



# THE UTAH TAXPAYER

A PUBLICATION OF THE UTAH TAXPAYERS ASSOCIATION

## Legislature Eye \$100 Million Property Tax Hike: House Likely to say No

The Legislature is considering a \$100 million property tax increase in SB 111, Education Funding Equalization, sponsored by Senator Aaron Osmond from South Jordan. Despite concerted effort from the Taxpayers Association and others the Senate passed SB 111 on Tuesday with a 16-12 vote and sent it to the House for their consideration.

The Senate sent the bill to the House as an alternative source to fund Speaker Becky Lockhart’s \$150 million proposal for one-to-one devices in Utah classrooms. The Speaker was seeking \$50 million in transportation funds to counter prior claims that the Utah legislature has been “paving over kids.” The Senate was also concerned that the Speaker’s request would have wiped out revenues to fund other needs in education.

For the first four years, SB 111 would put the additional \$100 million it raises towards technology in education. After that, the additional \$100 million goes towards equalizing school district property taxes.

SB 111 would freeze the basic property tax rate at this year’s rate. Currently property tax rates float down as property values increase, so taxing entities don’t get “free” money. With the basic rate frozen, the state would collect additional money as property valuations increases. Under SB 111 this extra money would go to an equalization fund, and the state would distribute the moneys to districts based on student growth. The equalization fund would cap at \$100 million, and the fund maintains continued moneys for equalization.

SB 111 purports to equalize education funds across districts by raising property taxes on every Utah taxpayer. Admittedly, there is great disparity in funding between school districts. Some districts have lower property tax rates than others but collect more money because they are in wealthy areas, while other districts have higher property tax rates but collect less money because they are in poor areas. The Taxpayers Association recognizes the inequality in education funding. However, a \$100 million property tax increase is not needed to remedy this. While some districts would receive increased funds, all citizens in districts pay for a \$100 million tax increase.

*Utah is a place where families and business thrive, and we need to keep it that way. Passing a \$100 million property tax hike diminishes Utah’s appeal to families and business.*

According to the Legislative Fiscal Analyst, the tax increase would be \$40 on a \$250,000 home and \$292 for a \$1 million business property. This is an unnecessary and substantial property tax increase on Utah families and businesses.

Utah is a place where families and business thrive, and we need to keep it that way. Passing a \$100 million property tax hike diminishes Utah’s appeal to families and business. Families who work hard to make ends meet and provide for their children cannot afford a \$100 million property tax increase. Businesses who invest capital and create jobs in Utah cannot afford a \$100 million property tax increase. The more taxes businesses pay, the less they invest in Utah. If we want families and businesses to thrive in Utah, we need to tell the Legislature to vote NO on SB 111’s \$100 million property tax increase.

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## With One Week Left in Legislative Session, Tax Bills Move Through the Legislature

The Legislature's General Session keeps the Taxpayers Association on its toes. We monitor committees. We read and revise new bills. We negotiate with legislators and interest groups to get good policy adopted. We write position papers, and talk to reporters. For 45 days, we eat, sleep and breathe the legislative process.

As this year's General Session winds down, it looks like the Legislature will get a lot done to improve Utah's tax system. First, Senator Deidre Henderson's SB 61 has finally fixed the "Truth-in-Taxation" (TnT) hearings calendar year entities like counties have held in August. Second, Senator Howard Stephenson and Senator John Valentine have passed SB 19 and SJR 7 to make sure the State Tax Commission has demonstrated knowledge and experience in the theory and practice of tax law. Third, Senator Stephenson is working to pass SB 65, which clarifies what business inputs qualify for the sales tax exemption on mining equipment.

### **SB 61 Fixes Counties' Truth in Taxation Hearings**

The Taxpayers Association has been a long time advocate of Truth in Taxation (TnT). Readers of "The Utah Taxpayer" will recall multiple articles about the TnT process and the reviews of the TnT hearings the Association attends to evaluate and protest various property tax hikes.

This legislative session your Taxpayers Association continues working on improving the TnT process to make it more effective. Senator Deidre Henderson is sponsoring SB 61. SB 61 requires calendar year budgeting entities to hold TnT hearings in December instead of in August.

Calendar year budgeting entities adopt a budget that runs from January 1 to December 31. Every county, and some special districts are calendar year budgeting entities. All other taxing entities in Utah, including cities, school districts and most special districts, adopt a fiscal year budget, or one that runs from July 1 to June 30.

