



THE UTAH TAXPAYER

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New State Auditor Report: Utah Legislature needs to better define “new growth”

For years cities have cajoled state and local school boards into giving property tax subsidies to retail developers by promising that these subsidies would yield higher property tax revenues in the long term. With only a few exceptions (see the [August 2010](#) issue of *The Utah Taxpayer* for a more thorough explanation of those exceptions), redevelopment agencies (RDAs) merely redistribute where economic activity occurs, rather than increasing economic activity. A [new performance report](#) by the State Auditor’s office shows that, even accepting the cities’ (false) claims that RDAs create new economic activity, the cities’ fanciful promises often never come true.

A little background is necessary to understand this counterintuitive result. Utah’s property tax system, known as “Truth in Taxation” or TnT, guarantees each taxing entity the same amount of revenue this year as the entity received last year, plus all the additional revenue that comes from “new growth.” Theoretically, the additional revenue pays for additional services associated with the “new growth.”

The problem lies in the way Utah’s property tax system calculates “new growth.” While the meaning of the term “new growth” sounds relatively obvious, in property tax calculations “new growth” is a term of art. It represents the sum of the change in value from one year to the next of three different types of property: real, personal and centrally assessed.

Real property means land and improvements like buildings that can’t be moved. Personal property includes office supplies, desks, file cabinets, computers, as well as larger items such as a production line. Centrally assessed property includes mines, utilities, airlines and railroads.

Because “new growth” represents the *sum* of value changes in these three types of property, large decreases in personal and/or centrally assessed property can wipe out increases in the value of real property, such as a new mall or a new subdivision. For example, it’s entirely possible that as an RDA project ends, and the

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My Corner: It's Time for Utah to End K-12 Teacher Tenure

Utah is a pioneer in enacting education reforms that provide an economic return on our investment. Part of the reason is that our Legislature has limited the ability of teachers

unions to manipulate the political system to the detriment of school children. Nevertheless, recent developments in California and the Midwest, traditionally bastions of union support, show just how much further Utah can go in limiting the negative effects of public employee unions.

A California court recently ended teacher tenure, while the Wisconsin Supreme Court just upheld Gov. Scott Walker's Act 10, which effectively ended collective bargaining for Wisconsin's state and local government employees. In the past four years, Michigan, Ohio and Illinois have also greatly circumscribed the power of public sector unions. It's time for Utah to follow their lead.

Utah enacted Paycheck Protection and prohibited LIFO

Utah was one of the first states to pass paycheck protection and end the collection of union PAC money through government payroll systems. After unions challenged these laws all the way to the U.S. Supreme Court, the Supreme Court upheld paycheck protection. In a 6-3 decision even liberal icon Justice Ruth Bader Ginsberg joined the majority in ruling that government has no obligation to collect PAC donations for unions.

Passing paycheck protection enabled every education reform bill Utah has passed. Prior to paycheck protection, the UEA teachers union was the single largest PAC contributing to Utah elections, and used their PAC's war chest to block meaningful education reform. Now, the UEA is not even in the top 10 PACs in the Beehive state. Utah was also one of the first states to prohibit "last in- first out" (LIFO), a favorite union tactic that protects senior teachers when reductions in force occur, even if the district has better newer teachers. With LIFO now illegal, Utah's school districts dismiss teachers based on how well a

teacher performs, rather than simply dismissing the newest teachers.

Ending Teacher Tenure

Now it's time to further protect Utah students against ineffective schoolteachers. In *Vergara v. California*, Los Angeles County Superior Court Judge Rolf Treu declared California's teacher tenure laws unconstitutional because they prevent students from obtaining a quality education. Judge Treu said there was "no dispute that there are a significant number of grossly ineffective teachers currently active in California classrooms. . . . The evidence is compelling. Indeed, it shocks the conscience."

During the trial, Los Angeles Unified School District Superintendent John Deasy testified that firing an incompetent tenured teacher can take two to ten years, and cost nearly half a million dollars. Even worse, incompetent teachers continue to draw a salary and benefits throughout those years of appeals.

While Utah code doesn't use the term "tenure," state law offers the functional equivalent through "continuing status." Just five years after hiring a teacher, school districts have the option of granting that teacher "continuing status," i.e. tenure. Firing a Utah teacher with continuing status is just as hard as firing a California teacher with tenure.

Tenure is permanent. It's not uncommon for a young teacher to hone their teaching craft before receiving tenure. After receiving tenure, that teacher's classroom teaching can degrade, yet the teacher will remain in the classroom. