of the Task Force were concerned that these standards were too high. As a consequence, the chairs decided to adopt the minimum standard proposed by the courts, an average of three, on a scale of one to five, on eighty percent of the questions.

Action

The Task Force considered these issues at its June 19, August 14, October 1, October 22, November 7, and November 20, 2007 meetings, but did not recommend draft legislation.



JUDICIARY INTERIM COMMITTEE**Membership**

Sen. Gregory S. Bell, Senate Chair
Rep. Douglas C. Aagard, House Chair
Sen. Lyle W. Hillyard
Sen. Peter C. Knudson
Sen. Ross I. Romero
Rep. Sheryl L. Allen
Rep. Jim Bird
Rep. Jackie Biskupski
Rep. Lorie D. Fowlke
Rep. Kevin S. Garn
Rep. Keith Grover
Rep. Neil A. Hansen
Rep. Eric K. Hutchings
Rep. Christine A. Johnson
Rep. Kay L. McCliff
Rep. R. Curt Webb (as of 9/24/07)
Rep. Mark A. Wheatley
Rep. Scott L. Wyatt (until 9/17/07)

Staff

Jerry D. Howe, Policy Analyst
Esther Chelsea-McCarty, Associate General Counsel
Amanda K. Majers, Legislative Secretary

OVERVIEW

The Judiciary Interim Committee studies 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 of 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 Committee is repeatedly asked by constituents to review and recommend changes in this area of the law.

During the 2007 interim, the Committee reviewed and considered the following draft legislation:

- "Parent-Time Amendments" - This bill rearranges some parent-time days, eliminates Columbus and Veteran's Day as a parent-time day since children are in school on these two holidays, and includes snow days, teacher development days, and other days when school is not in session in the definition of holidays.
- "Child and Family Protection" - This bill includes child abandonment as a type of child abuse punishable as a felony of the third degree, or if the child abandonment results in a serious injury, or if the person or enterprise receives any benefit as result of the child abandonment, it may be punishable as a felony of the second degree.
- "Custody Amendments" - This bill changes the term "custody" within the context of divorce statutes and law to "parental responsibility."
- "Child Custody Amendments" - This bill prohibits an award of child custody to a parent who has been convicted of a sex offense involving a minor child unless the other parent is unavailable and requires all parent-time with a parent convicted of a sex offense to be supervised.
- "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.

JUDICIARY INTERIM COMMITTEE

Action

The Committee considered this issue at its June, September, October, and November 2007 meetings and recommended draft legislation, "Child and Family Protection," "Expedited Parent-Time Enforcement," and "Parent-Time Amendments."

EXONERATION OF THE INNOCENT

Background

Sometimes people are convicted of crimes they did not commit. While most exonerations across the country are based on DNA evidence, less than 20 percent of all criminal cases include any form of DNA evidence. In the 2001 General Session, the Legislature passed S.B. 172, "Postconviction DNA Testing," that allows persons to be exonerated based on DNA evidence. Unfortunately, persons falsely convicted and imprisoned can only be exonerated based on DNA evidence.

The Committee considered a bill that allows for innocent persons to be exonerated when new evidence is discovered that factually establishes their innocence, whether or not the evidence is DNA evidence. This bill narrowly defines "factual innocence" to insure that only a person who is completely innocent can be exonerated.

This bill modifies provisions regarding postconviction DNA testing and creates a process for postconviction claims of factual innocence, and it also creates a process for financial assistance for persons found to be factually innocent.

Action

The Committee considered this issue at its June and October 2007 meetings and recommended draft legislation, "Exoneration and Innocence Assistance."

RECODIFICATION OF TITLE 78, JUDICIAL CODE

Background

Utah Code, Title 78, Judicial Code, was last recodified in 1953. A recommendation to recodify this title was

approved by the Legislative Management Committee in 2006.

Draft legislation, "Title 78 Recodification and Revision," renumbers existing sections, corrects cross-references affected by the renumbering, and changes "articles" to "parts." No substantive changes were made in this recodification. Renumbering and reorganizing sections results in an easier to comprehend, and more user friendly code.

Action

The Committee considered this issue at its May, June, September, October, and November 2007 meetings and recommended draft legislation, "Title 78 Recodification and Revision."

OTHER STUDIES

Driving Under the Influence

The Committee considered and discussed the "Utah Commission on Criminal and Juvenile Justice: Fifth Annual Preliminary DUI Report to the Utah Legislature," which discussed DUI related fatalities, arrests, adjudications, and sanctions. The Commission on Criminal and Juvenile Justice also introduced Utah's impaired driving media campaign, which features billboards, coasters, napkins, and life-size cutouts of police officers which have been designed to change perceptions and behaviors regarding driving under the influence of alcohol.

It was recommended that the Legislature adopt the plea of "Impaired Driving," which is a class B misdemeanor. It was explained that the impaired driving plea is intended to be used as an incentive for the completion of court-ordered requirements.

Justice Courts

The Committee heard a proposal endorsed by the Utah Judicial Council's Committee on Justice Courts to overcome obstacles associated with Utah Justice Courts. The goals of the proposal are to: (1) promote the judicial independence of the justice courts; (2) increase public trust and confidence in the justice courts; and (3) preserve

the ability of local governments to maintain a local court system.

sunset date of the Administrative Office of the Courts be extended for a period of 10 years.

Justice Courts suffer from the perception that they exist as revenue generating entities for local governments, that their sentencing practices are seen as disproportionate and erratic, and that judicial selections are considered political rather than merit based.

The proposed solution to these issues is to make the justice court selection process more merit based, require justice court judges to stand for retention elections, and to attract and retain good judges. Additionally, Justice Court judges should receive a fixed salary by the state of Utah; a Justice Court Selection Committee should be created in each judicial district; terms of office should be uniform; educational requirements need to be established; and part-time justice court judges should be phased out over time. The Committee considered this issue at its September 2007 meeting, but did not recommend draft legislation.

Mandatory Education Course for Divorcing Parents

In FY 2007, 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 draft legislation.

Sunset Review

In accordance with Title 63, Chapter 55, "Legislative Oversight and Sunset Act," the Committee reviewed *Utah Code 78-3-23*, regarding the administrator of the Courts, to determine whether it should be extended. The Committee considered this issue at its June and September 2007 meetings and recommended that the

LAW ENFORCEMENT AND CRIMINAL JUSTICE INTERIM COMMITTEE

LAW ENFORCEMENT AND CRIMINAL JUSTICE INTERIM COMMITTEE

Membership

Sen. Jon J. Greiner, Senate Chair
Rep. DeMar "Bud" Bowman, House Chair
Sen. D. Chris Butters
Sen. John W. Hickman
Sen. Scott D. McCoy
Rep. Brad L. Dee
Rep. David Litvack
Rep. Rebecca D. Lockhart
Rep. Michael T. Morley
Rep. Curtis Oda
Rep. Paul Ray
Rep. Jennifer M. Seelig
Rep. Kenneth W. Sumsion
Rep. Larry B. Wiley
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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 procedure and 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 areas of statutory oversight include the Criminal Code, code provisions regulating controlled substances, law enforcement agencies, the Department of Public Safety, the Department of Corrections, the Division of Youth Corrections, the Utah Board of Pardons and Parole, the Utah Commission on Criminal and Juvenile Justice, the Utah Sentencing Commission, the 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 regarding drugs and sex offenses. The Committee has studied programs designed to improve the efficiency and cost-effectiveness of the criminal justice system and increase communication and collaboration between programs and agencies. The Committee has also considered the costs of these programs.

DRUG OFFENDER PENALTIES AND TREATMENT

Background

New drug offender commitments to Utah's prisons have increased by 803 percent since 1988. These new commitments comprised 39 percent of all new commitments to prison. By contrast, property crimes account for 35 percent, crimes against persons 14 percent, and sex offenses 11 percent of new prison admissions in 2006. This increase in drug convictions is affecting the nature of the prison population.

The criminal penalties and enhancements specified in Utah law regarding drug offenders 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, the Legislature passed S.B. 185, "Drug Offender Reform Act Amendments," which replaced the pilot treatment program in the Third Judicial District in Salt Lake County with a statewide program that took effect on July 1, 2007. The \$8 million funding for FY 2008 is considered to be less than half of the projected funding needs. Early outcomes for this program should be available soon. UDC (the Utah Department of Corrections) told the Committee that treatment resources have not kept pace with the growing need among the inmate population. UDC reported that a 12-month evaluation of its substance abuse treatment program at the CUCF (Central Utah Correctional Facility) at Gunnison showed a 20 percent reduction in the return rate for inmates who completed the treatment program.

LAW ENFORCEMENT AND CRIMINAL JUSTICE INTERIM COMMITTEE

Action

The Committee considered this issue at its June, September, and October 2007 meetings, but did not recommend draft legislation.

PRISON POPULATION GROWTH

Background

Nationally, a record 7 million people—one in every 32 U.S. adults—were incarcerated, on probation, or on parole by the end of last year, according to a U.S. Justice Department report. Utah's incarceration rate is less than half the national rate, but is growing at a similar rate. The female inmate population in Utah is growing faster than the male inmate population and the overall rate of growth has increased substantially in the last two years.

Utah's prison population continues to increase at a rate of about 228 per year. Between April and November 2007 the inmate population was in excess of UDC's operational capacity until the November 2007 opening of the new 288-bed facility at Gunnison. There is a 224 bed difference between UDC's operational capacity of 6,764 and the maximum capacity of 6,988, which includes all beds at the Draper and Gunnison prison sites as well as the 1,510 jail beds under state contract. This 224 bed difference between the maximum capacity and the operational capacity is to allow a safety margin so offenders may be relocated as incidents occur or volatile situations develop. UDC said that keeping this margin is important to maintain the safety of both staff and inmates.

There are about 23,300 offenders under the supervision of UDC, including eleven inmates who are currently incarcerated under a sentence of death. About 6,500 are prison inmates and 16,819 are in the community on probation and parole. The criminal penalties specified in Utah law continue to have a direct effect on the need for additional prison beds and treatment programs and resources.

Action

The Committee considered this issue at its May, July, September, and October 2007 meetings, but did not recommend draft legislation.

REGISTERING, REHABILITATING, AND SUPERVISING SEX OFFENDERS

Background

UDC reported that 6,732 sex offenders are on the Utah Sex Offender registry; 3,189 of whom are under UDC supervision and 3,543 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 and repeat offenders.

The number of sex offenders entering prison for the first time has increased 170 percent over the past 17 years and now constitutes 11 percent of all new admissions to prison. Over the past 20 years, the recidivism rate for graduates of UDC's sex offender treatment programs has been less than half of the rate for those sex offenders who did not complete treatment.

Sex offenses against children have been the topic of concern and some have expressed interest in modifying Utah's law. Utah's penalties and indeterminate approach to sentencing allow the Board of Pardons and Parole to determine the appropriate duration of the offender's sentence, based on circumstances and behavior. This approach is in contrast to some other states which have passed minimum mandatory sentences. The Utah Sentencing Commission, prosecutors, and others have emphasized the value of Utah's structure, which gives more control and also provides more incentive for inmates and parolees to participate in prison programs and to not offend again. Prosecutors indicate that Utah's indeterminate sentencing approach also increases the rate of convictions of offenders compared to the minimum mandatory approach.

LAW ENFORCEMENT AND CRIMINAL JUSTICE INTERIM COMMITTEE

Action

The Committee considered this issue at its May, June, and October 2007 meetings, but did not recommend draft legislation.

OTHER STUDIES

Concealed Weapon Permit Processing

The number of concealed weapon permits issued by BCI (the Bureau of Criminal Identification) in 2007 has exceeded 24,000, compared to 15,696 issued in 2006 and 10,767 issued in 2005. This program has grown so rapidly in recent years that the appropriation funding has not anticipated and covered its growth. With the increasing backlog, BCI has not been able to meet the statutory deadlines for issuing the permits and has been delayed in doing other background checks.

During the 2007 General Session, the Legislature enacted a dedicated credit for the Concealed Firearm Permit Section, which became effective on July 1, 2007. A substantial portion of the backlog has been reduced and permits are again being issued within the required 60-day limit.

Since July 1, 2007, fifty-two percent of the permits issued have gone to Utah residents and the balance were issued to nonresidents. The out-of-state interest in the permit continues because Utah permits are recognized by many other states and are comparatively inexpensive to obtain and renew.

The Committee considered this issue at its November 2007 meeting, but did not recommend draft legislation.

Rulemaking Authority Affecting Criminal Penalties

At the request of the Administrative Rules Review Committee, the Committee reviewed rulemaking authority affecting criminal penalties. The Committee discussed two areas where amendments were needed in either statutes or rules.

The Utah State Hospital's rule (R 525-6-1) which defines the hospital's "secure area" violates the statutory definition

of a "secure area" on which the rule is based. R 525-6-1 states: "The entire campus and all facilities of the Utah State Hospital, including its buildings and grounds are designated as secure areas by this rule." The statutory definition of a "secure area" governing the rule specifies that "a secure area may not include any area normally accessible to the public." However, the grounds of the Utah State Hospital are normally accessible to the public.

The same Utah State Hospital administrative rule (R 525-6-1) which specifies all buildings and grounds as a "secure area," does not meet the requirement of *Utah Code* 76-8-311.1(4), which requires the facility to provide a secure weapons storage area prior to entering the secure area. The Utah State Hospital provides a storage area inside the Administration Building near the back of its defined secure area.