Calendar year entities, such as counties, and citizens have been at odds with the August TnT process. Fiscal year budgeting entities vastly outnumber calendar year entities, so the TnT process is geared toward fiscal year entities. However, counties, who set their budget at the end of the calendar year, wait until August of the following year to hold a TnT hearing. By the time a public hearing is held, counties have already worked the tax increase into their budgets and have been operating on that budget for seven months. The citizens, however, are just able to voice their opinion on the tax increase in the August TnT hearings.

SB 61 solves this problem for calendar year entities by, as stated above, requiring them to hold a TnT hearing in December. This will allow the counties to hold a public hearing before beginning the new budget year. With the work of Senator Henderson, SB 61 passed the Senate and House unanimously. The counties and your Taxpayers Association both supported the bill and feel that it will further improve the TnT hearing for counties and citizens.

### **State Tax Commission**

Members of the State Tax Commission interpret the tax laws. They routinely offer opinions and judgments about how to apply existing taxes to the ever-changing circumstances of our economy. Given this judicial role and the inherent complications of fulfilling it, your Taxpayers Association and the Legislature has sought to ensure that the Governor only appoint Tax Commissioners with broad and deep knowledge and experience in the theory and practice of tax law, tax administration and tax compliance.

### **SJR 7**

This session, we are supporting a two-pronged effort. First, Senator John Valentine has proposed SJR 7, Joint resolution regarding qualifications of State Tax Commission members. Second, Senator Howard Stephenson has proposed SB 19, Appointment and qualifications of members of the State Tax Commission.

SJR 7 would eliminate any partisan considerations in who may serve on the State Tax Commission. Specifically, the current State Constitution requires that the Tax Commission may not have more than two members of the same political party. However, appointments to the State Tax Commission should be based on a nominee's understanding of the theory and practice of tax law, not which party the nominee supports in November elections.

SJR 7 has already passed both the House and Senate by overwhelming bipartisan margins. Because it is a proposed constitutional amendment, a majority of voters statewide must also approve it in this fall's November election.

### **SB 19**

SB 19 requires the Governor to consider names of qualified nominees to the State Tax Commission from the State Bar, the CPA community and the property appraisal community. It also defines what makes a nominee "qualified," by specifying that they possess executive and administrative experience, substantial knowledge and expertise in property tax, excise taxes, income taxes, sales and use taxes and corporate taxes.

We look forward to the Governor's signature on SB 19 and Utahns' approval of SJR 7 this fall. When implemented, each bill will improve our already stellar State Tax Commission.

### **Much work remains**

While these good tax bills have either passed or are moving forward, other meaningful improvements to our tax code still need work. As previous editions of "The Utah Taxpayer" have noted, Senator Stuart Reid sponsored SB 119. Unfortunately, the 2014 Legislature won't approve SB 119.

SB 119 is the next step in removing sales taxes from business inputs. Specifically, it would extend the existing sales tax exemption on manufacturing business inputs by including consumable business inputs. Unfortunately, the bill's fiscal note prevented it from proceeding to final passage. Although the bill would have a short-term impact on the state budget, when implemented it will create thousands of jobs, and increase Utah's GDP by hundreds of millions of dollars. We look forward to passing that, and many other important bills next year.

## My Corner: Update on Potential Macquarie Capital & UTOPIA Deal



**Association VP  
Royce Van Tassel**

*While Howard Stephenson is serving in the Legislature, Mr. Van Tassel will write the corner.*

Last month, your Taxpayers Association indicated that we would take a “wait and see” approach to the Australian investment firm Macquarie’s proposal to lease and operate the UTOPIA network. (UTOPIA is the financially troubled municipal telecom network 11 Utah cities formed just over 10 years ago.)

In the intervening month representatives of Macquarie and the UTOPIA cities have described to us the contours of the proposal in much greater detail.

The centerpiece of the lease agreement is an “availability payment” participating UTOPIA cities would pay Macquarie in return for Macquarie completing UTOPIA’s ubiquitous fiber-to-the-home network within member cities. The exact size of that availability payment remains unknown, but UTOPIA cities do not have an existing revenue stream to make that payment

*UTOPIA’s well-documented and serial financial failures demonstrate that cities should not be in the telecom business*

For cities to make that payment, the Macquarie proposal anticipates that cities would impose on every residence and business a “utility fee” estimated between \$15 and \$25 per month. Residents and businesses would also receive a basic internet service package offering roughly 5 Mbs download speeds and 2 Mbs upload speeds. Residents and businesses would pay the utility fee, whether or not they purchase additional services from Macquarie, or connect at all to the network.

In essence, Macquarie wants UTOPIA cities to impose a tax increase of between \$180 and \$300 per year. Unsurprisingly, your Taxpayers Association and key legislators oppose this proposal. UTOPIA’s well-documented and serial financial failures demonstrate that cities should not be in the telecom business. Financial performance data from scores of other municipal telecom ventures around the country confirm that UTOPIA’s financial failure is the rule, not the exception.

