



The Utah Taxpayer

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Legislature declines to address upcoming education funding crisis

Despite Revenue Shortfall, Legislature Forgoes General Tax Hike

Despite the bleak revenue situation, non-smoking Utah taxpayers were spared a tax increase by the recently concluded legislative session. Legislators focused on spending cuts and dipping into the Rainy Day Fund.

FY2002

To balance the budget for the current fiscal year, which was \$256 million in the red and ends on 30 June 2002, legislators reduced previously approved General Fund and Uniform School Fund expenditures in all major budget categories and utilized \$45 million from the Rainy Day Fund, which now has a balance of \$75 million. Nevertheless, despite reductions in the previously approved FY2002 budget, total FY2002 appropriations were approximately 7% higher than total FY2001 expenditures.

FY2003

The legislature also approved the FY2003 budget, which begins on 1 July 2002. The legislature appropriated \$3.72 billion from the Uniform School Fund and General Fund, nearly unchanged from FY2002. FY2003 appropriations from all sources was \$7.6 billion, nearly unchanged from FY2002.

FY2003 public education appropriation is approximately \$30 million less than FY2002 but is roughly \$50 million higher than in FY2001.

Other highlights of the FY2003 budget include:

- an 18-cent tobacco tax increase which generates \$13.8 million, \$6.7 million of which will be used for general purposes.
- a small increase in the WPU from \$2,116 to \$2,132 and a 1.5% decrease for the Minimum School Program
- \$8.7 million fee increases
- 20% increase for economic development and human resources (all sources)
- 7% increase for health (all sources)

- 9.4% increase for capital facilities

Lawmakers debated at length about how much bonding would be appropriate. In recent years, the state has used general fund revenue to pay for a large share of construction projects. This pay-as-you-go approach was prudent during the 1990s when the economy was growing and the government was flush with revenues. However, since this year's and next year's revenue situation is not favorable, several legislators argued that the state should use borrowing, especially while interest rates are at historic lows, as a means to stimulate the economy and prop up the ailing local construction industry. Eventually, the legislature also approved a \$348 million bond which will be allocated as follows:

- \$25.9 million for renovation of the state capitol
- \$113.5 million for buildings at state universities and colleges
- \$209 million for road construction

Even with the \$348 million bond, the state is still well below its constitutional and statutory bonding limits. The state's credit rating, currently the highest available, will not be adversely impacted by the bond.

The legislature also addressed the upcoming public education financial crisis by passing SJR6. This bill, which was heavily promoted by your Taxpayers Association, directs the Tax Review Commission to investigate the taxation of government enterprises that compete against the private sector. Government enterprises such as municipal electric utilities, golf courses, and recreation centers are not subject to the same taxes as private sector competitors. By subjecting these public entities to the same taxes, additional revenue for public education can be generated while

establishing tax fairness for private sector companies.

The legislature also discussed tuition tax credits. SB69, which would have provided a \$2,116 universal tuition tax credit, was passed by the Senate Education Committee but was not placed before the whole Senate for a vote.

Previous Experience

Fortunately, the 2002 legislature did not follow the course of the 1987 legislature. In 1987, the state was faced with a fiscal situation similar to the situation faced by the legislature this year. The headline from The Utah Taxpayer of March 1987 read "Legislature Adopts Largest Tax Hike in History". In 1987, the legislature increased individual income taxes by \$70 million, corporate franchise taxes by \$10 million, sales taxes by \$60 million, gas taxes by \$40 million, and other taxes by \$22 million. Total tax hike was \$202 million, roughly \$315 million in current dollars.

Only eight legislators from the 1987 session are still serving in the legislature.

24th Annual Taxes Now Conference

The 24th Annual Utah Taxes Now Conference has been slated for the morning of Friday, May 17, 2002, at the Hilton Hotel in Salt Lake City.

The half-day seminar will review the tax-related legislation passed recently by the Utah Legislature affecting Utah taxpayers, state and local governments, and school districts. Please mark your calendars and plan to attend this important event. CLE and CPE credit will be available.

My Corner

By **Howard Stephenson**

Your Taxpayers Association enjoyed an excellent success rating during the recent Utah legislative session with 12 wins and 5 losses as shown in the box score in this newsletter. My hat is off especially to our lobbying team Vice President Mike Jerman, Research Director Scott Hogensen and this year's Legislative Committee Chairman Ruland Gill. They succeeded in spite of the extraordinary challenges resulting from the Olympic interruption of the session.



Mr. Stephenson

Perhaps the best news from the legislative session is resolving a \$256 million revenue shortfall. Your Taxpayers Association was successful in quashing any serious consideration of general tax increases. Instead, the legislature made significant cuts and began downsizing state government. This is in stark contrast to the 1987 Legislature's response to the economic downturn of the eighties when it adopted the largest tax hike in state history, increasing taxes by more than \$200 million.

Despite our successes at the 2002 legislature, taxpayers aren't out of the economic woods yet. There's an even larger fiscal challenge looming over the next eight years as a bubble of 100,000 students crowd into our public school system. Even budget makers admit this net increase in enrollments will require as much as a billion dollars in revenues annually by the year 2010 to educate and house these additional students. To put it into perspective, a billion dollars is equal to a 59% increase in state income taxes, and a 71% increase in either state sales taxes or property taxes. If the funding required for these students does not occur through economic expansion, their will be pressure to shift the increased tax load to the business sector.

Your Taxpayers Association has been sounding the warning regarding this impending crisis and advancing solutions that will prevent the economic train-wreck that will result if taxes are increased in a state that already has among the highest tax burdens in the nation.

Are union bosses trying to intimidate the Utah Taxpayers Association?

Utah Taxpayers Association subpoenaed by UEA/UPEA attorneys

Last year, your Taxpayers Association played a leading role in getting the Voluntary Contributions Act (aka "Paycheck Protection") passed by the legislature. The act, signed into law by Governor Mike Leavitt, prohibits government agencies from collecting political contributions through payroll deductions for public employee unions. Several unions, including the Utah Education Association, the Utah Public Employees Association, and the AFL-CIO, are challenging this law in Third District Court.

The Utah Taxpayers Association's involvement in the passage of the Voluntary Contributions Act is the reason why union attorneys have ordered your Taxpayers

Association to produce confidential information regarding the Association's communications with elected officials, private organizations, and individuals since 1998. Union lawyers are also asking for the Association's federal and state tax returns, agendas and minutes from each meeting held by the Taxpayers Association, membership lists, financial contributions, press releases, and other documents.

What do confidential documents from the Taxpayers Association have to do with the legal merits of the Voluntary Contributions Act? Absolutely nothing, unless the unions are simply trying to intimidate and harass the Association by making exhaustive and intrusive requests.

Your Taxpayers Association has been working for years to stop the erosion of scarce education tax dollars is to tighten up the laws regarding local redevelopment agencies (RDA) and economic development agencies (EDA) which took \$26 million last year from public education property taxes and gave the money to developers. We have also worked to limit the erosion of school tax dollars from RDAs and EDAs by curtailing the 20% tax increment diversion for affordable housing. Frankly, hard as I try, I cannot find a rational basis for taking school tax dollars in a state which spends less per student than any other and giving that money to housing projects.

Tourism could be Utah's best new growth industry, but it'll take more ongoing advertising than usual to permanently capitalize on the temporary Olympic high. While the Salt Lake Convention and Visitors Bureau has an impressive track record of attracting conventions to Utah, the marketing of Utah tourism to individuals, families, and small groups has not had similar success. When the Utah Travel Council appeared at the Legislature during the session to discuss their proposed budget, they were planning on spending only \$800,000 on post-Olympic advertisements. I suggested that thinking so small would not allow the hundreds of millions of dollars of exposure we received through the Olympics to catapult Utah's tourism economy to the next level of performance. The Legislature responded by providing approximately \$7 million in funding to assist with world-wide advertising of

Utah as a year-round tourist destination.

In the recent legislative session taxpayers won passage of SJR 6 which directs the Tax Review Commission to study the taxation of entities which compete head to head with the private sector but don't pay taxes. It is estimated that these government-owned enterprises such as municipal electric utilities, golf courses, and recreation centers escape hundreds of millions of dollars in sales, income, and property taxes which their private sector counterparts are required to pay. Our first effort is to prevent government from getting into the business of business, but in those areas where government is already competing, it simply must pay the same taxes the rest of us pay.

To escape the projected train-wreck in the funding of public education, the legislature will continue to consider enacting tuition tax credits. SB69, which would have provided a \$2,116 universal tuition tax credit, was passed by the Senate Education Committee but was not placed before the whole Senate for a vote. For every student whose parents choose an alternate provider for education services, approximately \$3,000 can be saved while more money will voluntarily be paid for education as parents augment their children's private or parochial school education costs.

The Board of Directors of the Utah Taxpayers Association has set a priority for the Association to assist in developing solutions to the impending education challenges including funding, management accountability and preventing teacher shortages.

