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THE UTAH TAXPAYER

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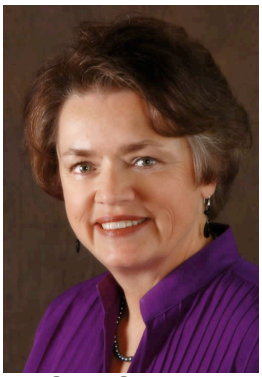
Utah's 58th Legislature Enters Final Days

Utah's 58th legislature is in its sixth week and quickly coming to a close. Your Taxpayers Association has successfully lobbied a variety of bills to increase transparency, reduce government intervention and prevent new taxes. As Utah enters the last week of the legislative session, your Taxpayers Association continues to closely monitor numerous pieces of legislation and actively engage with legislators to ensure fiscally responsible policy making.

Your Taxpayers Association has been claiming multiple successes over the legislative session. SB 133 (Adams) requires tax commissioners to have significant and relevant tax experience. HB 219 (Froerer) reduces the penalties and interest rates for delinquent property taxes. Your Taxpayers Association supported and advocated for both bills.



State Senator Margaret Dayton

SB 77 (Dayton) prohibits school districts from using taxpayer dollars to pay union representatives. Multiple school districts have been paying the salaries of teacher union representatives and relieving them from teaching duties to complete union work, despite the blatant conflict of interest. Union representatives do not represent the interests of school districts and should not be paid with taxpayer dollars. SB 77 passed the Senate and is currently before the House.

Despite the numerous successes of the legislative session, the battle to balance the budget without a tax hike has proved disappointing. Despite promises from House and Senate Republican caucuses to reject tax increases, both the House and Senate have voted to increase the tax on cigarettes by $1.00 per pack.

Studies have repeatedly shown that increased tobacco taxes are bad tax policy. They fail to generate revenue, push tobacco sales outside the state and implement a high rate over a narrow base. Your Taxpayers Association has aggressively opposed any tax increases to balance the budget.

Despite promises from House and Senate Republican caucuses to reject tax increases, both the House and Senate have voted to increase the tax on cigarettes by $1.00 per pack.

Another priority for your Taxpayers Association is keeping government out of the business of business. SB 272 (Stevenson) would authorize the Utah Transit Authority to create and finance mixed development projects near UTA stations; thereby allowing the public transportation agency to engage in real estate speculation and private enterprise.

In addition to these specific priorities, your Taxpayers Association is tracking over one hundred pieces of legislation. The following table highlights some of the successes of the Utah Taxpayers Association. Be sure to visit http://www.utahtaxpayers.org in order to view the full legislative watchlist and keep updated on the final week of the legislative session.

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Utah Taxpayers Association Legislative Watch List – Abbreviated Version

Bill Number	Title	Sponsor	Description	UTA	Status
HB307	General County Powers Amendment	Hughes	prohibits a county or government instrument from providing services in another county without an interlocal agreement		Passed House
SB 40s1	Cigarette and Tobacco Tax Amendments	Christensen	raises the cigarette tax to $1.70 per pack.		Passed Senate
SB43s3	Post-Retirement Employment Amendments	Liljenquist	prohibits a retired state employee from earning additional years of credit towards retirement, if they are reemployed by a different state agency or the same agency within 6 months of retiring		Passed House and Senate
SB 55	Authorization of Charter Schools by Higher Education Institutions	Adams	allows institutions of higher education to authorize charter schools, in addition to the State Charter School Board.		Passed House and Senate
SB63s3	New Public Employees Tier II Contributory Retirement Act	Liljenquist	creates Tier I/Tier II retirement system. Public safety and legislators only enter into Tier II.		Passed House and Senate
SB77s1	School District Leave Policies	Dayton	prohibits school districts from paying union representatives		Passed Senate
SB119s2	Special Elections Modifications	Stephenson	requires bond elections to be held only on November general election dates		Passed Senate, In House
SB133s1	Qualifications of State Tax Commissioners	Adams	requires tax commissioners to have "significant, relevant tax experience"		Passed House and Senate
SB272	Amendments to Transportation Revisions	Stevenson	allos public transit districts to create and finance transit development projects to help economic development in areas near mass transit centers		Passed Senate Committee
SB196s1	Tobacco Tax Revisions	Ray	Increases the tobacco tax in 2010-2011 by 88.5%; thereafter raises the tobacco tax to the national average plus 0.1%		Passed House