Unfortunately, UTOPIA is well past that decision. UTOPIA cities are in the telecom business, and taxpayers will pay for hundreds of millions of dollars of UTOPIA bonds. The question taxpayers UTOPIA cities face is how best to get out of this quagmire.

Senator John Valentine proposed SB 190 as a means of answering that question. In its initial form, SB 190 prohibited cities from imposing a utility fee to pay for telecom debt

assumed after January 1, 2014. During many meetings over the past month with Senator Valentine and your Taxpayers Association, Macquarie representatives have made it abundantly clear that if the Legislature approved SB 190 in its original form, Macquarie would have no interest in completing and leasing the UTOPIA network.

Some observers have argued that would be better than requiring residents to pay the utility fee. They believe UTOPIA cities can right its financial ship in other (usually unspecified) ways. One option would be to shut the network down. It’s unlikely that the network would actually go dark, or that it would go dark for very long. The UTOPIA network and its 11,000 or so customers do have value, and someone in the private sector would purchase, operate and upgrade the network, as happened in Provo; Groton, CT; Alameda, CA and many other cities.

While that option means UTOPIA cities would no longer be in the telecom business, it includes a number of substantial costs. First, taxpayers in UTOPIA cities would still have to cover the vast majority of UTOPIA’s existing debt. (The sale price would not likely make a significant dent towards paying existing UTOPIA debt.) Second, UTOPIA cities would open themselves up to potential legal liabilities that could easily run to \$70 million or more. Third, UTOPIA subscribers would likely see service interruptions, a problem iProvo faced after being sold to Broadweave/Veracity and then being repossessed by Provo several years later.

Given the likelihood that adopting SB 190 as originally proposed would convince Macquarie not to pursue UTOPIA further, and the potentially serious consequences of letting UTOPIA go dark, Sen. Valentine amended his bill. The amended bill would permit Macquarie’s proposed utility fee, if a city allows indigent taxpayers to opt out of the fee. He has proposed another amendment which would limit the scope of the fee to cities that were “operating” or “in the process of constructing” a telecom network on January 1, 2014. This amendment would limit the availability of this utility fee to UTOPIA cities, Provo and Spanish Fork.

*Residents and taxpayers who don’t want to subsidize their neighbors’ internet access shouldn’t have to.*

The Legislature should put some strictures around how cities can expand municipal telecom networks. Residents and taxpayers who don’t want to subsidize their neighbors’ internet access shouldn’t have to. We sympathize with the plight that taxpayers in UTOPIA cities find themselves in, and hope that they can find a path out of this predicament.

Nevertheless, we cannot support what amounts to a tax hike of between \$180 and \$300 per year. At the least the legislature should require that UTOPIA cities get explicit authorization from their residents via referendum before they can impose a utility fee.

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## Prospects for Defeat of Tax-Subsidized Convention Center Hotel Looks Grim

During the 2013 legislative session, the Utah Taxpayers Association helped a coalition that defeated SB 267, a proposal for taxpayers to subsidize the building of a 1000-room convention center hotel in Salt Lake City. Since then, Salt Lake County and other proponents of a government-subsidized convention center hotel have worked tirelessly to get the votes needed for the hotel's subsidy.

We have been busy too, most notably conducting a study to evaluate the impact a subsidized convention center hotel would have on existing Salt Lake hotels. This study by HREC noted that a subsidized convention center hotel would poach \$105 million in business from existing hotels. It also showed that a convention center hotel could help Utah attract additional city-wide conventions.

Recognizing the possibility of attracting more city-wide conventions, the Taxpayers Association began discussing principled, taxpayer-friendly ways to structure an incentive package for the hotel. For the first four and a half weeks of the 2014 session, we discussed options with the hotel community, Salt Lake County and the bill's sponsors, Representative Brad Wilson and Senator Stuart Adams.

Again and again Salt Lake County trotted out studies, tables and examples purporting to show that existing hotels in other cities did not suffer when taxpayers subsidized a new convention center hotel. They hoped that the Taxpayers Association and existing hotels would see these examples and trust that the hotel would be a "rising tide that lifts all boats."

Eventually negotiations led to proposals requiring Salt Lake County to risk up to \$30 million of their own money if the

subsidized convention center hotel hurt existing hotels. The closer negotiations came to these proposals, the more Salt Lake County's confidence that the hotel would "lift all boats" waned.

