



# THE UTAH TAXPAYER

A PUBLICATION OF THE UTAH TAXPAYERS ASSOCIATION

## Setting the record straight

### Super PAC's ads inaccurately describe record of 2-time "Taxpayer Advocate of the Year" Dan Liljenquist

While the Taxpayers Association has made no endorsement in this year's US Senate race, we feel it our duty to present the facts to claims we feel are misleading.

Freedom Path, a super PAC supporting Senator Orrin Hatch's reelection is lodging two complaints about former State Senator Dan Liljenquist, who hopes to replace Senator Hatch in the US Senate. First, they allege that Liljenquist supports double dipping by state employees. Second, Freedom Path accuses Liljenquist of inappropriately missing a large share of votes while in the Utah Senate. The first accusation is demonstrably false, and the second reveals a disappointing willingness to shade the truth.

State employees "double dip" when they retire from their state job and begin collecting retirement benefits, then take the same or a similar job with the state and continue to accrue towards their retirement. According to a 2009 report by the Legislative Auditor General, paying into a reemployed state retiree's retirement account cost the state \$400 million between 2000 and 2008. Without Liljenquist's reforms, Utah taxpayers would have accrued another \$900 million in expenses by 2019.

Regular readers of *The Utah Taxpayer* will recall that the Utah Taxpayers Association honored former Senator Liljenquist for reining in double dipping. Senator Liljenquist sponsored SB 43 in the 2010 General Session. SB 43 gave retired state employees wishing to return to state employment a choice: they can either forgo their retirement allowance, or earn additional credit toward their retirement benefit. However, they can no longer do both.

Anyone familiar with the legislative process knows that crafting and brokering approval of legislation this path breaking requires a great deal of hand holding. Competing groups like fire fighters, the judicial system, the police and other public employees all want to protect the system they benefit from, and they all have powerful allies within the lobbying corps and the Utah Legislature.

Crafting good policy (like his 2010 pension and post-retirement employment reforms and his 2011 Medicaid reforms) that wins passage through both the House and the Senate demands meeting after meeting. (Importantly, the Legislative Fiscal Analyst estimated that the Medicaid reforms in SB 180 would save Utah nearly \$800 million in its first 7 years.)

To make sure SB 180 passed the House, Sen. Liljenquist participated in dozens of meetings with various stakeholders. In doing so, he relied on his Senate colleagues to make sure other good bills moved forward, and bad bills were stopped. However, he was on the floor when his vote was needed on close votes.

Having spent more than three decades in the U.S. Senate, Senator Hatch undoubtedly understands the need for this kind of hand holding in passing path-breaking legislation. Nevertheless, Freedom Path is faulting Liljenquist for missing many floor votes in 2011. While technically accurate, their ads

**MARCH 2012  
VOLUME 37**



My Corner: Taxes and Regulation Adding to Energy Woes

Page 2



SB 27: Standing Up for Taxpayers Rights

Page 2



Tax Foundation Study Puts Utah Towards the Top

Page 3



Taxpayers Association Priority Bills

Page 4

## ASSOCIATION STAFF

Howard Stephenson  
Royce Van Tassell  
Chase Everton  
Sophie Mickelsen

President  
Vice President  
Research Analyst  
Executive Assistant

## EXECUTIVE COMMITTEE

John Ward	Chairman
James Hewlett	Vice Chair
Kent Stanger	Secretary
Mike Edmonds	Treasurer
Morris Jackson	Legislative Chair
Margo Provost	Immediate Past Chair
H. Val Hafen	At Large
Max Miller	At Large

distort the real picture of Liljenquist's service, and what Utah taxpayers expect of their elected officials.

It is disappointing that Freedom Path is besmirching Senator Hatch's illustrious career this way. Instead of decrying Freedom Path's misrepresentations, Senator Hatch seems content to ignore inaccuracies, as long as they help his reelection effort.

Senator Liljenquist's legislative record earned two "Taxpayer



**Association VP**  
**Royce Van Tassell**

With Utah gas prices spiking sharply higher in recent days in lockstep with record high prices for winter season gasoline across the nation, we'll be hearing a lot more public debate about our nation's energy policy. Pocket book issues have a way of focusing the mind.

Without question, we're seeing the effects of an unprecedented global demand for oil and gas. The rapidly expanding economies of China and

India, and ongoing political instability in oil producing regions in North Africa and the Middle East are spurring intense competition for every new oil field, every new find of natural gas.

Unfortunately for American working families and businesses, the Obama administration has undermined our energy market at the worst possible moment. It has pushed for higher taxes on U.S. energy producers, stunted development of new resources, and added to a regulatory burden that was already suffocating new initiatives and job creation.