The Committee considered this issue at its July and October 2007 meetings and referred the issue back to the Administrative Rules Review Committee with the recommendation that the Utah State Hospital be required to comply with *Utah Code* 76-8-311.1, or that the rule be repealed. The Committee also recommended that the Legislature not permit a criminal penalty to be established by rule.

LEGISLATIVE MANAGEMENT COMMITTEE

LEGISLATIVE MANAGEMENT COMMITTEE

Membership

President John L. Valentine, Chair
Speaker Greg. J. Curtis, Vice Chair
Sen. Curtis S. Bramble
Sen. Gene Davis
Sen. Mike Dmitrich
Sen. Dan R. Eastman
Sen. Brent H. Goodfellow (as of December 10, 2007)
Sen. Patricia W. Jones
Sen. Sheldon L. Killpack
Sen. Ed Mayne (until November 25, 2007)
Rep. Ralph Becker (until December 12, 2007)
Rep. David Clark
Rep. Brad L. Dee
Rep. Brad King
Rep. David Litvack
Rep. Carol Spackman Moss
Rep. Phil Riesen (as of December 12, 2007)
Rep. Gordon E. Snow

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 creates interim committees and task forces, approves site visits for the entire Legislature, assigns the study items from the Master Study Resolution to the various interim committees, authorizes study requests of interim committees, and schedules interim committee meeting dates and times.

APPOINTMENT OF LEGISLATIVE FISCAL ANALYST

Background

On July 31, 2007, John Massey, the Legislative Fiscal Analyst for many years, retired. LFA (Office of the Legislative Fiscal Analyst) is one of three offices that serves the Legislature full-time. After a national search for Mr. Massey's successor, the legislative search committee recommended that Mr. Jonathan Ball, previously the Deputy Director of LFA, be appointed as Director.

Action

Based on the recommendation of the search committee, LMC voted unanimously to recommend to the Legislature the appointment of Jonathan Ball. A joint resolution approving the appointment of Mr. Ball for a six-year term will be submitted to the Legislature in the 2008 General Session.

CREATION OF THE LEGISLATIVE INFORMATION TECHNOLOGY STEERING COMMITTEE

Background

This past decade the Legislature has become more deeply involved in computer technology, which has created a need for the legislative staff offices and the staffs of the two houses of the Legislature to coordinate the purchase of hardware, software, and their services to legislators more effectively.

Action

To address these issues, LMC created the Legislative Information Technology Steering Committee at its July 2007 meeting. The Committee met four times during the interim and accomplished the following:

- initiated a disaster recovery and business continuity project for the Legislature,
- negotiated a cooperative agreement with the Department of Technology Services for installation and management of the network in the capitol building, and
- established a direction for information technology cooperation among the legislative offices.

LEGISLATIVE MANAGEMENT COMMITTEE

LEGISLATIVE MANAGEMENT COMMITTEE POLICY DECISIONS

Background

LMC has supervisory responsibility over the Legislature, the capitol hill buildings, and parking areas assigned to it by statute. It also has administrative responsibility over its employees and interns, and the records that it produces as a Legislature.

Action

At its November 2007 meeting, LMC made policy decisions on each of the following:

- expanded legislative oversight to certain named committee rooms in the State Capitol Building;
- defined who is a legislative "intern," changed the program to make legislative interns employees of the state rather than independent contractors, and adjusted their pay;
- clarified that draft legislation may be shared with state agencies or others and still be protected, and designated how a sponsor makes proposed legislation public; and
- updated parking policies and designated assigned parking places in the various lots for legislators and legislative staff.

LEGISLATIVE SITE VISIT TO DAVIS AND SALT LAKE COUNTIES

Background

For many years, when the Legislature has had sufficient funds in its budget, it conducts site visits to various parts of the state. The purpose of the site visit is to learn more about this region of the state by seeing it firsthand and by meeting with and talking to community leaders and the general public. Legislators visit businesses, public schools, and colleges. They hold meetings with local mayors and other public officials. Often the visit ends with a local town meeting so the public can also meet with legislators.

Action

LMC approved a two-day site visit to Davis and Salt Lake counties to be held August 15-16, 2007. In Davis County, the trip included visits to the Chevron Oil Refinery, the Legacy Highway project, and the Davis business development center. In Salt Lake County, the visits included a trip to the Daybreak development, Downtown Rising Project, and ended with an evening dinner at the University of Utah where the Church of Jesus Christ of Latter-day Saints presented its downtown development plans.

STUDY OF THIS IS THE PLACE HERITAGE PARK

Background

In 1957, a group of Utah citizens purchased land on the east bench of Salt Lake City at the mouth of Immigration Canyon and donated the land to the state for the development of a monument and park recognizing the pioneers, explorers, trappers, and Native Americans who layed the foundation for what became the state of Utah. In 1971, the Legislature approved funding for a master plan for the Park, and in 1973 the state purchased additional land, bringing the site to 450 acres. For over 20 years the park was developed and managed by the Division of Parks and Recreation. In 1998, the management of the Park was transferred from the state to a non-profit corporation, who still manages the park today. The Park was to be funded by private donations, park revenues, and an annual \$800,000 appropriation from the General Fund. Despite significant efforts by the non-profit corporation, the Park has experienced financial challenges.

Action

At the July 2007 meeting, LMC requested that LFA conduct a study of This is the Place Heritage Park. Specifically, LMC asked LFA to review the available information on the financial and management situation of the park, consider some options for future management that will produce sustainable economic conditions following the historic mission, and provide recommendations in time for the 2008 General Session to LMC, the Natural Resources Appropriations Subcommittee, and the Natural Resources, Agriculture,

and Environment Interim Committee. LFA submitted its report to the three committees in November 2007. In the report, LFA stated that they saw three options for the Park's future management: (1) remain under private management and increase its revenues from commercial enterprise and private donations; (2) remain under private management and receive a similar percentage of General Funds as the state historic parks; or (3) be transferred back under state management. Of the three options, LFA recommended option one.

LEGISLATIVE PROCESS COMMITTEE

Membership

Sen. Lyle W. Hillyard, Senate Chair
Rep. Roger E. Barrus, House Chair
Sen. Brent H. Goodfellow
Sen. Peter C. Knudson
Rep. Douglas C. Aagard
Rep. Rosalind J. McGee
Rep. Rhonda Rudd Menlove
Rep. Carol Spackman Moss

Staff

John Q. Cannon, Managing Policy Analyst
John L. Fellows, Deputy General Counsel
Chelsea Barrett, Legislative Secretary

OVERVIEW

The Legislative Process Committee is statutorily charged to review legislative procedures, including procedures governing: (1) preparing the budget; (2) requesting, preparing, pre-filing, and prioritizing legislation; (3) the roles of standing and interim committees; (4) the rules governing floor actions; and (5) alternative measures to meet the constitutional requirements for Utah's legislative process. The Committee may recommend changes in these procedures to the Legislative Management Committee.

CONSTITUENT SERVICES

Background

Constituent services, as studied by the Committee, means providing resources to legislators so that they may more effectively meet the increasing demands of their constituency. Although the Utah Legislature is classified as a part-time citizen legislature, the increasing demands on legislators' time is requiring more than just a part-time commitment. Constituent services could involve a range of issues, anything from a simple response to a constituent wanting to identify their Senator or Representative, a speech to a civic organization, a visit to a school in the legislators' district, to a complex legal or policy analysis of current issues or existing statutes.

The Committee discussed several issues relating to constituent services, including the need for these services and how the services might be made available to legislators. Committee members spent considerable time exploring various options for constituent services. Some of the issues discussed include: (1) services being provided by partisan or non-partisan staff; (2) the use of existing staff or the need to hire additional staff; (3) the costs of providing these services; (4) services being provided separately by Senate and House staff, or being provided by central staff serving both houses; and (5) services being provided to each of the four caucuses.

Action

The Committee discussed this issue at its July, September, October, and November 2007 meetings, but did not recommend draft legislation.

OTHER STUDIES

Electronic Meetings

The Committee discussed the possibility of the Legislature convening meetings by some electronic means, or allowing individual members to participate in legislative meetings remotely by some electronic means. The Committee reviewed current statutes that allow electronic meetings, and also discussed the need for changes to legislative rules to allow these meetings. Individual committee members discussed and may propose possible changes to rules to allow electronic meetings. The Committee discussed this issue at its November 2007 meeting, but did not recommend draft legislation.

E-mail Management for Legislators

The increasing demands on legislators extends to the use of e-mail. During the interim, and especially during the session, legislators receive such a large volume of e-mail that it is often difficult for them to effectively manage and respond to it. The Committee heard about tools already available and tools that could be made available to assist legislators in e-mail management. The Committee discussed these resources, and ways to educate legislators about these resources. The Committee

LEGISLATIVE PROCESS COMMITTEE

discussed this issue at its October and November 2007 meetings, but did not recommend draft legislation.

General Session Schedule

During the 2007 General Session, the Legislature passed S.J.R. 12, "Resolution Amending Utah Constitution." This proposed constitutional amendment will, if approved by the voters during the 2008 general election, change the starting date of the general session to the 4th Monday in January, and will include the observation of federal holidays during session. The Committee discussed this proposed change, and looked at alternatives for general session scheduling. The Committee discussed this issue at its June and July 2007 meetings, but did not recommend draft legislation.

Legislative Committees

The Committee studied the current makeup, structure, membership, workload, and responsibilities of legislative committees, including both standing committees and appropriation subcommittees. The Committee focused on possible changes to rules governing appropriation subcommittees, specifically to perhaps allow more flexibility for members' attendance and how members are counted in determining a quorum. The Committee discussed this issue at its September, October, and November 2007 meetings, but did not recommend draft legislation.

LOCAL ISSUES TASK FORCE

Membership

Sen. Carlene M. Walker, Senate Chair
Rep. Aaron Tilton, House Chair
Sen. Scott D. McCoy
Sen. Howard A. Stephenson
Rep. John Dougall
Rep. Janice M. Fisher
Rep. Julie Fisher
Rep. Gregory H. Hughes
Rep. Todd E. Kiser
Rep. Karen W. Morgan

Staff

Joseph T. Wade, Policy Analyst
Phillip V. Dean, Policy Analyst
Robert H. Rees, Associate General Counsel
Angela D. Oakes, Associate General Counsel
Wendy L. Bangerter, Legislative Secretary

OVERVIEW

In the 2007 General Session, the Legislature passed S.B. 41, "Local Issues Amendments," creating the Local Issues Task Force to study and make recommendations on two issues: school building funding equalization and forms of municipal government.

FORMS OF MUNICIPAL GOVERNMENT

Background

Utah Code, 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." *Utah Code* 10-3-830 also allows a city council to establish, by ordinance, a "manager form of government." In months leading up to the 2007 General Session, several municipalities, by ordinance, changed their form of government using *Utah Code* 10-3-830. These changes generated significant concerns among residents of the affected cities who wondered why their vote is not allowed in changing their form of government.

The Task Force adopted the following guiding principles:

- Respect for voters - Voters should have a say in any change in the form of municipal government.
- Clarity - The powers, duties, functions, and roles of municipal officials in the different forms of government should be clearly delineated in statute. Statutory provisions relating to forms of municipal government should be well organized and structured in statute to avoid duplication, confusion, and ambiguity.
- Distribution of powers - There should be appropriate and effective checks and balances within the municipal government structure to prevent the abuse of power and to promote effective government.
- Flexibility - Cities and towns should have appropriate flexibility in operating under a form a government that best suits their needs and circumstances.
- Efficiency - The forms of government under which cities and towns operate should promote the efficient operation of government.
- Role and status of cities and towns - Provisions relating to municipal government should reflect the role and status of cities and towns as political subdivisions of the state, subject to legislative policy directives.

Because the current statute contains conflicting provisions and is sometimes ambiguous, the Task Force agreed to a rewrite of the statutory provisions relating to forms of municipal government.

Action

The Task Force considered this issue at its May 3, May 23, June 19, July 23, and September 28, 2007 meetings, and recommended draft legislation, "Municipal Government Amendments."

SCHOOL BUILDING FUNDING EQUALIZATION

Background

In 2003, the Legislature enacted a mechanism to create a new school district from existing districts. The process could be initiated by either voter petition or school board resolution with approval of the county legislative body,

LOCAL ISSUES TASK FORCE

voters in the proposed new school district, and voters in the established school districts. 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) with approval of the city council and only the voters within the proposed new district.

H.B. 77 generated significant interest among residents of several cities and questions as to how H.B. 77 would be implemented. 2007 General Session S.B. 30, "Creation of New School District Amendments," resolved many of the implementation problems. However, the pending division of the Jordan School District highlighted the disparities in property tax bases and enrollment growth among districts. The east portion of the district has more of the property tax base but less of the total enrollment and either relatively flat or declining enrollment. The west portion of the district has less of the property tax base and more of the total enrollment, along with rapid enrollment growth.

The purpose of this Task Force was to study ways to equalize capital funding across school districts, thus easing the pain of a district split on an area with a lower property tax base.

The Task Force received background information from staff on education finance and enrollment trends, including information on the current school capital outlay funding system and the property tax base disparity among school districts.

For additional information, please see the Equalization Task Force report on page 39.

Action

The Task Force considered this issue at its May 3, May 23, June 19, July 23, August 1, August 14, and August 21, 2007 meetings. The Task Force recommended draft legislation, "School District Facility Funding Equalization," "School Capital Outlay Equalization," and "Interlocal Agreement Participant Requirements for Creation of New School District," for the 2007 First Special Session. The

Task Force also recommended draft legislation, "Creation of New School District Amendments."

