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Approval Pending

SUMMARY of PROCEEDINGS

JOINT REVENUE COMMITTEE

COMMITTEE MEETING INFORMATION

May 19-20, 2015
Rawlins Music Academy, 214 4th Street
Rawlins, Wyoming

COMMITTEE MEMBERS PRESENT

Senator R. Ray Peterson, Co-chairman
Representative Michael Madden, Co-chairman
Senator Cale Case
Senator Ogden Driskill
Senator Dave Kinskey
Senator Bill Landen
Representative Blackburn
Representative JoAnn Dayton
Representative Roy Edwards
Representative Mark Jennings
Representative Mark S. Kinner
Representative Bunky Loucks
Representative Tom Reeder
Representative Sue Wilson

LEGISLATIVE SERVICE OFFICE STAFF

Josh Anderson, Staff Attorney
Matt Sackett, Research Manager
Dean Temte, Senior Fiscal Analyst

OTHERS PRESENT AT MEETING

Please refer to Appendix 1 to review the Subcommittee Sign-in Sheet
for a list of other individuals who attended the meeting.

EXECUTIVE SUMMARY

The Committee met for two days in Rawlins, Wyoming. The Committee heard testimony on investing local government funds, tax exemptions, the sales tax exemption on meals served at senior citizen centers and liens on mineral property. The Committee directed staff to draft a bill for consideration at a future meeting regarding the investment of local government funds. The Committee will hear additional testimony on all of the topics at a future meeting of the Committee.

CALL TO ORDER (MAY 19, 2015)

Co-Chairman Peterson called the meeting to order at 8:30 a.m. The following sections summarize the Committee proceedings by topic. Please refer to Appendix 2 to review the Committee Meeting Agenda. The Committee voted by voice vote to adopt the sample committee rules found in Appendix A of the rules of the Senate and the House of Representatives, provided that the Committee voted to operate with two co-chairs as opposed to a chairman and a vice-chairman.

INVESTING OF COUNTY AND LOCAL GOVERNMENT FUNDS

Wyoming State Treasurer Mark Gordon addressed the Committee concerning investment of county and local government funds. He said that the Wyoming constitution prohibits investment of government funds in equities though there are exemptions with some permanent funds. Banks have lowered rates and so returns on investments are relatively low. Cities and counties are governed by a statute with a specified list of investments those entities can invest in. He said that there have been recent efforts to improve the returns that local governments are getting on their investments. The State can invest in corporate bonds and although the AAA rated bonds are fairly secure there is always risk. The State invests in a transparent and open set of securities which are well vetted by consultants and the State Loan and Investment Board.

Mr. John Knepper, chief deputy attorney general said that currently the local governments are limited to a closed list of safe investments. The question is whether additional safe investments could be available for long term funds which would provide a rate of return that is better than the Treasury bill rate while avoiding risk. He said that it would not be possible to have every local manager or treasurer being a bond advisor and it would be important that investing in bonds be done in a way that is protective of public funds.

Mr. Gordon said that currently the Wyostar pool fund is available for local governments. The pool operates on a longer timeframe and yields better returns. He said that it was important to be aware that the State does not want to compete in an unfair fashion with local investment advisors.

Mr. Knepper noted that equities are a sensitive topic and there is a risk involved. It is a policy question for the executive and the legislature. He said it is important to be very cautious in this area.

Mr. Gordon clarified that when talking about matching performance to the State they are referencing the state agency pool and not permanent fund performance and incremental steps are appropriate. In response to a question Mr. Gordon said that he did not have data that counties did better or worse than the State though the State generally did better than its peers. He said he would look at data from Wyostar and see how counties compared, though it is likely the State did a little better because it is more diversified.

Mr. Gordon said that it would be challenging to adopt a standard for local governments that is available to all including counties that do not have significant assets. It might be appropriate to tie any changes in county investment options to the State's investment policy. It is important that any changes do not limit the State's investment flexibility.

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Mr. Jim Hicks, Johnson County Commissioner, said that when the County inherited Lake DeSmet they were looking at some way to use investments so that it could be self-supporting. They thought that if they could get in the State pool for investment purposes it would be able to be self-supporting.

Mr. Bill Novotny, Johnson County Commissioner, said that the amount they received for Lake DeSmet will be exhausted in fifteen years. The proposed investment pool is not intended to compete with local community banks but the local communities need an option for a longer rate of return. He said that a rate of 4 to 5% may allow the county to operate the lake in perpetuity.