My Corner: The Folly of Elected Officials Wading Into The Market

Vice-President Royce Van Tassell

Due to Howard Stephenson's service in the Legislature, March's My Corner article comes from Association Vice President Royce Van

Far too often elected officials think they know better than the market. They were elected because of their good ideas, and so now they must use those good ideas to do what the market has left undone. And since they now control millions of taxpayer dollars, they put those dollars to work.

The latest example of that "must-be-a-good-idea-even-if-I-wouldn't-invest-my-own-money" syndrome is SB 272, Amendments to Transportation Provisions (J. Stevenson). If passed, SB 272 would allow the Utah Transit Authority (UTA) to partner with private developers to construct "transit oriented developments" (TODs) around UTA stations.

When UTA bought the land for many of their stations, they needed approximately 10 acres. However, sometimes the seller would only sell land in 30 acre chunks. Now UTA wants to convert that excess land into high density, walkable developments. Having these communities will increase UTA's ridership, they hope. They also hope taxpayers' ownership in these communities will produce a long-term revenue stream for UTA.

According to UTA and the supporters of SB 272, these developments aren't being developed because the banks aren't lending money for these projects. And if UTA will simply mitigate these projects' risk, for example by letting taxpayers' land take second position behind the bank loan, then the projects will be built and succeed.

I have no doubt that these TODs will be built, if UTA partners with private developers. UTA's partnership lowers the risk facing banks and developers, so their willingness to invest in questionable projects goes up. However, there is little reason to think that UTA will be a better judge of what will succeed in the market than the cities who formed UTOPIA, Utah's largest municipal telecom system.

UTOPIA recently released their FY 2009 audited financial report, and it couldn't emphasize their financial plight any more clearly. After more than five years of operations, UTOPIA has a deficit of $126 million in net assets. To understand what that deficit means, imagine selling all your assets – home, cars, etc. – and using the proceeds to pay your outstanding debts. If UTOPIA did that, they would still owe $126 million.

As the nearby Table 1 shows, UTOPIA is digging a deeper hole for itself. While UTOPIA's annual operating revenues have steadily increased, their operating expenses have increased even faster. In fact, their operational deficit hasn't been less than $5 million since FY 2005. Even worse, UTOPIA's own FY 2010 budget anticipates an operational deficit of $2 million per month.

When elected officials get government into the business of business, UTOPIA-like results are all too common. That is why SB 272 is such a bad idea. Perhaps the TODs contemplated by the Utah Transit Authority really are a good idea. Maybe they'll succeed. The best way to find out is for UTA to sell the excess land around their stations to the highest bidder, and see what the market will bear.

When elected officials substitute their judgment for that of the market, the elected officials end up making losing business decisions. Importantly, it's not because the elected officials aren't smart people who sincerely want to do what's best for their communities. In the overwhelming majority of cases they are.

However, an investor's calculus is vastly superior to an elected official's calculus, because the investor has "skin in the game." If the project fails, their children's college fund fails too. That risk sharpens the investor's focus, and forces him to more carefully evaluate a project.

My own hometown of Eagle Mountain, Utah offers a clear example. Last summer the City Council approved a community development area, allowing the city to invest taxpayer dollars in a grocery store. Signs went up promising a new grocery store; the Mayor and City Council ceremonially turned the first spades of dirt on the project; my neighbors were thrilled.