In the 2007 First Special Session, the Legislature created the Equalization Task Force to further study and make recommendations on school capital outlay funding equalization.

MEDICAID INTERIM COMMITTEE**Membership**

Sen. Allen M. Christensen, Senate Chair
Rep. Merlynn T. Newbold, House Chair
Sen. Gene Davis
Sen. Lyle W. Hillyard
Sen. Sheldon L. Killpack
Sen. Ross I. Romero
Rep. Stephen D. Clark
Rep. Tim M. Cosgrove
Rep. Bradley G. Last
Rep. David Litvack
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
Russell Frandsen, Fiscal Analyst
William Greer, Fiscal Analyst
Debbie Headden, Fiscal Analyst
Danny Schoenfeld, Fiscal Analyst
Gary Syphus, Fiscal Analyst
Juliette Tennert, Economist
Catherine J. Dupont, Associate General Counsel
Thomas R. Vaughn, Associate General Counsel
Phalin L. Flowers, Legislative Secretary

OVERVIEW

As in many other states where commissions or other groups have been created in recent years to study Medicaid, the Legislature created the Medicaid Interim Committee in 2006 to identify ways to reduce the high rate of spending growth and federal partnership that pays for health care services to many of Utah's expectant mothers, aged, and disabled.

ACCOUNTABILITY**Background**

The Deficit Reduction Act of 2005 authorizes state Medicaid programs to create "health opportunity accounts," increase copays, and vary services across populations. These provisions, however, are limited to certain groups of enrollees. Prior to the Deficit Reduction Act, some states adopted similar provisions under waivers.

During the 2006 and 2007 interims, the Committee reviewed actions taken by other states to link individual enrollee behavior to program benefits and costs and recommended that a pilot program for health opportunity accounts be studied and established.

Action

The Committee considered this issue at its January 5, November 20, and December 12, 2007 meetings, but did not recommend draft legislation.

CONSOLIDATION OF MEDICAID ELIGIBILITY SERVICES**Background**

In the past, Medicaid eligibility was determined by two state agencies, the Department of Health and the Department of Workforce Services. During the 2006 interim, the Committee considered a proposal to consolidate all eligibility functions under the Department of Workforce Services. The proposal was expected to simplify the eligibility process for potential enrollees, reduce spending on duplicate office space, and perhaps result in some long-term cost avoidance. In January 2007, the Committee recommended that the Commerce and Workforce Services Appropriations Subcommittee and the Health and Human Services Appropriations Subcommittee consider the proposal for the 2007 General Session. Both committees studied the proposal and the Legislature approved the consolidation, transferring funding from the Department of Health to the Department of Workforce Services for 255 full-time equivalent employees, 10 offices, and 10 vehicles.

MEDICAID INTERIM COMMITTEE

Action

The Committee considered this issue at its January 2007 meeting, but did not recommend draft legislation.

HEALTH AND HUMAN SERVICES PROGRAMS GENERALLY

Background

Prior to focusing its attention on Medicaid, the Committee reviewed spending trends across all health and human services programs. During the 2006 interim, the Committee conducted a survey of 177 health and human services programs delivered by:

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

Through the survey, the Committee collected data on eligibility, expenditures, clients served, federal requirements, and the potential impacts of increasing, decreasing, or eliminating state funding. The Committee also received testimony from persons representing consumers, providers, and program administrators of various health and human services programs on how to manage program costs and increase consumer accountability.

Action

The Committee considered this issue during the 2006 interim, not during the 2007 interim, and did not recommend draft legislation in either year.

LIMIT ON OVERALL SPENDING GROWTH

Background

Although Medicaid enrollment has declined somewhat from the levels experienced during the recent economic down turn and annual spending growth has dropped into the single digits, the program is expected to continue its long-term pattern of growing much faster than its revenue sources and other areas of the state budget.

During the 2006 interim, the Committee received reports from staff on the potential growth of future Medicaid budgets and reviewed strategies used by other states to constrain program costs.

In January 2007, the Committee recommended that the Legislature limit the growth in state funding for Medicaid to five percent in FY 2008. State funds appropriated to Medicaid for FY 2008 during the 2007 General Session were approximately three to four percent greater than the amount appropriated for FY 2007.

In January 2007, the Committee also recommended:

- an "acceptable growth" formula be developed and used by the Legislature in future sessions to limit Medicaid growth (among other factors, the formula should recognize the economic impact of the program);
- a precise Medicaid mission statement be developed by either the Medicaid Interim Committee or the Health and Human Services Appropriations Subcommittee and used to prioritize services;
- the Department of Health and the Department of Human Services explore options for reducing Medicaid costs and report their findings to the Health and Human Services Appropriations Subcommittee;
- the Department of Health implement an electronic medical record system for Medicaid and issue a request for proposals to find out whether vendors would be willing to accept payment for developing and implementing the system on a percentage of savings basis; and
- the state consider the offer by Digital Healthcare to conduct a no-cost audit of Medicaid prescription drug purchases to determine the amount of potential cost recovery from third party payers.

During the 2007 General Session, in an attempt to provide services in a more cost effective manner, the Legislature earmarked \$174,000 of the amount appropriated to Medicaid in FY 2008 for a capitated adult vision program, pending federal approval.

Action

The Committee considered this issue during the 2006 interim and at its January and October 2007 meetings, but did not recommend draft legislation.

LONG-TERM CARE**Background**

Nationally, the aged and persons with a disability make up only 25 percent of Medicaid's enrollment but account for 70 percent of its costs. In Utah, a similar pattern exists. The Committee studied what could be done to reduce the costs associated with these populations, particularly in the area of long-term care services. The Committee received suggestions from many stakeholders, including consumers, providers, and state and local agencies responsible for funding many of these services.

The Committee focused on four areas believed to have potential to reduce long-term care spending: (1) increasing the use of long-term care insurance; (2) increasing the use of home and community based services; (3) reducing nursing home capacity; and (4) prohibiting the future construction of nursing care facilities that derive a majority of their revenue from Medicare patients.

Long-term care insurance is still a relatively new product and not widely used like other forms of insurance. States have used tax incentives to promote the purchase of long-term care insurance. In Utah, taxpayers have been able to deduct their long-term care insurance premiums since 2000. However, that deduction was not carried forward as a credit against the new flat income tax. The Committee discussed whether the new flat tax should include a credit for premiums paid for long-term care insurance.

Nationwide, there has been much discussion about "rebalancing" the long-term care system so that services otherwise provided in nursing homes are provided in home and community based settings where appropriate. The Committee considered a proposal by the Division of Aging and Adult Services to increase placement in home and community based settings. The proposal would create a pilot program that: (1) trains discharge planners in one

hospital from each of the major hospital chains about home and community placement options; and (2) sets aside funding so that placement slots are available specifically for those hospitals.

Funding three slots per hospital per month would cost approximately \$320,000 in state funds. By contrast, funding the same number of slots in nursing homes would cost approximately \$1,300,000 in state funds. The Committee recommended that the proposal be sent to the Health and Human Services Appropriations Subcommittee.

On the whole, Utah nursing homes appear to be operating at excess capacity. Some believe that reducing overall capacity would decrease Medicaid expenditures. Although Utah caps the number of nursing home beds that may be certified for use by Medicaid patients, an exemption permits individual facilities to expand capacity by up to 30 percent each year under certain conditions. The Committee studied the criteria for granting Medicaid certification and the formula used to reimburse nursing homes for long-term care.

During the 2007 General Session, the Legislature imposed a moratorium on the construction of nursing care facilities that derive a majority of their revenue from Medicare patients. The moratorium is scheduled to expire July 1, 2009. The Committee considered whether the moratorium should be extended.

Action

The Committee considered this issue during the 2006 interim and at its July 20, September 7, October 3, November 2, November 20, and December 12, 2007 meetings and recommended that the sunset date for *Utah Code* 26-21-23, which governs the licensing of a new nursing care facility and the licensing of additional beds within an existing nursing care facility, be extended to July 1, 2011.

MEDICAID INTERIM COMMITTEE

PHARMACEUTICALS—340B DRUG PURCHASING PROGRAM

Background

Several years ago the Utah Medicaid program arranged for enrollees with hemophilia to purchase their medications through the federal 340B drug program. The 340B drug program allows prescriptions to be purchased at a price sometimes lower than the Medicaid price through federally qualified health centers, disproportionate share hospitals, and other qualified entities. During the 2007 interim the Committee studied whether other Medicaid enrollees could be added to the 340B program. The Committee considered draft legislation, "Medicaid 340B Drug Pricing Programs," which requires the Department of Health to explore the feasibility of expanding use of the 340B program and report to the Legislature.

Action

The Committee considered this issue at its July 20, September 7, November 2, and November 20, 2007 meetings and recommended draft legislation, "Medicaid 340B Drug Pricing Programs."

PHARMACEUTICALS—AVERAGE MANUFACTURER'S PRICE

Background

Federal Medicaid law requires that payment to a pharmacist for a prescription drug sold to a Medicaid enrollee be made in two parts: (1) a reimbursement to cover the pharmacist's cost of acquiring the drug; and (2) a dispensing fee to cover the pharmacist's costs associated with dispensing the drug, i.e., overhead and profit. Historically, reimbursement to Utah pharmacists has been a percentage of the AWP (average wholesale price), subject to several other limits. Recent federal action has provided states with a new measure for either calculating or limiting reimbursements—the AMP (average manufacturer's price). The Department of Health has been considering the impact of adopting AMP as a basis for determining pharmacy reimbursement.

The Committee received testimony from the following on the impact of adopting AMP as a basis for determining pharmacy reimbursement:

- Utah Pharmacists Association,
- National Association of Chain Drug Stores,
- Department of Health,
- Medicaid Fraud Control Unit, and
- Office of the Legislative Fiscal Analyst.

The Committee discussed how to adequately reimburse low volume pharmacies while not overcompensating high volume pharmacies.

Action

The Committee considered this issue at its July 20, September 7, and November 2, 2007 meetings, but did not recommend draft legislation.

PHARMACEUTICALS—GENERAL

Background

Notwithstanding the mandatory use of generic drugs and other strategies implemented by the Department of Health, pharmaceutical spending is the fastest growing component of Utah's Medicaid program. During the 2006 and 2007 interims, the Committee reviewed utilization control and cost containment strategies employed by the Department of Health, other states, and the private sector to reduce the growth in spending on Medicaid pharmaceuticals. These strategies included additional use of the federal 340B drug program, limiting payment for pharmaceuticals to a percentage of average manufacturer's prices, and implementing a preferred drug list.

Action

The Committee considered this issue during the 2006 interim and at its January, July, and September 2007 meetings, but did not recommend draft legislation.

PHARMACEUTICALS—PREFERRED DRUG LIST**Background**

During the 2006 interim, the Committee studied whether to institute a Medicaid PDL (preferred drug list) to reduce pharmaceutical cost increases. The Committee concluded that additional study was needed. During the 2007 General Session, the Legislature authorized use of a PDL with the passage of S.B. 42, "Preferred Prescription Drug List."

Following the 2007 General Session, the Committee reviewed the rules proposed by the Department of Health to implement the PDL. The PDL went into effect October 1, 2007, and is expected to reduce the growth of General Fund spending on pharmaceuticals by \$1.3 million in FY 2008. Initially, the PDL applied to only statins and proton pump inhibitors. On December 1, 2007 the PDL was expanded to include oral hypoglycemics and diabetic supplies. By the end of FY 2008, the PDL is expected to include several other classes of drugs.

S.B. 42 prohibits the Department of Health from including psychotropic and anti-psychotic drugs on the PDL. The Committee discussed narrowing the exclusion for psychotropic drugs, which may be unduly broad.

S.B. 42 also allows a physician to override the preferred drug list by documenting medical necessity and writing "dispense as written" on the prescription. The Committee studied, but did not recommend, whether to replace the physician override with a provision requiring prior authorization from the Department of Health. Use of prior authorization would likely decrease the use of drugs not on the PDL and thus reduce pharmaceutical spending.

Action

The Committee considered this issue during the 2006 interim and at its January, July, and September 2007 meetings, but did not recommend draft legislation.

OTHER STUDIES**Legislative Oversight**

In 2003, the Legislature required the Department of Health to report to the Executive Appropriations Committee or the Health and Human Services Appropriations Subcommittee whenever the Department implements a change in the Medicaid State Plan, initiates a new Medicaid waiver, submits an amendment to an existing Medicaid waiver, or initiates a rate change requiring public notice under state or federal law. The report must include the proposed change in services or reimbursement; the effect of an increase or decrease in services or benefits on individuals and families; the degree to which any proposed cut may result in cost-shifting to more expensive services in health or human service programs; and the effect of any proposed increase of benefits or reimbursement on current and future appropriations from the Legislature to the Department. In 2003, the requirement was modified slightly to require the Department to report whenever an amendment to an existing Medicaid waiver is initiated, rather than submitted.

The Committee considered draft legislation, "Notice of Changes to the State Medicaid Plan," that would clarify the Department's reporting requirements by requiring any report to include:

- a description of the Department's current practice or policy that the Department is proposing to change;
- an explanation of why the Department is proposing the change;
- the effect the proposed change may have on federal matching dollars received by the state Medicaid program;
- any costs shifting or cost savings within the Department's budget that may result from the proposed change; and
- identification of the funds that will be used for the proposed change, including any transfer of funds within the Department's budget.

The Committee considered this issue at its December 2007 meeting and recommended draft legislation, "Notice of Changes to the State Medicaid Plan."