Mr. Brian Dickson of the Wyoming Association of Municipalities said that the first class cities generally support this effort though agreement is not 100%, particularly among the smaller municipalities. It is a local issue and the statute should be permissive rather than mandatory. The ability to enter the investment pool should not be limited to first class cities and would be beneficial to smaller communities.

Mr. John Wetzel of the City of Powell said that allowing additional investing would help balance the budget. He said that currently they are getting return rates of around 2.5% and they want to get to 4 to 5% returns.

Ms. Shelly Simonton of the Wyoming Association of Municipalities said that they are not asking for the ability of locals to invest in equities but to allow local entities to invest with the State.

Co-chair Madden moved that staff prepare a draft bill for consideration at the next meeting of the Committee which changes the defined range of investments to local governments to mirror the range of investments within the State agency pool and permits the State Treasurer to act as custodian for those investments. The motion was seconded and passed by voice vote.

EXCISE TAX EXEMPTIONS

Ms. Kim Lovett of the Department of Revenue made a presentation to the Committee on excise tax exemptions. Ms. Lovett provided several handouts to the Committee regarding sales and use tax exemptions. Appendix 3. In 1935 the State started imposing sales tax and at that time also provided several exemptions such as inputs into manufacturing. She said that currently there are three different types of exemptions: use based exemptions which apply based on the use of the item such as a vehicle in interstate commerce; product based exemptions such as the exemption on food sold for home consumption; and entity based exemptions such as those for government or charitable entities.

Ms. Lovett said that exemptions fall in to nine categories: exemptions under the Constitution; exemptions under federal law; exemptions for services and property consumed in production; exemptions for sales to government, charitable and nonprofit organizations; exemptions for items alternatively taxed; exemptions for essential human goods and services; exemptions for services provided primarily to businesses; exemptions as an economic incentive; and exemptions to avoid the application of the sales tax more than once on the same taxpayer for the same property. The exemption matrix is available on the website of the Department. She noted that exemptions as economic incentive is the largest category with sixteen different exemptions.

Ms. Lovett said that some tools used to review tax exemptions are sunset dates and reporting requirements. She said that the reports are currently not far reaching and it would be useful to know how much the exemption costs the State, the number of jobs created and other information. There is a need to come up with a method to determine what exactly is being exempted. In Tennessee taxpayers are required to file a separate return listing all exemptions so the information can be tracked. The Department would need a mandate to go forward with a similar requirement and make it part of the return in Wyoming, because it would be a cost to the State and to the taxpayers.

Ms. Lovett described the reports on the manufacturing machinery exemption and data processing services centers. She noted that the data came from a survey request and they only received a 50% survey response.

Ms. Lovett said that it would be important to develop a framework to review exemptions. It would be necessary to define what the goal of the exemption is and whether the goal is measurable. She provided the Committee a letter from Mr. Dan Noble of the Department of Revenue on issues related to developing a framework for evaluation of sales and use tax exemptions. See Appendix 4. Ms. Lovett said that it may be appropriate to create a formal group, similar to the consensus revenue estimating group (CREG) with members from various departments that could gather data and come up with answers related to tax exemptions.

Ms. Lovett provided a handout to the Committee that included an overview of the history and formation of CREG. See Appendix 5. The exemption review group would need to be formed along similar lines. She noted that exemptions with sunset dates and exemptions which might be archaic would be good targets to start with in an exemption review process.

Mr. Buck McVeigh of the Wyoming Taxpayers Association said that CREG was formed with a letter from Governor Hershler and while there have been efforts to make CREG mandated by statute there is nothing formal in place related to the group.

Ms. Lovett noted that a function of the exemption review group would not only be looking at existing exemptions, but also modeling to forecast for decisions on whether to grant an exemption initially. Previously there has not been a formal process related to granting exemptions. It would be important to determine what the exemption is trying to accomplish and to determine whether the benefits are overcoming the costs of the lost revenue.

Ms. Marsha Shanor of the Equality State Policy Center said that they have been interested in looking at the success of existing exemptions and the development of a framework or model to review any new exemption prior to passage.

Mr. Buck McVeigh provided a handout specifying the criteria for exemptions based on the cornerstones of taxation. See Appendix 6. He said that it is a difficult test for an exemption to pass. They support reporting requirements and monitoring of exemptions.