ASSOCIATION STAFF

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EXECUTIVE COMMITTEE

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2002 Interim Study Items

Throughout the legislative session, issues arise which require further clarification before the legislature will act upon them. These issues are assigned as study items to various interim committees, which meet the third Wednesday of each month. The findings are reported to the legislature at the beginning of the next session. Of the 188 items receiving study, the following are tax-related:

Fee Analysis - to study the creation of a task force to study fees charged by state agencies.

Ballot Question on Tuition Tax Credits - to study whether to place on the ballot a statewide opinion question regarding whether to allow tuition tax credits in Utah.

Impact of Universal Tuition Tax Credit - to study and develop an economic model illustrating how a universal tuition tax credit would affect the state public education system.

Telecommunications Taxes - to study whether to grant a sales tax exemption for telecommunications equipment and the taxation of long distance telephone service.

Allocation of Local Tax Interest - to study whether to allocate to counties, cities, and towns the interest earned on taxes collected by the State Tax Commission that are imposed by a county, city, or town.

Capping Property Taxes - to study whether putting a constitutional cap on the amount of property tax increase a person may be required to pay and on the amount of property taxes that a taxing entity may collect

Corporate Franchise Tax - to study the elimination of the Corporate Franchise Income Tax.

County Option Tax on Lands - to study a county option sales and use tax to fund the preservation of agricultural land, open land, and watersheds.

Exemption for Agricultural Products - to study whether to have the Tax Review Commission, as part of its review of sales tax exemptions in 2002, study the exemption for agricultural products with emphasis on the definition of agricultural products

Exemption for Corrective Lenses - to study whether to exempt sales of prescription eyeglasses or contact lenses from sales and use taxes

Inheritance Tax - to study revisions to the inheritance tax in light of changes to the federal estate tax.

Judgment Levies and Refunds - to study the disposition of refunds if the state ever imposed a general fund property tax. (H.B. 201)

Property Tax Appeal Standards - to study whether to subject counties to the same standards as taxpayers in property tax appeals

Property Tax Appeals - to study the process for appealing property tax assessments.

Property Tax Filings - to study under what circumstances applications or other filings should be required for an exemption from taxation or a reduction in value. (H.B. 305)

Property Tax Relief for Seniors - to study property tax relief for senior citizens.

Secondary Property Tax - to study issues related to secondary residence property tax

Tax Credit for Education Donations - to study whether to allow a 50% tax credit for donations to public and higher education

Tax Credits for Manufacturing - to study whether to provide nonrefundable tax credits for certain manufacturing capital investments in the state. (H.B. 149)

Tax Deduction for Military Service - to study whether to provide an individual income tax deduction on military pay for service performed outside the state.

Tax on Sleeping Accommodations - to study the taxation on rentals of public sleeping accommodations.

Tax Relief for Higher Education Expenses - to study the availability and need for tax deductions or tax credits for higher education expenses.

Taxing Pass-Through Entities - to study issues related to the taxation of pass-through entities.

Truth-in-Taxation Advertising Requirements - to study whether to require taxing entities operating on a January 1 through December 31 fiscal year to publish only one advertisement rather than two advertisements before budgeting an increased amount of property tax revenue. (H.B. 146)

Unemployment Insurance Exemption - to study an optional exemption from the unemployment insurance tax for corporate officers.

Use of Highway and Motor Fuel Fees and Taxes - to study whether to amend the Revenue and Taxation Article of the Utah Constitution to expand the allowable uses of highway user and motor fuel fees and taxes to include mass transit. (H.J.R. 8)

Unemployment Insurance - to study unemployment insurance issues, including benefits, eligibility, and taxes.

"Teed Off On Taxes" Golf Tournament

Friday, May 10, Eaglewood Golf Course, North Salt Lake City

The "Teed Off on Taxes" golf tournament is designed for members and friends of the Utah Taxpayers Association, and for legislators and government officials, to enhance the partnership between taxpayers and government while discussing tax issues and having some good golfing fun.

Please join us at the Eaglewood Golf Course for morning golf, entry prizes, awards and a relaxing lunch. Registration is \$100 per player, \$350 per foursome, \$300 hole sponsorship, \$1,000 tournament sponsorship.

To Register Please Contact: The Utah Taxpayers Association, 1578 West 1700 South, #201 Salt Lake City, UT 84104, (801) 972-8814
Due to space limitation, attendance will be limited to the first 144 golfers.

2002 Legislative Action

The 2002 legislature was far more concerned about balancing the budget than it was about cutting taxes of any kind. Nevertheless, some important tax related bills were passed by the legislature and await the Governor's signature.

HB51 by Rep. Wayne Harper codifies existing practice by exempting from sales and use taxes certain parts and services used for repairs of tangible personal property.