Table 1: UTOPIA's Net Operation Revenues, FY05 through FY09

	2005	2006	2007	2008	2009
Revenues	$123,054	$1,550,426	$2,318,607	$3,201,987	$3,341,807
Expenses	$4,485,104	$8,807,957	$13,157,385	$10,076,126	$12,238,835
Net Revenue	**($4,362,050)**	**($7,257,531)**	**($10,838,778)**	**($6,874,139)**	**($8,897,028)**

Calculations by Utah Taxpayers Association using data from UTOPIA's Audited Financial Reports

Nearly a year later, the only dirt that's been turned is what the Mayor and City Council turned. Why? Because the bank financing still hasn't come through. Time and time again, well-meaning elected officials jump into a project like UTOPIA, a grocery store or "transit-oriented developments," only to find that the market for that project isn't really there. If TODs can succeed, the market will provide them, but hoping that UTA understands the demand for TODs better than the market is folly. And that's why the Taxpayers Association is adamantly opposed to SB 272.

Tobacco Tax Increase Is Wrong For Utah

What is worse than a tax increase? A tax increase that doesn't generate revenue. When considering stable, long-term tax revenue for Utah, elected officials must consider the likelihood of actual revenue. Unfortunately, Utah legislators are ignoring the facts and are determined to pass an increased tax on tobacco.

Utah's legislators are considering two bills that would raise the tax on tobacco products. The first, SB40 (Christensen) has passed the Senate. The bill will raise the tax on cigarettes to $1.70 per pack. In addition, HB196 passed the House of Representatives, 37 in favor, 35 opposed. The bill would raise the tobacco tax by 88.5 percent in the 2010-2011 budget and maintain the tobacco tax at 110 percent of the national average.

Local convenience stores, supermarkets and specialty stores provide tobacco products to a small percentage of Utah consumers. Utah boasts the lowest rate of tobacco usage in the nation (9 percent) and demand for these products continues to decline. Despite this diminishing tax base, support for an increased tax rate on tobacco continues to grow.

Tobacco users have shown their ingenuity in avoiding higher costs. Instead of paying higher taxes in Utah, studies show that consumers cross the border into neighboring, lower tax states, thereby adding revenue to neighboring state coffers and decreasing sales in Utah.

The most clear cut example of cross-border sales followed the 1997 tobacco tax hike. In 1997 the Utah legislature increased the tobacco tax making the price of a carton of cigarettes in Utah $4.00 higher than in Wyoming. Directly following the increase, Price Waterhouse investigated 30 retailers in the city of Evanston, Wyoming. The study found in the four months following the tax hike, Evanston stores showed an average cigarette sales increase of 23 percent.

To add insult to injury, overall sales increased in Evanston by 10.5 percent as Utah residents purchased other goods such as gas and food while making cross-border tobacco trips. And this phenomenon is not unique to Utah. Of the 57 instances when tobacco taxes have been increased throughout the country in the last five years, 41 of those increases failed to result in the projected revenue. Some states even fell over $100 million short.

Recent proponents of the Utah tobacco tax proposals repeatedly cite the need for increased revenue during this time of financial difficulty. However an increased tax on tobacco fails to generate the necessary revenue to alleviate Utah's budget gap. While there are many reasons to reject the tobacco tax proposals; it imposes a high tax on a narrow base, is the most regressive of all taxes and attempts to force behavioral change through tax policy, the increased tobacco tax fails to meet the most basic of all tax policy. It doesn't actually generate revenue for Utah.

State and Local Emergency Operations Center: Co-Location Is The Best Option

With the passage of Salt Lake City's $125 million public safety bond in November of 2009, a new police headquarters, fire headquarters and emergency operations center will replace Salt Lake City's current public safety building.

In supporting Salt Lake City's public safety bond last year, your Taxpayers Association vowed to closely monitor the development of the public safety center and advocate for the most efficient use of taxpayer dollars. Salt Lake City has recently proposed a partnership with the State of Utah to co-locate the State Emergency Operations Center (EOC) and the new Salt Lake City EOC. The Utah Taxpayers Association supports this push for co-location, as it would drastically increase efficiency and reduce overall costs.