MEDICAID INTERIM COMMITTEE

Pharmaceutical Litigation

The MFCU (Medicaid Fraud Control Unit) within the Office of the Attorney General reported that it has filed law suits against several pharmaceutical manufacturers to recover reimbursement payments, alleging that the manufacturers used inflated average wholesale prices to market their products.

MFCU also reported that the state has filed suits against Eli Lilly and Merck for failure to warn the public of known risks associated with two drugs, Zyprexa and Vioxx.

The Committee considered this issue at its October 3 and November 20, 2007 meetings, but did not recommend draft legislation.

Reauthorization of the Medicaid Interim Committee

The Committee discussed its accomplishments and whether it should continue its work for an additional year. The Committee considered this issue at its December 2007 meeting and recommended that the Legislative Management Committee reauthorize the Medicaid Interim Committee in 2008.

Recovery of Long-term Care Benefits

Existing law allows the Department of Health to recover the value of Medicaid benefits provided to a recipient 55 years of age or older by imposing a lien on the recipient's estate or trust if the recipient does not have a surviving spouse or does not have a child who is under 21 years of age, blind, or permanently and totally disabled. In practice, the Department is often unable to recover the value of benefits provided because a recipient's heirs liquidate the estate or trust before the Department is able to complete the recovery process. To avoid this problem, many states have authorized use of liens against the real property of a Medicaid recipient who has become permanently institutionalized. The Committee considered draft legislation, "Medical Benefits Recovery Amendments," that would allow the use of these liens, authorized under federal law and called TEFRA (Tax Equity and Fiscal Responsibility Act of 1982) liens, to notify potential heirs of the recovery process and provide notification to the state of any attempt to transfer the property once a

Medicaid recipient has become permanently institutionalized for at least 180 days.

The Committee considered this issue at its November 20 and December 12, 2007 meetings and recommended draft legislation, "Medical Benefits Recovery Amendments."

NATIVE AMERICAN LEGISLATIVE LIAISON COMMITTEE

NATIVE AMERICAN LEGISLATIVE LIAISON COMMITTEE

Membership

Sen. Kevin T. VanTassell, Senate Chair
Rep. DeMar "Bud" Bowman, House Chair
Sen. Fred Fife
Sen. Patricia W. Jones
Sen. Dennis E. Stowell
Rep. Douglas C. Aagard
Rep. James R. Gowans
Rep. Brad King
Rep. Kay L. McIff
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 is a liaison for the Legislature with Indian tribes in Utah. The Committee also reviews the operations of the Division of Indian Affairs, sponsors meetings and other opportunities for discussion with and between Native Americans, and recommends legislation. The Committee has visited many of the tribal lands throughout the state.

OTHER STUDIES

Business Entity Statutes and Tribal Entities

The Committee discussed the issue of entities created under tribal law being treated as foreign corporations under Utah's business entity statutes. The Committee discussed the need for potential legislation to address this issue. The Committee considered this issue at its November 2007 meeting, but did not recommend draft legislation.

Funding of Heritage Language Efforts

The Committee discussed a proposed initiative to provide funding to the various tribal education departments in the state to further their efforts to preserve tribal language. The Committee considered this issue at its November 2007 meeting, but did not recommend draft legislation.

Indian Peaks Band of Paiutes Water Rights

The Committee heard from the Indian Peaks Band of the Paiute Indian Tribe of Utah concerning federally reserved water rights. The Committee discussed the efforts of the Indian Peaks Band to resolve its water rights issues, including the possibility of pursuing legislation. The Committee considered this issue at its November 2007 meeting, but did not recommend draft legislation.

Statutorily Required Reports

Several entities are required by law to report to the Committee. These entities include: the Utah Division of Indian Affairs; the Native American Remains Review Committee; the Navajo Revitalization Fund; the Navajo Trust Fund; and the Uintah Basin Revitalization Fund. The Committee received these reports at its November 2007 meeting, but did not recommend draft legislation.

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENT INTERIM COMMITTEE

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENT INTERIM COMMITTEE

Membership

Sen. Darin G. Peterson, Senate Chair
Rep. Roger E. Barrus, House Chair
Sen. Gene Davis
Sen. Margaret Dayton
Sen. Dennis E. Stowell
Sen. Michael G. Waddoups
Rep. Sylvia S. Andersen
Rep. Melvin R. Brown
Rep. Glenn A. Donnelson
Rep. Jack R. Draxler
Rep. Carl W. Duckworth
Rep. Kerry W. Gibson
Rep. James R. Gowans
Rep. Neal B. Hendrickson
Rep. John G. Mathis
Rep. Michael E. Noel
Rep. Patrick Painter
Rep. Phil Riesen
Rep. Stephen E. Sandstrom

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 RADIOACTIVE WASTE FACILITY PERPETUAL CARE 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. In 2006, both Boards recommended that perpetual care funding be required for hazardous waste accelerated for radioactive waste. The Committee rejected those recommendations. In 2007, the Radiation Control Board reported that the Board and Energy Solutions, the only commercial radioactive waste disposal facility in the state, had agreed that Energy Solutions would fund the perpetual care fund up to \$13,000,000.

Action

The Committee considered this issue at its September 2007 meeting, but did not recommend draft legislation.

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENT INTERIM COMMITTEE

PETROLEUM STORAGE TANK TRUST FUND / SUNSET REVIEW -Title 19, Chapter 6, Part 4, Underground Storage Tank Act

Background

The purpose of the Underground Storage Tank Act is to minimize the health and environmental impacts from the storage of petroleum products and hazardous materials in underground tanks. Federal law requires all owners or operators of petroleum storage tanks to have the financial ability to pay for investigation, cleanup and other costs associated with damages caused by a petroleum leak or release. Utah's Petroleum Storage Tank Trust Fund was created as one alternative for owners or operators to use for financial assurance. The Legislative Auditor General conducted "A Performance Audit of the Petroleum Storage Tank Trust Fund," which outlined recommended performance measures. The Office of Risk Management, which is required by statute to assess the actuarial soundness of the fund, noted that while the fund is solvent, it is actuarially unsound.

Action

The Committee considered this issue at its July and November 2007 meetings and recommend draft legislation, "Underground Storage Tank Amendments." The Committee also recommended that Title 19, Chapter 6, Part 4, Underground Storage Tank Act, be reauthorized for 10 years.

WATER RIGHT FORFEITURE PROTECTION

Background

State law provides that water rights may be forfeited in certain circumstances, including not putting the water right to beneficial use for a specific period of time unless the State Engineer has granted a non-use permit. The Committee discussed ways that Utah municipalities, which must project and plan for long-term population growth and water consumption, could be protected from the loss of a water right due to non-use.

Action

The Committee considered this issue at its April, October, and November 2007 meetings and recommended draft legislation, "Water Right Forfeiture Protection."

OTHER STUDIES

Agri-tourism Activities

The Committee considered proposed legislation that defined agri-tourism and provided an affirmative defense for an owner or operator of an agri-tourism activity under certain circumstances. The Committee considered this issue at its October 2007 meeting and recommended draft legislation, "Affirmative Defense for Agri-tourism Activity."

Air Quality Funding

The Division of Air Quality reported on the work of the Air Quality Funding Task Force, which considered how to fund the maintenance and enhancement of air quality in the state to comply with Environmental Protection Agency standards. The Task Force did not reach consensus on a particular solution but outlined several funding alternatives. It was suggested that Utah-based solutions would be better than mandated solutions from the Environmental Protection Agency. The Committee considered this issue at its September 2007 meeting, but did not recommend draft legislation.

Endangered Species

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 Department of Natural Resources reported on the fund, focusing on the Upper Colorado River Basin Recovery Program, the Virgin River Resource Management and Recovery Program, and the June Sucker Recovery Program. The Committee considered this issue at its October 2007 meeting, but did not recommend draft legislation.

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENT INTERIM COMMITTEE

State Energy Policy

The State Energy Policy Advisor reported on state and regional energy policy initiatives, including the Blue Ribbon Advisory Council on Climate Change and the Utah Renewable Energy Initiative Focus Group. She reviewed Utah's energy resources production and consumption; identified actions and challenges to energy development, extraction, production/refining, and transportation; and discussed emerging energy issues. The Committee considered this issue at its June and November 2007 meetings, but did not recommend draft legislation.

Sunset Review - Title 73, Chapter 27, State Water Development Commission

The purpose of the Commission is to determine the state's role in the protection, conservation, and development of the state's water resources and to make recommendations to the Legislature and governor. The Committee considered this sunset review at its July 2007 meeting and recommended reauthorization for 10 years.

Wild Fire Management

The Committee considered draft legislation that would allow the Division of Forestry, Fire, and State Lands to conduct a limited fire suppression strategy under certain circumstances and to enter into an agreement establishing a predetermined fire suppression plan for a specific fire management area. The Committee considered this issue at its November 2007 meeting and recommended draft legislation, "Fire Management Areas."

OCCUPATIONAL AND PROFESSIONAL LICENSURE REVIEW COMMITTEE

OCCUPATIONAL AND PROFESSIONAL LICENSURE REVIEW COMMITTEE

Membership

Sen. Kevin T. VanTassell, Senate Chair
Rep. Greg Hughes, House Chair
Sen. Gene Davis
Sen. Wayne L. Niederhauser
Rep. Carl W. Duckworth
Rep. Michael T. Morley

Staff

Allison Nicholson, Policy Analyst
James L. Wilson, Associate General Counsel
Tracey Fredman, Legislative Secretary

OVERVIEW

During the 1999 General Session, the Legislature created the Occupational and Professional Licensure Review Committee to review applications from occupational groups seeking statutory regulation through formal licensure. The Committee meets on an as-needed basis to review applications as they are submitted to the Legislature. After holding a public hearing and receiving public testimony, the Committee votes whether to recommend licensure for the occupation or profession under consideration.

SUNSET DATE FOR THE FUNERAL SERVICES LICENSING ACT

Background

Setting a sunset (repeal) date for state laws is a tool used by the Legislature to ensure that state laws are reviewed from time to time to determine whether they are still needed.

The Funeral Services Licensing Act is scheduled for sunset on July 1, 2008. The Legislative Management Committee assigned responsibility to the Committee for conducting a sunset review of the Act.

Action

The Committee plans to discuss this issue at its December 13, 2007 meeting and may recommend that the Legislature extend the sunset date of the Funeral Services Licensing Act.

POLITICAL SUBDIVISIONS INTERIM COMMITTEE

POLITICAL SUBDIVISIONS INTERIM COMMITTEE

Membership

Sen. Dennis E. Stowell, Senate Chair
Rep. Fred R Hunsaker, House Chair
Sen. Fred J. Fife
Sen. Sheldon L. Killpack
Sen. Michael G. Waddoups
Rep. Sheryl L. Allen
Rep. D. Gregg Buxton (until 4/13/07)
Rep. Tim M. Cosgrove
Rep. Bradley M. Daw
Rep. Gage Froerer
Rep. Kerry W. Gibson
Rep. Richard A. Greenwood (as of 4/27/07)
Rep. Christopher N. Herrod
Rep. Christine A. Johnson
Rep. Brad King
Rep. Jennifer M. Seelig
Rep. R. Curt Webb (as of 9/24/07)
Rep. Carl Wimmer
Rep. Scott L. Wyatt (until 9/7/07)

Staff

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

OVERVIEW

The Political Subdivisions Interim Committee has primary jurisdiction over political subdivisions of the state which include: counties, cities, towns, local districts (formerly called 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, Local Government Controlled Districts; Title 17B, Limited Purpose Entities - Local Districts; and Title 17C, Limited

Purpose Local Government Entities – Community Development and Renewal Agencies.

SPECIAL DISTRICTS SUBCOMMITTEE

Membership

Sen. Dennis E. Stowell, Chair
Sen. Fred J. Fife
Rep. Fred R Hunsaker
Rep. Kerry W. Gibson
Rep. Christine A. Johnson

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. 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. In 2006, the Subcommittee completed the standardization and rewrite

POLITICAL SUBDIVISIONS INTERIM COMMITTEE

of the independent special districts statutes, except the Special Service District type of special district, resulting in the passage of H.B. 65, "Special and Local Districts Amendments," in the 2007 General Session.

During the 2007 interim, the Subcommittee considered the remaining statutes to be rewritten, including the rewrite of Title 17A, Chapter 2, Part 13, Special Service Districts; rewrite of Title 17A, Chapter 3, Dependent Special Districts; and various policy questions regarding local districts.

The Subcommittee formed ad hoc workgroups which met during the interim. The Subcommittee discussed these issues at its June, October, and November 2007 meetings and recommended draft legislation, "Limited Purpose Local Government Entities Revisions."

Action

The Political Subdivisions Interim Committee recreated the Special Districts Subcommittee and considered special district issues at its April, October, and November 2007 meetings and recommended draft legislation, "Limited Purpose Local Government Entities Revisions."

OTHER STUDIES

Administrative Penalties for Errors in Candidate Campaign Reporting

Some candidates have filed incomplete or inaccurate campaign financial disclosure reports to meet the deadline, later amending the report to correct errors. Currently there is no penalty for submitting a report with errors. The Committee received testimony regarding this issue. The Committee considered this issue at its November 2007 meeting and recommended draft legislation, "Campaign Report Amendments."

Appointment and Removal of Certain Municipal Officials

The Committee heard testimony regarding concerns over whether to require the advice and consent of the municipal council or legislative body with respect to the removal of department heads, officers and employees, commissions,

boards, committees, and planning commission members (2007 General Session H.B. 457, "Municipal Amendments"). The Committee considered this issue at its May 2007 meeting, but did not recommend draft legislation. The Committee referred the issue to the Local Issues Task Force.