HB201 by Rep. Wayne Harper addresses the issue of judgment levies. Prior to the passage of this bill, tax entities could impose a judgment levy if the entity's share of a judgment was greater than 1% of the entity's revenue from the previous year or greater than \$1,000. With passage of HB201, these thresholds have been raised to 2.5% and \$5,000. Also, refunds less than \$5,000 must be paid within sixty days.

HB305 by Rep. Wayne Harper addresses the issue of primary residence affidavits. To receive the 45% primary residence exemption, property owners in certain counties have been required to submit an affidavit stating that the property is a primary residence. Without the affidavit, which must be submitted annually, the owner's property would not receive the exemption. HB305 allows counties to require an affidavit only when a change in property ownership occurs.

HJR30 by Rep. David Clark enables public entities in the state of Utah to access one-time, no-strings-attached money from the federal government by taking advantage of a provision in the federal tax code. HRJ30 allows public property such as buildings to be sold to private entities who then lease back the property to the state. Private entities can then take advantage of the depreciation allowance on federal taxes.

SJR6 by Sen. Michael Waddoups directs the Tax Review Commission to investigate the tax exempt status of public entities that compete against the private sector, including municipal utilities, recreation centers, and golf courses. Two issues are involved: tax equity for customers of private entities and funding of public education. Investor-owned utilities pay various taxes that are passed on to their customers while municipal utilities are largely tax-exempt which means taxes are not embedded in the rates that customers of municipal utilities pay.

Key Legislation Box Score		
Wins - 12 Losses - 5		
SENATE		
Bill/Sponsor		Win/Loss
SB 31 Bramble	Bill would have annually adjusted individual income tax brackets for inflation	Loss
	👍 UTA Position 👎 Legislative Action	
SB 58 Buttars	Bill would have increased cigarette tax to pay for new government program, the Working Parent's Health Care Assistance Plan	Win
	👍 UTA Position 👎 Legislative Action	
SB 69 Buttars	Bill would have created a nonrefundable tax credit for private school tuition of up to \$2,116 per qualifying student	Loss
	👍 UTA Position 👎 Legislative Action	
SB 102 Stephenson	Bill would have required government entities to bid out building projects over \$40,000 or public works projects over \$125,000	Loss
	👍 UTA Position 👎 Legislative Action	
SB 166 Bramble	Bill would have created a personal income tax deduction for income earned while on active duty in the military	Loss
	👍 UTA Position 👎 Legislative Action	
SB 198 Dimitrich	Bill would have placed a proposition on the ballot to increase Salt Lake County sales taxes 1/4 percent to create a trust for the homeless	Win
	👍 UTA Position 👎 Legislative Action	
SJR 6 Waddoups	Bill requires the Tax Review Commission to study the taxation of government enterprises which compete with the private sector	Win
	👍 UTA Position 👎 Legislative Action	
SJR 10 Valentine	Bill prevents double taxation of lease-hold improvements	Win
	👍 UTA Position 👎 Legislative Action	
HOUSE		
HB 51 Harper	Clarifies manufacturers sales tax exemption on repair/renovation parts and labor - extends exemption to horse drawn carriages	Win
	👍 UTA Position 👎 Legislative Action	
HB 88 Anderson	Bill exempts from sales tax certain parts and services used in farming operations	Win
	👍 UTA Position 👎 Legislative Action	
HB 146 Young	Bill would have cut down the number of Truth-in-Taxation notice and hearing periods for counties to one per year instead of the current two	Win
	👍 UTA Position 👎 Legislative Action	
HB 153 Tyler	Bill would have created a new surcharge on ephedrine products to fund clean up of property contaminated by illegal drug manufacturing activity	Win
	👍 UTA Position 👎 Legislative Action	
HB 201 Harper	Increased the minimum amount for a judgment levy to \$5,000 or 2.5% of taxing entity's total taxes collected. Refunds must be paid within 60 days	Win
	👍 UTA Position 👎 Legislative Action	
HB 212 Anderson	Bill expands services that can be offered by special service districts Provision diluting Truth-in-Taxation was removed from bill	Win
	👍 UTA Position 👎 Legislative Action	
HB 238 Saunders	Bill increases cigarette tax by 18 cents per pack. Some funds generated are to be transferred to general fund to help balance state budget.	Loss
	👍 UTA Position 👎 Legislative Action	
HB 305 Harper	Bill corrects property tax exemption problem caused by recent district court decision, creates procedure for obtaining exemption	Win
	👍 UTA Position 👎 Legislative Action	
HJR 30 Clark	Bill amends Utah Constitution to allow sale and lease-back of government properties to capture federal tax depreciation	Win
	👍 UTA Position 👎 Legislative Action	