SALES TAX EXEMPTION RELATED TO SENIOR CITIZEN CENTERS

Ms. Lovett said that a question had been raised regarding meals served at senior centers which are not consumed by seniors. She said that based on the current statute the Department had determined that if a meal is provided to non-seniors it is taxable. The Department wanted to bring the topic to the Committee to determine what the intended result of the statute was and whether those meals should be taxed.

Ms. Heather Babbitt of the Department of Health said that the Older Americans act of 1965 included provisions to address senior hunger. The senior nutrition program provides access to healthy meals for seniors. The thirty-nine senior centers in the State serve 1.2 million meals. Approximately 700,000 are served in the senior centers and the remainder are home delivered. About 3.1% of the meals served at the

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centers are served to non-eligible people. A goal of the program is socialization and bringing seniors into the center to learn about other programs which is accomplished in part by serving meals to non-seniors.

Mr. Tim Ernst of the Department of Health said that the senior nutrition program is not a means tested program and they cannot ask for information other than date of birth. He said that part of the purpose of offering meals to everyone is to bring generational folks in to help with the seniors. They do charge for those meals but the purpose is not to make money, only to recoup the cost of the meal. They are not competing with restaurants. He said that these meals are not taxed in other states.

Ms. Ann Rossi of the Wyoming Association of Senior Project Directors provided a handout to the Committee on meals at senior centers. See Appendix 7. She said that they were concerned about the staffing and other costs which might arise if they were required to account for and pay taxes on guest meals.

Mr. Kenny Casner said that as a business owner he cannot compete with senior centers because the cost of the meals they provide is subsidized.

MEETING RECESS

The Committee recessed at 11:15 a.m. for a tour of oil and gas operations.

CALL TO ORDER (MAY 19, 2015)

Co-Chairman Madden called the meeting to order at 8:30 a.m.

SALES TAX EXEMPTION RELATED TO SENIOR CITIZEN CENTERS (CONTINUED)

Ms. Lovett said that while the tax on meals is not due if provided in the regular conduct of senior citizen functions and activities to a person 60 or older, the opinion of the Department is that guest meals are taxable. The opinion of the senior centers is that guest meals are part of their function and should not be taxed.

Ms. Ann Rossi said that the meals are subsidized $3.15 per meal from federal and State sources though the cost of the meals exceeds that amount. She said that part of the function of the senior centers is to promote an intergenerational dining experience which helps encourage seniors to come in to the centers. Only about 3.1% of meals are non-eligible but they believe the cost to collect the tax on that small number of meals would have a negative impact on the senior centers.

Ms. Jamie Lowell of Meals on Wheels said the centers are not allowed to charge seniors for meals though they do have a suggested contribution. The boards set a charge for the non-senior meals, in Carbon County the charge is $8. The concern is whether they will have to hire extra help to track the tax. She said that the cost of their audit is $20,000 and she was told that if they have to track tax collections that cost would increase another $5,000 to $10,000.

Ms. Rossi said that if they are required to collect the tax they will likely need additional employees. They are estimating $1,000 per year per senior center, including obtaining a sales tax license. Small senior centers may not be able to absorb that cost.

Mr. Kenny Casner said that he is required to send in his tax form and that it is not a huge burden. He said that while seniors do not have to pay the other meals should be taxed at six percent like other restaurants. After additional discussion the Committee determined to revisit this topic at a future meeting.

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PROPERTY TAX EXEMPTIONS

Mr. Brenda Arnold of the Department of Revenue gave a presentation to the Committee on property tax exemptions. See Appendix 8. She noted that there are various types of exemptions including: partial exemptions where for example the first $3,000 of the primary residence of a qualifying veteran is exempt; full exemptions where the full amount is exempt; de facto exemptions which are exempt because administratively they are not feasible such as business inventory or personal property held for personal use; and controlling exemptions which are exempt for a specified period of time though there is not a current example on the books in Wyoming. She noted that the level of assessment is also essentially an exemption where the property is appraised at 100%, but only assessed at 9.5% for commercial, residential or agricultural use and 11.5% for industrial use.

Ms. Arnold that that if property is publicly owned it is presumed to be exempt, all other property is presumed to be assessable. Article 15, section 12 of the Constitution specifies a broad array of property that is exempt. Article 15, section 3 of the Constitution specifies that mines and mining claims are subject to ad valorem tax in lieu of tax on the land.