Combining Ballots for Local Districts and Municipalities

Currently the ballot to elect officers of a local district (formerly called special district) is a separate ballot from the ballot to elect municipal officials. The Committee discussed combining the two ballots into one ballot. The Committee considered this issue at its April 2007 meeting, but did not recommend draft legislation.

Eminent Domain

The Committee heard testimony regarding concerns over various provisions in the eminent domain statutes. The Committee considered this issue at its May, June, and July 2007 meetings, but did not recommend draft legislation.

Envision Utah

In January 1997, the Envision Utah Public/Private Partnership was formed to guide the development of a broadly and publicly supported Quality Growth Strategy—a vision to protect Utah's environment, economic strength, and quality of life for generations to come. Envision Utah has developed a quality growth strategy to help preserve critical lands, promote water conservation and clean air, improve our region-wide transportation systems, and provide housing options for residents. The Committee was briefed on the activities of Envision Utah. The Committee considered this issue at its June 2007 meeting, but did not recommend draft legislation.

GIT (Geospatial Information and Technology) for Local Government

Representatives from the AGRC (Automated Geographic Reference Center) explained and demonstrated three examples of how GIT supports local government: the Iron County Spatial Growth Modeling Tool; aerial imagery and internet web services; and notification of facilities with regional impact (2004 General Session H.B. 116,

POLITICAL SUBDIVISIONS INTERIM COMMITTEE

"Facilities with Regional Impact"). The Committee considered this issue at its July 2007 meeting, but did not recommend draft legislation.

Implementation of H.B. 222, "Open and Public Meetings - Electronic Notice"

H.B. 222, passed in the 2007 General Session, requires the creation of a Utah Public Notice Website. The website would be a clearinghouse for notices and agendas of public meetings. The Committee was briefed on the status of implementation of the website. The Committee considered this issue at its September 2007 meeting, but did not recommend draft legislation.

Local Government Campaign Financial Disclosure Reports

Currently, campaign financial disclosure reports of state candidates are placed on a state website providing a clearinghouse. Unlike the state, campaign financial disclosure reports of local government candidates reside with the local government and are seldom placed on a website. A citizen wanting to read the financial disclosure reports of local government candidates would in most cases have to file a GRAMA request with the local government. The Committee was briefed on a proposal requiring local government to place candidates' campaign financial reports on a repository website, making the reports more accessible to the public. The Committee considered this issue at its June, July, September, and October 2007 meetings and recommended draft legislation, "Election Law - Financial Reporting."

Local Referenda

The Committee was briefed on five problems with the current local referenda statutes: (1) clarify when passage occurs; (2) determine whether the lack of notice of passage affects the 45 day filing deadline; (3) determine whether a resolution is referable; (4) determine which land use decisions are referable and not referable; and (5) determine whether statute should be amended to eliminate the conflict with the *Utah Constitution*. The Committee considered this issue at its May, October, and November 2007 meetings, but did not recommend draft legislation.

Local District Board of Trustee Member Qualifications

The Committee heard testimony regarding whether the 50 percent rule of *Utah Code* 17B-1-302(1)(b), relating to the qualifications of board of trustees members in a local district with seasonally occupied homes, should be modified. The Committee considered this issue at its April 2007 meeting, but did not recommend draft legislation. The Committee referred the issue to the Special Districts Subcommittee.

Process for Incorporation of a Town

H.B. 466, "Incorporation of a Town Amendments," passed in the 2007 General Session, had an unintended consequence of allowing one person to incorporate a town as long as the petitioner owns 50 percent of the land and the future town includes at least 100 residents. The Committee considered this issue at its June, July, October, and November 2007 meetings and recommended draft legislation, "Municipal Incorporation Amendments."

Public Land Sales

The Committee heard testimony on a proposal to require voter approval if a municipality intends to dispose of a parcel of real property with a value of \$1,000,000 or more (2007 General Session H.B. 109, "Municipal Voting Requirement for Sale of Public Land"). The Committee considered this issue at its May 2007 meeting, but did not recommend draft legislation.

Safe Drinking Water Protection

The way land is used in a watershed area may impact the safety of the drinking water. A municipality has jurisdiction over land use for territory within its boundaries. A county has jurisdiction over land use for territory within the unincorporated parts of the county. Often a municipality's drinking water watershed is located outside its boundaries and thus outside its land use jurisdiction. The Committee considered how to best protect drinking water watersheds. The Committee considered this issue at its May, October, and November 2007 meetings and recommended draft legislation, "Safe Drinking Water Revisions."

POLITICAL SUBDIVISIONS INTERIM COMMITTEE

Utah Quality Growth Commission

In 1999, the Legislature created the Utah Quality Growth Commission. Representatives of the Utah 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 May and November 2007 meetings, but did not recommend draft legislation.

Utah's Seven AOGs (Association of Governments)

In October 2001, after receiving a legislative audit of Utah's seven AOGs, the Committee requested that Utah's seven AOGs report annually to the Committee in order to maintain a continuing dialogue. The Committee received information on the purpose of and services provided by the AOGs. The Committee considered this issue at its September 2007 meeting, but did not recommend draft legislation.

PUBLIC UTILITIES AND TECHNOLOGY INTERIM COMMITTEE

PUBLIC UTILITIES AND TECHNOLOGY INTERIM COMMITTEE

Membership

Sen. Scott K. Jenkins, Senate Chair
Rep. Michael E. Noel, House Chair
Sen. Mike Dmitrich
Sen. Mark B. Madsen
Sen. Darin G. Peterson
Sen. Carlene M. Walker
Rep. Roger E. Barrus
Rep. Ralph Becker
Rep. Jim Bird
Rep. Melvin R. Brown
Rep. Janice M. Fisher
Rep. Lynn N. Hemingway
Rep. Steven R. Mascaro
Rep. Kay L. McIff
Rep. Aaron Tilton

Staff

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

OVERVIEW

The House Public Utilities and Technology Standing Committee was created in 1997 to review legislation related to telecommunication and energy utilities. The Legislature then created the Public Utilities and Technology Interim Committee to provide additional year-round research and review of utility and technology issues.

CLIMATE CHANGE

Background

Scientific research and measurement of the Earth's past and present climates have revealed significant changes characterized by very temperate time periods and very cold ice ages. The focus of research is to understand how certain emissions, such as carbon and methane gasses, among others, are involved in climate change. As a result of the research, government and industry are creating

commission-type entities to look at public policies regarding climate change.

The Western Climate Initiative and the Governor's Blue Ribbon Commission on Climate Change are two examples of policy entities created in 2007 designed to raise awareness about climate change.

Action

The Committee considered this issue at its July, October, and November 2007 meetings, but did not recommend draft legislation.

ENERGY FUEL SOURCE DEVELOPMENT

Background

Rapidly increasing populations, projected electric energy demands, and rising oil prices in today's highly competitive energy markets are driving the development of new and older fuel sources.

Traditional resource industries are developing new technologies such as hydro-gasification and nuclear pellets that makes their use cleaner and safer. Hydro-gasification, for example, can convert any carbon-based feedstock such as animal waste, municipal sludge, coal, and forest byproducts into a variety of fuels including diesel, gasoline, propane, and aviation fuel.

Newer fuel sources include renewables such as solar, wind, geothermal, and biomass, which are undergoing rapid development as base-load fuel sources and integrated into the nation's electrical grid.

The Committee received reports and heard testimony regarding the urgency of developing a variety of new energy technology and energy fuel sources.

Action

The Committee considered this issue at its May, June, July, September, October, and November 2007 meetings, but did not recommend draft legislation.

PUBLIC UTILITIES AND TECHNOLOGY INTERIM COMMITTEE

NUCLEAR ENERGY

Background

The first commercial electrical energy nuclear power plant began full-power production in 1957 and was located in Pennsylvania. The nuclear power plant industry grew rapidly through the 1960s, but slowed during the next two decades as the demand for electricity decreased. The Three Mile Island nuclear power plant accident also raised safety concerns, and waste disposal became an issue. However, by 1991, the U.S. had more than a quarter of the world's operating nuclear plants and more than twice as many as any other nation. Currently, the U.S. has one hundred and eleven nuclear power plants that provide 22 percent of commercially generated electricity.

It is projected that Utah will continue to experience—as it has in the last 20 years—an increased demand for electricity based on the state's rapid population and business growth. This growth means a significant increase in need for electrical energy generation capacity from a wide-variety of sources that may include nuclear power.

Action

The Committee considered this issue at its June, July, September, and October 2007 meetings, but did not recommend draft legislation.

OIL, MINING, AND GAS PERMITTING

Background

Past practices for issuing permits for mining and development of oil and gas resources were largely fragmented on state and federal levels. The low level of coordination was attributed 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 and mineral resources based on population increases and business needs have focused attention on developing integrated state and federal permit laws.

Utah has experienced recent and rapid growth in oil and natural gas resources requiring the state to provide a streamlined, one-stop, online permit process.

Action

The Committee considered this issue at its April 2007 meeting, but did not recommend draft legislation.

RENEWABLE ENERGY TAX CREDITS

Background

Most states offer some type of renewable energy tax credit/exemption such as property tax (29 states) or sales tax (20 states) credits. Other state incentives include income tax credit, net metering, grants, 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 November 2007 but did not recommend draft legislation.

OTHER STUDIES

Alternative Energy Projects on Federal Lands

In 2004, the federal government authorized the use of federal lands by states for the development of alternative energy projects such as solar, wind, and geothermal. The federal program also created a permitting process that involves state governments in approving the projects. The committee considered this issue at its November 2007 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

PUBLIC UTILITIES AND TECHNOLOGY INTERIM COMMITTEE

Clean Energy organization agreed to a stipulated settlement with Questar Gas Company regarding rate reductions, demand-side management/energy efficiency programs, and a three-year pilot program. The Committee considered this issue at its November 2006 meeting but did not recommend legislation.

Technology in the Classroom

In the 1980's, 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 connections, and a wider variety of connection types. These include Internet, video conferencing, and wide area networks. Along with the development of connectivity, the legislature has also funded computers for all public education facilities on the network. The Committee considered this issue at its September 2007 meeting but did not recommend legislation.

RETIREMENT AND INDEPENDENT ENTITIES INTERIM COMMITTEE

RETIREMENT AND INDEPENDENT ENTITIES INTERIM COMMITTEE

Membership

Sen. Curtis S. Bramble, Senate Chair
Rep. John Dougall, House Chair
Sen. D. Chris Butters
Sen. Gene Davis
Sen. Brent H. Goodfellow
Sen. Darin G. Peterson
Sen. Carlene M. Walker
Rep. David Clark
Rep. Stephen D. Clark
Rep. Neil A. Hansen
Rep. Wayne A. Harper
Rep. Bradley G. Last
Rep. Karen W. Morgan
Rep. Merlynn T. Newbold
Rep. LaWanna "Lou" Shurtliff
Rep. Aaron Tilton

Staff

Benjamin N. Christensen, Policy Analyst
Dee S Larsen, Associate General Counsel
Eric N. Weeks, 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 six 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

PUBLIC SAFETY RETIREMENT SYSTEM COLA

Background

A COLA (cost-of-living adjustment) for retirement allowance purposes, provides an increase to the allowance to reduce the negative impact of inflation over time. For several decades, COLAs have been an integral part of planned adjustments to an otherwise fixed retirement allowance in retirement systems. Since 1975,

RETIREMENT AND INDEPENDENT ENTITIES COMMITTEE

public employees have had a COLA of up to four percent 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, (e.g., 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.

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

- Inflation has been relatively low over the last 10 years. The CPI during that period has risen at an annual average of only 2.6 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 1997 has been the delay in getting COLAs between years rather than in the 2.5 percent cap itself. (See Slide 1.)
- Public safety employees and firefighters retirement systems have enhanced benefits over other public employees. Both the public safety and firefighter 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 50 percent of their final average salary (20 x 2.5 percent = 50 percent). In addition, a person who retires in 2007 with 30 years of service under the public safety or firefighter system

would receive 70 percent of final average salary, but a member of the public employee's system would only receive 60 percent.

- Public Safety and Firefighter retirement systems cost more than public employees' systems. In 2006, the average cost for a public safety employee retirement contribution was \$10,633—more than double that of a public employee or school employee, which was \$5,065. 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 November 2007 meeting and recommended draft legislation, "Enhanced Public Safety Retirement Systems COLA Option."

OTHER STUDIES

Divestment of Certain Retirement Fund Investments

The Utah State Retirement Systems have \$19.8 billion in assets that are broadly invested in the market place for the benefit of its members. Investment income has provided an average of 81.1 percent of the revenue in the Utah State Retirement Systems over the last 10 years. (See Slide 2.) Nationally, concern has been raised over whether some investments of trust funds, like the Utah State Retirement Systems, have holdings in countries that have terrorist ties. In previous years, the concern was whether some investments had ties to tobacco or whether Utah's retirement trust fund should invest more in Utah companies. *Utah Code* 49-11-301(3) provides that: "The assets of the fund are for the exclusive benefit of the members...and may not be diverted or appropriated for any other purpose...." Under current provisions (see *Utah Code* 49-11-301(2)(a)), and because of the retirement board's fiduciary duty as trustee of the system's funds, the Board must administer the trust solely in the interests of the beneficiaries. Advocates of divestment of retirement funds from certain "unacceptable" holdings argue that funds can be divested without harming the retirement

RETIREMENT AND INDEPENDENT ENTITIES INTERIM COMMITTEE

system's earning or its beneficiaries. The Committee considered this issue at its November 2007 meeting and recommended draft legislation, "Divestment of Certain Retirement Fund Investments."