Unfortunately, the outcome is no longer in doubt. The votes have not been cast, but part of what makes your Taxpayers Association effective is our ability to count votes. Taxpayers in Tabiona, Ferron, Smithfield and everywhere else in Utah will subsidize the hotel. The ability of Rep. Wilson and Sen. Adams to keep everyone at the negotiating table was admirable, and the negotiated bill is better than last year's bill. It's better than the proposal Salt Lake County presented this year. Nevertheless, it is poor public policy.

Taxpayers should not subsidize one competitor in the market, especially when much of that subsidized competitor's business would happen in the greater community without a subsidy. In this case, the convention center hotel will be rewarded with a subsidy when a local company holds its banquet there instead of an existing hotel. It will be rewarded

*Taxpayers should not subsidize one competitor in the market, especially when much of that subsidized competitor's business would happen in the greater community without a subsidy.*

with a subsidy when a local couple has a romantic night out there instead of an existing hotel, and so on, and so on.

Existing hotels collectively will receive about \$8 million in "hold

harmless" money, a pittance compared to the real harm they will likely suffer (HREC predicted existing hotels would lose \$105 million). And there's no way to hold taxpayers harmless. That's both a shame and a disappointment. As effective as your Taxpayers Association is, though, we don't win every battle. This year, we lost this one, and HB 356 will pass.

### 36th Annual "Utah Taxes Now" Conference

Your Taxpayers Association will be hosting its annual "Utah Taxes Now" conference on **Tuesday, May 20, 2014** at the Little America Hotel. Leaders from the Utah House of Representatives and Senate, the Governor's office, policy experts and community leaders will discuss a broad range of tax issues, including taxpayer subsidies for hotels, federal and state tax alignment and reducing the costs of doing business by removing double taxation. CLE and CPE credit will be available.

### Teed Off On Taxes Golf Tournament

Join the Utah Taxpayers Association for their annual "Teed Off On Taxes" golf tournament on **Tuesday, June 3, 2014** at the Eaglewood Golf Course in North Salt Lake. Sponsorship opportunities are available.

To register, contact Heidi Erickson at [heidi@utahtaxpayers.org](mailto:heidi@utahtaxpayers.org) or (801) 972-8814

## 2014 Legislative Watch List Priority Bills

The accompanying table shows some of the priority bills your Utah Taxpayers Association is monitoring. This priority list will continue to grow throughout the legislative session. Visit [www.utahtaxpayer.org](http://www.utahtaxpayer.org) to view the full Utah Taxpayers Association legislative watch list and stay updated on the Legislature's progress

| Bill      | Title   | Sponsor    | Description  | Position | House | Senate |
|-----------|---|------------|--|----------|-------|--------|
| HB 266    | Motor fuel and special fuel tax rate indexing amendments                  | Nielson    | Indexes the gas tax to the "Chained Consumer Price Index for all Urban Consumers;" caps annual rate increases at 5% of previous year; rounds rate increase to nearest tenth of a percentage; if Index falls, then gas tax stays the same   | Support  |       |        |
| HB 356    | New Convention Facility Development Incentive Provisions                  | Wilson     | Provides a sales tax credit for all economic activity occurring at the hotel for up to 20 years and up to \$75 million   | Oppose   | Pass  |        |
| HB 388    | Amendments to transportation funding                                      | Anderson   | Authorizes an increase of 0.25% of the local option transit tax  | Oppose   |       |        |
| HJR 2     | Joint resolution on business personal property tax exemption              | Nielson    | Proposed amendment to the state Constitution authorizing the Legislature to statutorily exempt all business personal property from property tax; necessary for his "business personal property tax exemption" bill to take effect; eliminates the equal protection clause of the state constitution for property taxes | Oppose   |       |        |
| SB 19     | Appointment and qualifications of members of the State Tax Commission     | Stephenson | Significantly increases the qualifications threshold for members of the State Tax Commission   | Support  | Pass  | Pass   |
| SJR 7     | Joint Resolution Regarding Qualifications of State Tax Commission Members | Valentine  | Removes partisan qualifications in appointing tax commissioners  | Support  |       | Pass   |
| SB 65     | Sales and use tax exemption modifications                                 | Stephenson | Addresses the sales and use taxation of parts used in the repair or renovation of tangible personal property; addressed a sales and use exemption for certain manufacturing, processing, producing, operating or research and development activities   | Support  |       | Pass   |
| SB 111,S3 | Education Funding Equalization  | Osmond     | Freezes the basic property tax rate  | Oppose   |       | Pass   |
| SB 237    | Urban farming amendments  | Adams      | Reduces the roll back from 10 years to 5; reduces the minimum acreage requirement to 1.5; expands urban farming into Davis County  | Oppose   |       |        |