Ms. Arnold said that some exemptions are tracked by the Department including fire engines owned privately, pollution control, the veteran's exemption and community development organizations. She said that the two areas that pose the biggest administrative challenges are governmental and charitable exemptions. The Department is looking for clarity or guidance regarding those exemptions. There is an exception to the governmental exemption for property which is not used for a governmental purpose. Whether something is a governmental use is a grey area, for example an office building owned by a governmental entity could be in competition with a private office building. She said that governmental exemptions are taking more and more time and it may be beneficial to give consideration to some of those issues.

Ms. Arnold stated that the other major challenge is related to the exemptions for nonprofit or charitable organizations. For example, if a house is donated to a charitable organization and the organization rents the house and uses the income for a charitable purpose, is that property exempt? Those types of issues present a challenge to the Department and the assessors. She said that exemptions for charity are as old as the tax itself but are still difficult to administer. There can also be an issue determining between charitable and non-profit organizations. The non-profit sector is the fastest growing segment of the American economy. Non-profits are generally exempt due to issues of separation of church and state as well as the idea that they provide a benefit to the community.

Ms. Arnold said that the possible process for reviewing tax exemptions is to identify the outcome desired by granting the exemption and then use established criteria to determine whether it is having the desired effect. She said that it would be important to determine where the subjectivity is in the law such as areas where a certain type of property is taxed in one county but not in another. While there is no way to address every situation in statute, it may be possible to address some areas of subjectivity. There are twenty-three different county assessors and it may make sense to have one central website where property owners can apply for tax exemptions and provide documentation. It may be appropriate to place some burden on the property owner to specify why they are seeking the exemption.

In response to a question Ms. Arnold said that the formation of a CREG like group might be beneficial in looking at areas where there is difficulty. A systematic review of tax exemptions would provide an opportunity for improvement of the exemptions for uniformity and fairness.

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Mr. Pat Meyer, Park County Assessor, said that property tax exemptions can be difficult. He said that one example in his county was a warehouse owned by monks. Because they prayed there and walked the grounds it was determined that it was exempt even though it was used to generate income. He said in cases like that and others it would be helpful to have additional clarification.

Liens on Mineral Property

Ms. Carol Seeger, deputy county attorney for Campbell County addressed the Committee concerning liens on mineral property. In a recent case the judge ruled in favor of the person who acquired the property and the county tax lien was not given priority which raised these concerns. She said they would like consideration of changing the priority in statute to make clear that the tax lien on mineral property is superior to other liens similar to the tax lien on real property. In response to a question she said that it did not appear to be a widespread issue but the concern is that people could become creative in bypassing taxes and these taxes represent a large amount of money.

Ms. Seeger said that if taxes are paid closer to the time of production, as is being discussed in the Task Force on Mineral Taxes, it may alleviate the problem. She said that every tax should be collected and they wanted to call the attention of the Committee to this issue.

Mr. Mike Geesey of the Wyoming Bankers Association said that they opposed a bill last year that addressed this issue. If the banks think there could be a superior lien two years down the road it might stifle the capital available for mineral loans. He said they would like to leave it the way it is and the current system has worked fine. Changing the timing of collection of the taxes may be a better solution than changing the superiority of the liens.

Mr. Bruce Hinchey of the Petroleum Association of Wyoming said that this issue could be addressed by the Mineral Tax Task Force through changing the date of the ad valorem tax payment. He suggested leaving the lien superiority as it is.

Co-chair Madden stated that this issue would be considered at a future meeting of the Committee.

Meeting Adjournment

There being no further business, Co-Chairman Madden adjourned the meeting at 12:15 p.m.

Respectfully submitted,

Senator Peterson, Co-Chairman

Representative Madden, Co-Chairman

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Committee Meeting Materials Index

Appendix	Agenda Item	Appendix Description	Appendix Provider
1	Committee Sign-In Sheet	Lists meeting attendees	Legislative Service Office
2	Committee Meeting Agenda	Provides an outline of the topics the Committee planned to address at meeting	Legislative Service Office
3	Sales and use tax exemptions	Sales and use tax exemption materials	Department of Revenue
4	Sales and use tax exemptions	Framework for evaluation of sales and use tax exemptions	Department of Revenue
5	Sales and use tax exemptions	CREG history	Department of Revenue
6	Sales and use tax exemptions	Exemption criteria	Wyoming Taxpayers Association
7	Senior center exemption	Information on senior center exemption	Wyoming Association of Senior Project Directors
8	Property tax exemptions	Property tax exemption materials	Department of Revenue

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