Killing the Keystone XL pipeline in January, which would have secured a vast new source of

friendly oil in Canada, was simply outrageous. But it didn't stop there. A new proposal from the Securities and Exchange Commission (SEC) would force publicly held oil and gas firms doing business overseas to reveal information that U.S. firms have always protected as confidential.

The SEC is seeking expanded reporting and disclosure rules requiring oil, gas and mining companies to disclose in detail each and every payment made to foreign governments in pursuit of new resources. This new requirement would cover literally every legal payment of any kind made to a foreign government by a public company, right down to the contracts being written at the project level.

## My Corner: Obama Administration's Push for More Taxes and Regulation Adding to Energy Woes

Advocate of the Year" awards. Reforming Medicaid, pensions or post-retirement employment individually would have been difficult. Sen. Liljenquist did all three. Your Taxpayers Association will not sit by as outside interests misrepresent those important reforms. We are committed to setting the record straight, so Utahns can cast an informed vote based on accurate and full information.

At the same time, no privately held firm or foreign competitor would be under any similar legal constraint. The result? Foreign competitors will use public SEC documents to discover the business plans of U.S. competitors.

The SEC says it needs these expanded disclosure powers to monitor any activity that might be construed as paying off corrupt foreign powers. No one would argue with the need to conduct business openly and ethically. But this new proposal from the SEC would do far more harm than good.

The Obama administration tipped its anti-fossil fuels bias early on, and continues to disparage oil and gas as "yesterday's energy." That plays right into the hands of our economic competitors around the globe.

Recall that in 2009 the administration canceled 77 oil and gas leases in Utah and stalled oil shale research and development here and in Colorado and Wyoming, where vast new deposits are waiting to be developed. When the leases were canceled, a Uintah County commissioner estimated that the White House also killed approximately 3,000 jobs. That move also deprived state and local government of new sources of revenue from the leases, production royalties and payroll taxes.

The reality is that the Obama administration's bureaucratic delays, anti-growth policies, and outrageous new regulatory demands like the SEC disclosure proposal are putting at risk our country's ability to access the rich natural resources we already have. In the western states, these job-killing policies are holding us back at a time when we need to be getting our economy back to full health.

We need a moratorium on these burdensome energy regulations. The SEC disclosure proposal - much like the push for higher taxes, keeping federal lands off limits to development, and killing the Keystone pipeline - make it unnecessarily harder for our nation to develop the energy it desperately needs.



Oil rig in Eastern Utah

### UPCOMING TAXPAYERS ASSOCIATION EVENTS

April 18, 2012 – John Stossel

May 22, 2012 – Annual Taxes Now Conference

For more information call Sophie at 801.972.8814 or email [sophie@utahtaxpayers.org](mailto:sophie@utahtaxpayers.org)

## SB 27: Standing Up for Taxpayers Rights

As reported in the November 2011 issue of *The Utah Taxpayer*, last fall the State Supreme Court handed down a statutory decision on when taxpayers are entitled to a refund of overpaid sales taxes. Under that ruling, taxpayers are entitled to a refund of erroneously paid sales taxes only if the Tax Commission made a mistake. Otherwise, the taxpayer is not entitled to any refund.

In our view, this is one of the worst decisions the State Supreme Court has ever issued. Unless corrected by the Legislature, this decision will have drastic negative ramifications on hundreds of taxpayers across the state.

Applying the State Supreme Court's logic to the income tax highlights how wrong it is. Would taxpayers be entitled to an income tax refund only if the Tax Commission made a mistake? The supposition is absurd on its face. Taxpayers should receive all the income tax refunds they are entitled to, as long as they apply for them properly. Similarly, taxpayers should receive all the sales tax refunds they are entitled to, as long as they apply for them properly.

To remedy the Supreme Court's error, the Interim Revenue and Taxation Committee recommended SB 27 to the full

Legislature. Throughout the 2012 Legislative Session, ensuring passage of SB 27 has been your Taxpayers Association's highest priority.

To make sure parties who had similar appeals in process at the time of the Supreme Court's decision can receive the refunds they were entitled to, a portion of SB 27 will be retroactive to the date of the State Supreme Court's ruling when SB 27 takes effect. Because the retroactive portion of SB 27 does not take effect until 2014, the Legislature will not need to budget for it now. Instead, they will simply plan in 2014 not to have that money.

Utah was never entitled to this money, and the Legislature should not allow an erroneous decision by the Supreme Court to cloud its judgment. That is why your Taxpayers Association has partnered with so many members of the business community to pass SB 27. Passing SB 27 cements the principle that ALL taxpayers are entitled to receive refunds they apply for properly.

## Tax Foundation Report Show's Utah Above Average

In a follow-up report to its annual State Business Climate Tax Index, the Tax Foundation recently released "Location Matters: A Comparative Analysis of State Tax Costs on Business." Unsurprisingly, Utah performed relatively well in the study. Overall, Utah ranked sixth for mature operations and tenth for newly established operations. Compared to neighboring states, only Wyoming performed better, ranking first for mature operations and ninth for newly established operations.

The study asked the question, "How much will our company pay in taxes" in each state? To determine the answer to this question, seven types of firms were analyzed: corporate headquarters, research and development facility, retail, call centers, distribution centers, capital-intensive manufacturing, and labor-intensive manufacturing. These categories were then analyzed based upon the competitiveness of mature firms versus newly established firms. In the nearby table, Utah's ranking for each firm type is listed for Newly Established Operations and Mature Operations.

The study found that for all of the categories analyzed, Utah's tax burdens are below the national average. In fact, Utah's tax

burden on new distribution centers is 42 percent lower than the national average. In addition, the property tax burden on distribution centers is the second lowest in the country because there is no property tax on inventory.

One area of concern highlighted by the report is the throwback rule that Utah enforces, requiring companies to pay on income from sales to the U.S. Government or from sales to states that are unable to tax the seller. Also cited in the report as a burden on businesses is the unemployment insurance (UI) tax. Currently at 9%, the Governor has already signed SB 129, which lowered the UI rate to 7%.

Utah's performance in these reports continues to highlight the impressive work of our part-time legislators. There is much to applaud, but this report does point to important improvements, such as the throwback rule and further lowering the income tax.

Your Taxpayers Association will continue working to make sure Utah becomes an even more attractive place for new investment. Those investments mean more jobs, and make Utah a better place to raise a family.

	Newly Established Operations								Mature Operations							
	MC	ML	CC	DC	CO	RD	RT	AVG	MC	ML	CC	DC	CO	RD	RT	AVG
Rank	22	16	14	3	17	11	12	10	21	26	18	11	11	7	6	6

MC=Capital-Intensive Manufacturing Operation, ML= Labor-Intensive Manufacturing Operation, CC= Call Center, DC= Distribution Center, CO= Corporate Headquarters, RD= Research and Development (R&D) Facility, RT= Retail Store

## Taxpayers Association Priority Bills

The accompanying table shows some of the priority bills being monitored by your Taxpayers Association. This priority list will continue to grow throughout the legislation session. Be sure to visit [www.utahtaxpayers.org](http://www.utahtaxpayers.org) in order to view the full Utah Taxpayers Association legislative watch list and stay updated on the legislature's progress.

<b>Bill</b>	<b>Title</b>	<b>Sponsor</b>	<b>Description</b>	<b>Position</b>	<b>Status</b>
HB 15	Statewide Adaptive Testing	Rep. Hughes	Turns UPASS into a computer adaptive testing model		Passed House and waiting for Senate to consider
HB 81	City or Town Option Sales and Use Tax Amendments	Rep. Dee	Repeals the 2016 expiration of the .1% option sales tax increase associated with the hold harmless created nearly 30 years ago on the distribution of local option sales tax		Passed both the House and Senate and is awaiting the signature of the Governor
HB 210	Severance Tax Amendments	Rep. Nielson	Reverses the severance tax grab from the 2011 session		Failed in the House
HB 365	Revisions to Tax	Rep. Dougall	Repeals expiration date for these tax credits		Passed the House and is waiting for Senate to consider
HB 433	Expanded Uses of School District Property Tax Revenue	Rep. McIff	Allows local school boards to use property tax revenues for GF purposes		Passed the House and is waiting for Senate to consider
HJR 6	Joint Resolution on Severance Tax	Rep. Nielson	Constitutional amendment to put all severance taxes in the severance tax trust fund		Amended in the Senate and is awaiting House action
SB 27	Amendments to Revenue and Taxation Title	Sen. Stephenson	Reverses Supreme Court decision disallowing refunds of erroneously paid sales taxes		Passed the Senate and is waiting for House to consider
SB 82	Equal Access for Education Employee Association Amendments	Sen. Madsen	Puts into place penalties for not allowing equal access for all associations		Passed the Senate and is waiting for House to consider
SB 137	Financial Transparency Website	Sen. Niederhauser	Requires interlocal entities to publish financial information on the state transparency website		Passed the Senate and is waiting for House to consider
SB 138	Health Insurance Mandate Accountability Amendments	Sen. Weiler	Requires that health insurance mandates passed after Jan. 1, 2012 must also apply to charter, public or higher ed schools		Passed the Senate and is waiting for House to consider