Employee Selected Defined Benefit or Defined Contribution Retirement Option

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, an employee gets a defined amount per month, starting at retirement and ending at the death of the employee or 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 have advocated for the option of adopting a DC plan as a primary retirement plan for employees (see Figure 1 on page 107 and the 2006 *Interim Report*, page 75, for a more extensive discussion on this issue). During the 2007 General Session, H.B. 377, "Retirement Benefits Amendments," was introduced but did not pass. The bill would have provided an optional defined contribution retirement plan for public employees. The Committee considered this issue at its November 2007 meeting, but did not recommend draft legislation.

Public Employee Benefit Approval Provisions

Under *Utah Code* 49-20-401, upon approval of the Retirement Board and the Legislature, PEHP (Public Employees Health Program) determines the benefits and rates for state employees' health coverage. These decisions have significant budget implications and have resulted in recent discussions regarding the Legislature's role in the process. The Committee had draft legislation prepared titled "Public Employee Benefit Approval Provisions," which would require PEHP to provide in advance to the Legislature, PEHP's recommended benefit

adjustments for state employees; and require that PEHP determine benefits and rates based on the total estimated costs and the employee premium shares established by the Legislature. The Committee considered this issue at its November 2007 meeting, but did not recommend draft legislation.

Public Safety Retirement Death Benefit

If a public safety retiree dies, the death benefit for a retiree's spouse is 65 percent of the retirement allowance that was being paid to the retiree at the time of death. For firefighter retirees, the death benefit is 75 percent. This difference has existed since 1987 when the Legislature enacted these benefits. The Committee considered this issue at its November 2007 meeting and recommended draft legislation, "Public Safety Retirement Death Benefit Modifications."

Restrictions On Additional Retirement Contributions After Retirement

Under *Utah Code* 49-11-504, a participating employer is required to contribute the same percentage of the retiree's salary that would be contributed if the employee were an active member who is eligible to earn retirement service credit. The contribution is deposited into a qualified defined contribution plan, (i.e., a 401(k) account). For instance, the contribution rate for public employees in the noncontributory system in FY 2008 is 14.22 percent of salary. Under the current provision, a retiree who returned to work would continue to get their retirement allowance and would get an amount equal to 14.22 percent of their salary deposited in their 401(k). Since the retiree is not earning additional service credit, this benefit is provided in lieu of having that same amount deposited into the retirement system on behalf of the retiree. For state public safety retirees in the Noncontributory Retirement System, the contribution rate is 26.75 percent of salary for FY 2008. Accordingly, a public safety employee that is returning to work will have an amount equal to 26.75 percent of their salary deposited in their 401(k) each year. The Committee had draft legislation prepared titled "Restrictions On Additional Retirement Contributions After Retirement," which would limit the amount of this post-retirement employment contribution for all employees to the amount provided to an active member of the Public

RETIREMENT AND INDEPENDENT ENTITIES COMMITTEE

Employees' Noncontributory Retirement System, (i.e., 14.22 percent of salary). The Committee considered this issue at its November 2007 meeting, but did not recommend draft legislation.

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 2009, the Retirement Board has recommended a contribution rate of 14.22 percent of salary. This is the same contribution rate paid for FY 2007 and FY 2008. The 14.22 percent of salary rate is also the highest contribution rate since the creation of the noncontributory system in 1987.

Retirement Death Benefits and Divorce Revisions

A death benefit is provided to public employees in the contributory and noncontributory retirement system under a group life insurance policy. For the other systems, the death benefit is part of the defined benefit. Specific provisions allow a court that issues a domestic relations order to split assets in association with a divorce. The assets that are part of a defined benefit are typically subject to a qualified domestic relations order. However, there is no current provision for the court to split the group life insurance policy. The Committee considered this issue at its November 2007 meeting and recommended draft legislation, "Retirement Death Benefits and Divorce Revisions."

Chart 1	
Noncontributory Retirement Contribution Rates (Ten-Year History)	
Fiscal Year	Percent of Salary
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%
*2009	14.22%
Average	12.98%
*Proposed	

RETIREMENT AND INDEPENDENT ENTITIES INTERIM COMMITTEE

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 will 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

RETIREMENT AND INDEPENDENT ENTITIES COMMITTEE

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

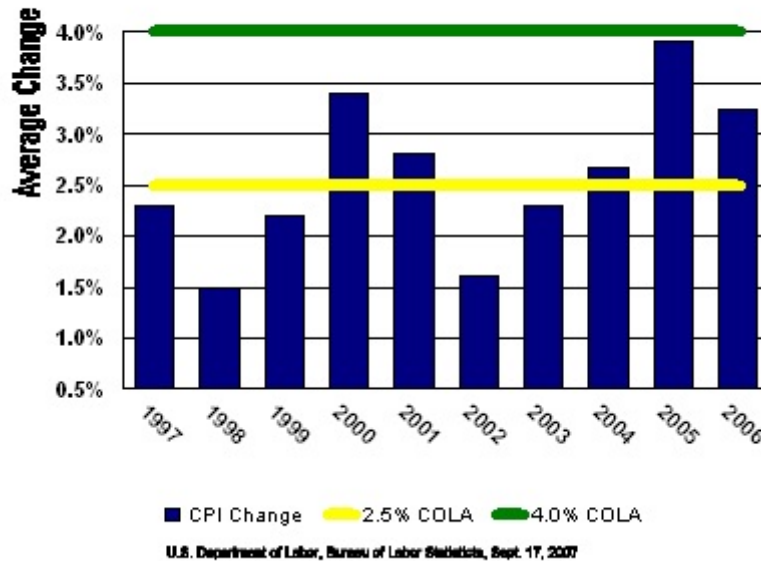
Key Human Resource Management and Employee Interests Differences	
Defined Benefit Plans	Defined Contribution Plans
<ul style="list-style-type: none"> • Retirement eligibility date designated by plan which provides some orderly and regular turnover • Enables workforce and succession planning • Certainty 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 • Certainty and stability in retirement income are variable and 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

RETIREMENT AND INDEPENDENT ENTITIES INTERIM COMMITTEE

Slide 1

Consumer Price Index -- All Urban Consumers

COLA 2.5% vs. 4.0%



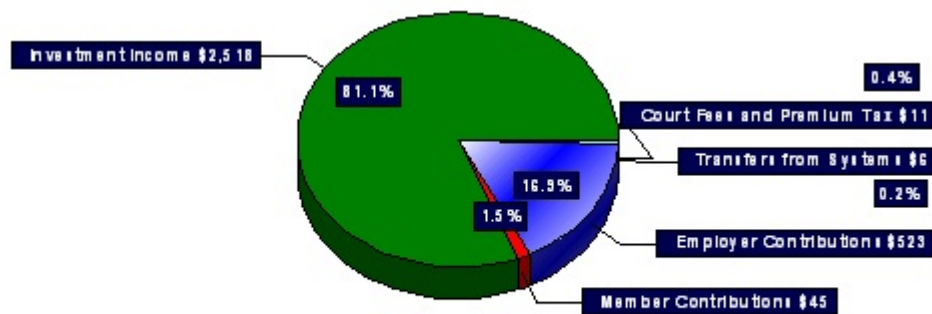
Slide 2

Utah State Retirement Systems Revenue Sources

All Six Systems – Average Annual Total = \$1,638.4 Million

(In Millions)

Ten-Year Average 1997-2006



Prepared by the Office of Legislative Research and General Counsel – August 2007
 Source: Utah Retirement Systems' Comprehensive Annual Financial Reports 2000 to 2006 – For the Year Ending Dec. 31.

REVENUE AND TAXATION INTERIM COMMITTEE

REVENUE AND TAXATION INTERIM COMMITTEE

Membership

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Rep. John Dougall, House Chair
Sen. Curtis S. Bramble
Sen. Mike Dmitrich
Sen. Brent H. Goodfellow
Sen. Howard A. Stephenson
Pres. John L. Valentine
Rep. Ralph Becker
Rep. Tim M. Cosgrove
Rep. Craig A. Frank
Rep. Gage Froerer
Rep. Wayne A. Harper
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Rep. Carol Spackman Moss
Rep. Merlynn T. Newbold
Rep. Gordon E. Snow
Rep. Aaron Tilton
Rep. Stephen H. Urquhart

Staff

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

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 staff on

current state tax revenue collection trends and information on current state and national economic conditions.

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

APPORTIONMENT OF CORPORATE INCOME

Background

Utah imposes a five percent tax on state taxable corporate income derived from sources within Utah. Because some corporations have income from business activity that is taxable both in and out of Utah, the corporation's taxable income is apportioned based on its sales, income, and property.

During the 2005 General Session, the Legislature enacted H.B. 78, "Corporate Franchise and Income Tax Amendments." This legislation provided that a taxpayer may elect to calculate the apportionment of business income on the basis of a fraction that increases the weighting of the sales factor. The legislation also provided that a taxpayer making such an election may not revoke the election for a period of five taxable years.

The Committee considered changing the apportionment formula so that only a corporation's sales within Utah are weighted when apportioning corporate taxable income. Draft legislation considered by the Committee would phase this option in over the next several taxable years. Several other states have adopted this so-called "single sales factor" apportionment methodology.

Action

The Committee considered this issue at its April, May, July, and September 2007 meetings and recommended draft legislation, "Apportionment of Business Income, Attributing Sales to the State, and Deduction of Net Losses by a Unitary Group."

REVENUE AND TAXATION INTERIM COMMITTEE

INCOME TAX CREDITS FOR CERTAIN RESEARCH ACTIVITIES CONDUCTED IN THE STATE

Background

Taxpayers may claim a nonrefundable credit under the state individual income tax and state corporate and franchise taxes for certain research activities conducted in the state. These credits include a seven percent credit for the taxpayer's qualified research expenses that exceed a base amount, a seven percent credit for payments to a qualified organization for basic research, and a credit of five percent of the taxpayer's qualified research expenses for the year. Similar tax credits are offered by other states and the federal government to encourage businesses to conduct research and development.

During the 2007 General Session the Legislature adopted S.B. 223, "Tax Amendments," that made several modifications and additions to these credits.

Action

The Committee considered this issue at its September 2007 meeting and recommended draft legislation, "Research Activities Tax Credits Amendments."

PROPERTY TAX ON PERSONAL PROPERTY

Background

The property tax is imposed on all non-exempt tangible property, including real property and personal property. The *Utah Constitution* allows the Legislature to exempt from the property tax various types of personal property "used exclusively in maintaining the owner's home." This includes furniture, appliances, and other household furnishings. The *Utah Constitution* also allows the Legislature to exempt "tangible personal property that, if subject to property tax, would generate an inconsequential amount of revenue."

The Committee reviewed property taxes paid by businesses on certain types of personal property. As part of this review, the Committee considered the compliance burden on taxpayers who pay property taxes on business personal property.

Action

The Committee considered this issue at its November 2007 meeting and recommended draft legislation, "Personal Property Tax Amendments."

PROPERTY TAX ON REAL PROPERTY

Background

Utah Constitution, Article XIII, Section 2 states that "all tangible property in the State that is not exempt under the laws of the United States or under this constitution shall be: (a) assessed at a uniform and equal rate in proportion to its fair market value, to be ascertained as provided by law, and (b) taxed at a uniform and equal rate."

State law defines "fair market value" to mean "the amount at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of the relevant facts."

Utah has recently led the nation in home price appreciation. Between the first quarter of 2006 and the first quarter of 2007, there was a 17 percent statewide increase in home price appreciation. During that same period, home prices in Utah and Juab counties increased by 19.7 percent and increased by 19.1 percent in Salt Lake County. These two metropolitan areas were second and third highest in the nation, respectively, in home price appreciation.

Rapidly escalating home values, coupled with a constitutional requirement that property be assessed at fair market value, caused some property taxpayers this year to experience large increases in property taxes owed over last year.

Historically, Utah's property taxes have generally been lower than the rest of the nation. The statewide effective property tax rate (property taxes paid as a percentage of fair market value) for primary residential property has decreased from 0.77 percent in 1995 to 0.73 percent in 2005. Utah ranks 36th in the nation in property taxes paid

REVENUE AND TAXATION INTERIM COMMITTEE

as a percentage of personal income (3.4 percent in the United States vs. 2.7 percent in Utah).

The Committee conducted extensive public hearings on the recent escalation of property values and increase in property taxes. The Committee received testimony from business owners, taxpayers, and local government officials.

Action

The Committee considered this issue at its September, October, and November 2007 meetings and recommended the following draft legislation:

- "Property Tax Assessment Revisions,"
- "Repeal of Board Leeway for Reading Improvement," and
- "Truth in Taxation Amendments."

OTHER STUDIES

Aviation Related Taxes and Fees

State and local governments in Utah impose various taxes and fees on certain types of private aircraft not engaged in scheduled air service. These taxes and fees include: (1) a uniform fee of 0.4 percent of fair market value imposed in lieu of a property tax; (2) a registration fee of between \$25 and \$10,000; and (3) an excise tax on the sale of aviation fuel and jet fuel.

The Committee considered whether the revenue from these taxes and fees should be redirected to pay for improvements to local airport facilities. The Committee considered this issue at its April and November 2007 meetings, but did not recommend draft legislation.

General Fund Revenue from Fees Imposed by the Department of Commerce

The Department of Commerce collects a variety of fees to pay for the cost of regulating various businesses, professions, and occupations. These fees are deposited into the Commerce Service Fund and appropriated by the Legislature to the Department of Commerce. During the 2007 General Session, the Commerce and Revenue Appropriation Subcommittee recommended to the

Executive Appropriations Committee that revenue from fees imposed by the Department of Commerce be reduced by \$1.8 million. This recommendation was not adopted. In FY 2006, \$9 million was transferred from the Commerce Service Fund to the General Fund.

The Committee considered this issue at its June 2007 meeting, but did not recommend draft legislation.

Motor and Special Fuel Tax Refunds

The state imposes a per gallon excise tax on sales of motor fuel and certain special fuel. Unlike the sales and use tax, which is usually collected by the vendor at the point of final sale, excise taxes on motor fuel and special fuel are collected before the final sale of the product to the final consumer.

Certain taxpayers are entitled to refunds of excise taxes paid on motor fuel that is not sold for final consumption. For example, a taxpayer may claim a refund for the loss or destruction of certain amounts of motor fuel in a single incident.

The Committee considered this issue at its November 2007 meeting and recommended draft legislation, "Motor and Special Fuel Tax Amendments."

Statewide Uniform Sales and Use Tax Rate

In addition to the state sales and use tax, the Legislature has authorized several local option sales and use taxes for both general government and programmatic specific purposes. Local governments may impose a local option sales and use tax for general government purposes. Special purpose sales and use taxes may be imposed for such things as mass transit, hospitals, local highways, and local arts and recreation programs.

Some argue that the prevalence of so many local option sales and use taxes has created an administratively complex sales and use tax system. For example, in the 2nd quarter of 2007, there were 17 unique sales and use tax rates imposed in different geographical areas of the state. The Committee considered the desirability and feasibility of a single uniform statewide sales and use tax

REVENUE AND TAXATION INTERIM COMMITTEE

rate that would consist of the state's sales and use tax and several locally imposed sales and use taxes.

The Committee considered this issue at its May and October 2007 meetings, but did not recommend draft legislation.

Transparency in Government Finance

The Committee reviewed ways to improve the public's access to financial information about state and local governments. While certain financial documents, such as budgets, audits, and summaries of financial information are readily available from a variety of sources, it is sometimes difficult for citizens to access more detailed expenditure information from state and local governments.

The Committee examined the desirability and feasibility of improving public access to certain financial information. The Committee considered this issue at its November 2007 meeting and recommended draft legislation, "Transparency in Government Finance."

Transportation Taxes

The Committee received a staff briefing on concerns and options related to Utah's motor fuel and special fuel taxes. Transportation policy questions considered by the briefing included: how the state will fund future transportation needs; to what extent the motor fuel excise tax should be a major source of funding; and other possible revenue sources to fund transportation needs. The Committee considered this issue at its July 2007 meeting, but did not recommend draft legislation.

RURAL DEVELOPMENT LEGISLATIVE LIAISON COMMITTEE

RURAL DEVELOPMENT LEGISLATIVE LIAISON COMMITTEE

Membership

Sen. Dennis E. Stowell, Senate Chair
Rep. DelMar "Bud" Bowman, House Chair
Sen. Mike Dmitrich
Sen. Fred J. Fife
Sen. Scott K. Jenkins
Rep. Melvin R. Brown
Rep. James R. Gowans
Rep. Eric K. Hutchings
Rep. Brad King
Rep. Patrick L. Painter
Rep. Mark A. Wheatley

Staff

Stewart E. Smith, Policy Analyst
James L. Wilson, Associate General Counsel
Joy L. Miller, Legislative Secretary

OVERVIEW

The Utah Legislature passed two bills in recent years (2004 General Session S.B. 50, "Rural Planning and Development," and 2005 General Session H.B. 318, "Community and Economic Development Restructuring") that have brought significant focus to rural economic development issues. S.B. 50 created four entities to address rural planning and development issues on a statewide, coordinated basis.

Rural Development Legislative Liaison Committee

This 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.

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.

GRP (Governor's Rural Partnership Board)

GRP prepares an annual strategic plan to address rural economic development.

Office of Rural Development

This office helps foster and support economic development for the benefit of rural counties and communities.

Rural Coordinating Committee

The Rural Coordinating Committee coordinates efforts and resources and helps implement the strategic plan for rural economic development, planning, and leadership training.

H.B. 318 restructured the Department of Community and Economic Development by transferring the responsibility for economic development and tourism at the state level to a new entity within the governor's office, the Governor's Office of Economic Development.

GOVERNOR'S RURAL PARTNERSHIP BOARD REPORT TO THE LEGISLATURE

Background

The GRPB is required by law to make recommendations on economic planning and development in the state's rural areas and on related issues to the Legislature through the Rural Development Legislative Liaison Committee. The GRPB, in its 2007 report to the Legislature, made the following recommendations:

- **Industrial Assistance Fund.** Clarify the infrastructure portion of 2007 General Session S.B. 10, "Industrial Assistance Fund Amendments - Rural

RURAL DEVELOPMENT LEGISLATIVE LIAISON COMMITTEE

Fast Track Program," to be based on need, rather than on existing job creation formulas and add flexibility to allow for companies that have not shown a profit, or emerging companies to qualify.

- **Higher Education.** Continue to support degree programs in rural Utah online and at local centers.
- **BRC (Business Resource Centers).** Support this business development tool by funding a statewide BRC initiative.
- **Rural Health Insurance.** Continue to seek new and better solutions to Utah's health care systems problems. Consider the Utah Health Insurance Exchange being developed by the Governor's Office of Economic Development.
- **Rural Public Utility Infrastructure.** Recommend that the Public Service Commission grant Rocky Mountain Power and other electrical utilities a full rate of return on investments in underserved areas and areas of inadequate transmission service. Alternatively establish a rural utility trust fund to offset certain critical infrastructure needs in our rural counties and communities. Include the 0.19 cents per Questar customer to offset rates currently being paid by specific communities in rural Utah.
- **Broadband Communications.** Amend S.B. 268, "Rural Broadband Service Fund," passed in the 2007 General Session, to apply to all utilities, not just broadband, include a new appropriation, and allow for costs associated with utility studies.
- **Enterprise Zones.** Reauthorize enterprise zones due to sunset in 2008.
- **Rural Microlending.** Expand the Utah Micro Enterprise Loan into rural Utah and propose a small loan loss reserve to encourage contributions from participating banks.
- **Tourism Promotion.** Support the Tourism Marketing Performance legislation and the \$15 million budget request to advertise and promote Utah as a tourism destination.
- **Public Lands Policy.** Support the quick response of the Utah Partners for Conservation and Development and others who provide assistance in restoring range land and habitat damaged by wildfires and continue to support increased legislative funding in this area.

Action

The Committee considered this issue at its October 2007 meeting, but did not recommend draft legislation.

TRANSPORTATION INTERIM COMMITTEE**Membership**

Sen. Carlene M. Walker, Senate Chair
Rep. Todd E. Kiser, House Chair
Sen. Scott K. Jenkins
Sen. Sheldon L. Killpack
Sen. Ed Mayne
Sen. Kevin T. VanTassell
Rep. D. Gregg Buxton (until 4/13/07)
Rep. Stephen D. Clark
Rep. Bradley M. Daw
Rep. Ben C. Ferry
Rep. Richard A. Greenwood (as of 4/27/07)
Rep. Lynn N. Herringway
Rep. Kory M. Holdaway
Rep. Fred R. Hunsaker
Rep. Brad King
Rep. Ronda Rudd Menlove
Rep. Paul A. Neuenschwander
Rep. LaWanna "Lou" Shurtliff
Rep. Mark W. Walker

Staff

Mark B. Steinagel, Policy Analyst
Shannon C. Halverson, 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 oversees public transit issues.

DUI (DRIVING UNDER THE INFLUENCE) AMENDMENTS**Background**

Alcohol or drug-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 driving under the influence violations, the Commission on Criminal and Juvenile Justice reports each year to the Committee on data being collected and maintained by the courts to allow sentencing and penalty enhancement decisions for repeat DUI offenders.

This year's report included recommendations that the Legislature create an impaired driving violation, modify selected driving under the influence plea provisions, and increase penalties and fees for selected driving under the influence violations.

Action

The Committee considered this issue at its October 2007 meeting and recommended draft legislation, "Driving Under the Influence Amendments."

ELDERLY DRIVERS**Background**

Drivers can become physically, mentally, or emotionally impaired for many reasons, but the likelihood of impairment increases with age. The Committee considered whether state laws governing elderly driver licensing should be changed, but instead focused on the identification of drivers who have impairments that affect their ability to safely operate a motor vehicle.

Action

The Committee considered this issue at its June and November 2007 meetings and recommended draft legislation, "Confidentiality of Reports to Driver License Division."

TRANSPORTATION INTERIM COMMITTEE

MOTORCYCLE LICENSE AND ENDORSEMENT AMENDMENTS

Background

Motorcycle safety continues to be a concern in Utah and throughout the United States. Motorcycle fatality rates from accidents are much higher than fatality rates for motor vehicles for the obvious reason that the occupants have little protection when involved in a collision. In addition, motorcycle riders are not required to receive as much training to acquire a motorcycle license or endorsement as do individuals who obtain a regular driver license.

Action

The Committee considered this issue at its October and November 2007 meetings and recommended draft legislation, "Motorcycle License and Endorsement Amendments."

PENALTIES FOR FAILING TO SECURE A LOAD OR LITTERING ON HIGHWAYS

Background

Items that fall from a moving vehicle pose serious safety issues for both vehicle occupants who come behind the offending vehicle, as well as law enforcement officers or other individuals who try to remove the object from the highway. In addition, the state incurs substantial costs in cleaning up litter on the highways in the state.

Action

The Committee considered this issue at its October and November 2007 meetings and recommended draft legislation, "Penalties for Failing to Secure a Load or Littering on a Highway."

REAL ID ACT OF 2005

Background

The REAL ID Act of 2005 was passed by Congress to improve security of identification, based on recommendations made by the 9/11 Commission after studying 9/11 hijackers' ease in obtaining identification.

The Act states that citizens may not use state-issued identification at federal facilities (including commercially-regulated airlines) unless the identification is issued in accordance with the REAL ID Act of 2005 and Department of Homeland Security rules. However, the Act raises substantial privacy, cost, timing, and federalism issues for the states.

While the federal government has yet to release the final regulations that implement the Act, preliminary estimates place the Act's impact on Utah at around \$10 million one-time dollars and \$7 to \$8 million ongoing dollars. The State will be better able to assess impacts when the final regulations are released.

Action

The Committee considered this issue at its April, September, and November 2007 meetings, but did not recommend draft legislation.

OTHER STUDIES

Clean Fuel Vehicles and HOV Lane Access

Utah currently allows single occupant, clean fuel vehicles in the HOV (High-Occupancy Vehicle) lane. Some of the vehicles allowed access to the HOV lane will likely not be permitted by the Environmental Protection Agency when it releases its final list of HOV lane permitted single occupant clean fuel vehicles. The Committee considered this issue at its October and November 2007 meetings and recommended draft legislation, "Clean Fuel Special Group License Plate 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. 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. 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 2007 meetings and recommended draft legislation "Designation of State Highways Amendments."

Transportation Administrative Rules - Criminal and Civil Penalty Amendments

The Administrative Rules Review Committee requested that the Transportation Interim Committee review certain UDOT administrative rules that establish criminal penalties and determine whether the Legislature properly delegated rulemaking authority to UDOT in those instances. The Committee considered this issue at its September and November 2007 meetings and recommended draft legislation, "Transportation Administrative Rules - Criminal and Civil Penalty Amendments."

Transportation Corridor Preservation

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 considered this issue at its September 2007 meeting, but did not recommend draft legislation.

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 M. Walker
Rep. Jackie Biskupski
Rep. Lorie D. Fowlke
Rep. Kerry W. Gibson
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
Tracey Fredman, 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.

CHINA TRADE MISSION

Background

The Utah Legislature, recognizing the growing role that international trade will play in the state's future, decided to be actively involved in developing the state's international trade policy by creating a legislative entity, the Utah International Trade Commission, and by directly participating in state trade missions. The Legislature sent

a trade delegation to China to establish relationships for the purpose of furthering trade. The meetings with business and political officials educated legislators on how to attract international trade partners.

In the future, a presence on legislative trade missions with the governor will be part of the effort to promote the state's export businesses. A Utah trade mission led by the governor traveled to India in November 2007, and a follow-up legislative mission is being considered for 2008.

Action

The Commission considered this issue at its May and July 2007 meetings, but did not recommend draft legislation.

CULTURAL/SPORT EVENTS AND INTERNATIONAL TRADE

Background

Utah hosted the 2002 Olympic Winter Games for the United States, which provided the world an opportunity to see and experience the state. Historically, hosting an Olympic event has led to increased cultural and economic interest. Other cultural/sports events such as the Sundance Film Festival have also attracted many visitors with a variety of interests.

The Commission discussed how the state could promote international trade by hosting more cultural/sports events in the future.

Action

The Commission considered this issue at its October 2007 meeting, but did not recommend draft legislation.

FEDERAL TRADE AUTHORITY

Background

Federal Trade Promotion Authority, or "Fast Track," is a congressionally authorized process that allows the President of the United States 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

UTAH INTERNATIONAL TRADE COMMISSION

Act), and agrees to vote on the proposed treaty without amendments during a specified period of time.

The "Fast Track" law expired on July 1, 2007, but Congress may still vote to reauthorize the program.

Action

The Commission considered this issue at its January 2007 meeting and recommended draft legislation, "Federal Trade Promotion Authority," which was adopted during the 2007 General Session.

The Commission also considered this issue at its May and July 2007 meetings, but did not recommend draft legislation.

INTERNATIONAL TREATY IMPACTS: STATE SOVEREIGNTY

Background

International treaties via World Trade Organization trade 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 May and October 2007 meetings, but did not recommend draft legislation.

LEGISLATIVE DIPLOMACY

Background

Traditionally, trade diplomacy and the negotiation of treaties were started in executive branch agencies and then submitted to the legislative branch for approval. As international trade has rapidly grown in dollar amounts and

complexity, it has become necessary for the Legislature to be directly involved to develop a better understanding of the issues.

Currently, legislators are asked to attend functions for visiting political leaders and business leaders. Often this has put legislators in uncomfortable positions because their knowledge and experience in trade and diplomacy may be limited. As international trade with Utah grows, there will likely be increasing numbers of political and business leaders who will want to meet with the Legislature and the governor.

The Commission discussed a number of ideas, including diplomacy training, trade briefings, and the development of the Legislature's role in supporting international trade with Utah.

Action

The Commission considered this issue at its July and September 2007 meetings, but did not recommend draft legislation.

STATE TRADE DATABASE

Background

Utah exported \$6.8 million worth of goods in 2006. That is a 12.3 percent increase over 2005 and a 40 percent increase over 2003 according to U.S. Census Bureau statistics. However, there is no state or federal database of businesses involved in international trade, which may be a barrier to developing a supportive state international trade policy.

The Commission studied this issue, and with the state's Automated Geographic Information Center, developed a model database. This database identifies the geographic location of businesses involved in international trade. Knowing the location of these businesses allows policymakers to consider the creation of state trade zones, among other economic development tools.

Action

The Commission considered this issue at its September and October 2007 meetings and recommended draft legislation, "State Trade Database."

UTAH TAX REVIEW COMMISSION

Membership

Mr. M. Keith Prescott, Chair
Mr. David J. Crapo, Vice Chair
Sen. Brent H. Goodfellow
Sen. Lyle W. Hillyard
Sen. Wayne L. Niederhauser (as of 5/1/07)
Rep. John Dougall (as of 5/1/07)
Rep. Wayne A. Harper
Rep. Rosalind J. McGee
Mr. Lawrence R. Barusch
Mr. Mark K. Buchi
Dr. Gary Comia
Ms. Janis A. Dubno
Ms. Kathleen Howell
Comm. Bruce Johnson
Mr. Bruce Jones
Mr. Dixie Leavitt

Staff

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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.

INDIVIDUAL INCOME TAX AMENDMENTS

Background

The Legislature adopted a single rate individual income tax system in the 2006 4th Special Session. The Legislature made further changes to the single rate system in the 2007 General Session, including a study requirement to develop legislation to repeal the traditional income tax system.

In repealing the traditional income tax system, a significant issue to address is the income tax treatment of trusts and estates. This is because the income taxation of trusts and estates is currently structured to harmonize with the traditional income tax system.

The TRC reconvened the Trusts and Estates Working Group to study how to harmonize the income taxation of trusts and estates with the new single rate system. The Working Group made a series of recommendations that were adopted by the TRC.

Action

The TRC studied this issue at its June, September, and November 2007 meetings and recommended draft legislation, "Income Tax Amendments."

REVENUE VOLATILITY AND STATE BUDGET RESERVE ACCOUNTS

Background

The revenue yield of nearly all taxes is affected by the business cycle. Changes in economic indicators such as the unemployment rate, inflation, new job creation, and wage growth will all affect the revenue performance of a given tax.

Tax experts note that one hallmark of an optimal state and local tax system is its ability to provide revenue in a reliable manner in all phases of the business cycle. Some experts note that relying on a variety of revenue sources helps a state and local tax system achieve this goal.

UTAH TAX REVIEW COMMISSION

The TRC reviewed the revenue volatility of the state individual income tax, sales and use tax, and property tax. The TRC also considered to what extent the state's budget reserve accounts should be used as a hedge against revenue volatility.

The state currently operates two budget reserve accounts: the General Fund Budget Reserve Account and the Education Fund Budget Reserve Account. The state also operates a restricted account to pay for certain disaster recovery costs. The balance in these three funds is just over \$357 million.

Action

The TRC considered this issue at its April, May, June, July, September, and November 2007 meetings and recommended draft legislation, "Budget Reserve Account and Disaster Recovery Account Amendments."

SALES AND USE TAX

Background

The TRC created the Sales and Use Tax Working Group to study in-depth various issues surrounding the state sales and use tax. The Working Group was originally established to draft core principles for studying sales and use tax exemptions and to organize the current sales and use tax exemptions by category.

The Working Group met 10 times between May and October 2007. As part of its study, the Working Group reviewed the criteria and principles adopted by the Utah Tax Recodification Commission and also reviewed the findings of professional tax literature, including the recommendations of noted sales and use tax experts.

If adopted, the Working Group's recommendations would dramatically alter the state's sales and use tax system. Two major changes include: (1) excluding nearly all purchases of goods and services by businesses from the sales and use tax base, and (2) broadening the sales and use tax base to include nearly all purchases by households, including purchases of services. The Working Group believes that these recommendations, if

implemented, present an opportunity to decrease the sales and use tax rate or to provide other forms of tax relief.

The Working Group adopted the following principles of a modern sales and use tax: (1) tax final consumption; (2) do not tax business inputs; (3) do not tax investment and savings; (4) consider taxpayer and administrator simplicity; and (5) recognize evolving interstate, international, and electronic commerce.

As part of its study, the Working Group reviewed the findings and recommendations of several noted sales and use tax experts. These experts argued that the state sales and use tax is outmoded for today's economy, that the tax was originally designed as an emergency revenue source during the Great Depression, and that it should be modernized to reflect today's economic conditions.

Action

The TRC received progress reports from the Sales and Use Tax Working Group and considered this issue at its April, May, June, September, and November 2007 meetings, but did not recommend draft legislation.

SEVERANCE TAX TRUST FUND

Background

The TRC has studied various aspects of the state's oil and gas and mining severance taxes for several years.

One ongoing issue has been the establishment of a permanent trust fund to receive a portion of the revenue from the state's severance taxes that are imposed on the extraction of certain natural resources.

During the 2007 General Session, the Legislature adopted S.J.R. 2, "Resolution Regarding Permanent State Trust Fund." This resolution amended the Utah Constitution to expand the sources of revenue that can be deposited into the Permanent State Trust Fund. The constitutional amendment will be considered by voters in the 2008 general election.

The TRC considered the need for the state and communities that are affected by mineral production to prepare now for the impacts of diminishing natural resource reserves. One way to prepare is to set aside a portion of the state severance tax into a permanent trust fund. The TRC also reviewed trust funds established by other western mineral producing states. Some of these trust funds have sizable balances.

Action

The TRC considered how to provide a regular stream of a portion of the state's several tax revenues to be deposited into the Permanent State Trust Fund. The TRC considered this issue at its September and November 2007 meetings and recommended draft legislation, "Severance Tax Amendments."

Other Studies**Utah's Tax Structure Compared with Selected Other Western States**

The TRC received a report on how Utah's tax structure compares with selected other western states. This report was prepared by the Center for Public Policy and Administration at the University of Utah. The study compared the individual income tax, sales and use tax, and property tax of certain western states. The study compared these three taxes between states based on several criteria, including transparency, stability, sufficiency, balance, and competitiveness. The study also compared total individual income, sales, and property taxes as a percentage of household income for a household with an income of \$26,000 and a household with an income of \$212,000. The TRC considered this issue at its November 2007 meeting, but did not recommend draft legislation.

WORKFORCE SERVICES AND COMMUNITY AND ECONOMIC DEVELOPMENT INTERIM COMMITTEE

WORKFORCE SERVICES AND COMMUNITY AND ECONOMIC DEVELOPMENT INTERIM COMMITTEE

Membership

Sen. Mark B. Madsen, Senate Chair
Rep. Stephen R. Mascaró, House Chair
Sen. Allen M. Christensen
Sen. Dan R. Eastman
Sen. Fred J. Fife
Sen. Patricia W. Jones
Rep. James A. Dunnigan
Rep. Janice M. Fisher
Rep. Julie Fisher
Rep. Christopher N. Herrod
Rep. Karen W. Morgan

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 in 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 the Legislative Management Committee 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.

AFFORDABLE HOUSING

Background

Utah is experiencing a significant affordable housing shortage. Housing costs are forcing Utahns leaving college and starting a family to move out of state.

The Committee asked government and community organizations to identify factors that contribute to housing cost increases, the impact local government regulation has on housing costs, planning and zoning issues, and recommendations for legislative action. Recommendations included increasing public and private sector funding for affordable housing and strengthening local government commitment to develop affordable housing.

Action

The Committee considered this issue at its October and November 2007 meetings, but did not recommend draft legislation.

FAMILY, FRIEND, AND NEIGHBOR CHILD CARE PROGRAM

Background

The Department of Workforce Services noted that current law does not authorize background checks on individuals who provide child care under the Family, Friend, and Neighbor Program. This program allows a qualified individual receiving public assistance to choose a family member, friend, or neighbor to provide child care for their children. The parent is reimbursed for a portion of the child care costs, but also must certify in writing that no person providing the child care or residing in the home of the child care provider has a criminal record.

The Department has, in the past, received information indicating that certain Family, Friend, or Neighbor child care providers do, in fact, have criminal records. If this information is confirmed, the Department stops

WORKFORCE SERVICES AND COMMUNITY AND ECONOMIC DEVELOPMENT INTERIM COMMITTEE

reimbursing the parent for child care costs until the parent engages a qualified individual to provide the child care.

The Department indicated that they would support legislation requiring background checks for Family, Friend, or Neighbor child care providers.

Action

The Committee considered this issue at its October and November 2007 meetings and recommended draft legislation, "Child Care Providers."

PUBLIC ASSISTANCE BENEFITS PROVIDED BY STATE AGENCIES

Background

The Committee expressed interest in the many public assistance benefits available from different state agencies, and indicated that in order to ensure that benefits were being offered in an effective and organized manner, data on available benefits should be obtained and studied.

The Committee heard presentations from the Department of Workforce Services and the Department of Community and Culture regarding the public assistance benefits qualified participants may obtain through their agencies. The Committee also reviewed a report, "Financial Assistance or Services to Low-Income Individuals and Families," that the Office of the Legislative Fiscal Analyst prepared for the Executive Appropriations Committee.

Action

The Committee considered this issue at its May, June, and November 2007 meetings, but did not recommend draft legislation.

OTHER STUDIES

Economic Development Incentives

The Committee noted that the 2007 General Session S.B. 249, "Economic Development Incentives Modifications," did not pass, and expressed interest in preparing a similar bill for introduction in the 2008 General Session.

The bill would change the statutory definition of "high paying jobs," which is "the annual wages of employment positions that compare favorably against the median wage of a community in which jobs will exist," by replacing "median" with "average."

The Committee also discussed the state's various economic development incentives. The Committee discussed this issue at its June and July 2007 meetings and recommended draft legislation, "Economic Development Incentives Modifications."

Employment Security Act Modifications

Representatives of the Unemployment Insurance Division recommended that Title 35A, Chapter 4 be amended to:

- clarify that a claimant for unemployment benefits is not required to personally report at an employment office as a condition of ongoing eligibility to receive benefits;
- provide a waiver of certain filing requirements for unemployment compensation benefits if a disaster, declared by the President of the United States or the governor, impacts compliance with the filing requirements; and
- require that a claimant remain able and available for work during each week the claimant claims benefits.

The Committee discussed this issue at its September 2007 meeting and recommended draft legislation, "Employment Security Act Amendments."

Hardship Extension in the Family Employment Program (FEP)

The Salt Lake Community Action Program expressed concern that the Department of Workforce Services was not granting extensions of cash benefits to participants in FEP, who have experienced significant hardships during their three-year cash benefit eligibility, set by Utah law. Representatives of the Department explained that, without specific direction in statute to extend the lifetime limit, the Department does not have authority to extend the cash benefits. The Committee reviewed the issue at its May and

WORKFORCE SERVICES AND COMMUNITY AND ECONOMIC DEVELOPMENT INTERIM COMMITTEE

June 2007 meetings, but did not recommend draft legislation.

State-owned Art Inventory

Representatives of the Department of Community and Culture discussed the need to catalogue works of art owned by the state. Certain pieces of the art collection are unaccounted for, in part due to the lack of a systematic tracking approach. The Department recommended that the Division of Arts and Museums be authorized to provide educational outreach and technical training to entities in possession of state-owned art to assist in creating a required art inventory and compliance with certification requirements.

The Committee discussed this issue at its November 2007 meeting and recommended draft legislation, "Department of Community and Culture - State-Owned Art Inventory."

Venture Capital Enhancement

Representatives of the Utah Capital Investment Board and the Utah Fund of Funds recommended that the current ceiling on the amount of aggregate outstanding contingent tax credit certificates that can be issued by the Capital Investment Board be raised from \$100 million to \$300 million. They also recommended increasing the ceiling on the redemption reserve from \$100 million to \$300 million.

The Committee discussed this issue at its September 2007 meeting and recommended draft legislation, "Utah Venture Capital Enhancement Act Amendments."