Co-locating the two facilities would create a 10% reduction in necessary square footage. Similar services could overlap, thereby reducing the need for additional space. Informal estimates suggest that the cost per square foot of each emergency center would be comparable and a 10% reduction in overall square footage would be a true cost-saver.

Another unnecessary redundancy is the duplication of "soft costs," which include architect fees, moving expenses and administrative costs. Should the emergency centers be built independently, both facilities would require separate "soft costs." This duplication would be a waste of taxpayer dollars.

In addition to these wasteful expenditures, separate facilities would put Utah at a significant disadvantage in acquiring federal funding. The proposed location for Utah's EOC currently suffers from high levels of soil liquefaction, which are a disqualifying factor in receiving FEMA certification and up to $3 million in FEMA building grants. However, Salt Lake City's proposed EOC location has lower soil liquefaction levels and is a far more likely candidate for FEMA certification and funding. Failing to co-locate could result in a loss of federal funding for Utah's EOC.

Finally, Salt Lake City has agreed to purchase land for an EOC and thereby absorb the $2.8 million land cost for a joint facility. Utah would save millions in not needing to purchase their own land for their EOC.

Your Taxpayers Association supports co-location as the most efficient and fiscally responsible emergency operation center solution for Utah.

Walking the Walk: Congress Claims Fiscal Responsibility, Continues to Spend

In tough economic times political leaders often promise their constituents "fiscal responsibility" and "accountability." While the intentions of these leaders may be to reduce spending, a recent report by the National Taxpayers Union Foundation (NTUF) has found that the actions of these leaders speak much louder than their words.

According to the recent findings of the NTUF, despite assurances by members of the 110th Congress to put an end to increased spending, the trend to spend continued. NTUF examined individual members of Congress and the costs associated with the bills they chose to sponsor or co-sponsor. Since legislative sponsorship is entirely voluntary, the bills (and their associated costs) shed light on the true fiscal intent of the lawmaker. NTUF Senior Policy Analyst Demian Brady summarized the purpose of the report with the question, "What would happen if Congressman X became king tomorrow and all the legislation he sponsored or co-sponsored became law all at once?"

After analyzing over 11,081 pieces of legislation in the 110th Congress and cost estimates for 2,760 bills, the NTUF found that lawmakers proposed 2,655 bills to increase spending and only 105 to reduce expenditures. In the House of Representative if all spending proposals were enacted spending would increase $2.23 trillion and bills to reduce expenditures would only offset that increase by 2.5 percent. This astounding total averages to $19,383 per household. In the Senate, if all spending proposals were enacted the total would reach $1.5 trillion with only 5.7 percent in spending reduction offsets, resulting in an average cost of $12,002 per household.

The report also identified specific trends for both Republicans and Democrats. On average Republicans sponsored less expensive legislation, but still proposed overall spending increases. The average House Democrat in the 110th Congress proposed a net spending total of $624.7 billion while the average Republican sponsored $26.7 billion in spending. In the Senate the trend continued with the average Democrat backing a $193.3 billion increase while Republicans averaged $124.9 billion in increases. However, it was determined that representatives who belonged to either the Blue Dog Caucus or Republican Study Committee, both of which label themselves as fiscally conservative, proposed more saving and less spending than their fellow representatives.

With statistics such as these it is no wonder that Congressional approval ratings remain so low. In Utah we also face tough financial times as the legislature works to fill an $850 million budget gap. But, as Congress seems prone to increase spending, Utah has the opportunity to act far more responsibly. Utah legislatures should remember that actions speak louder than words. Talking points that claim a need for "fiscal responsibility" are not enough. Legislators must in fact be fiscally responsibly by reducing spending and forgoing tax increases, thereby reducing the government burden on taxpayer shoulders.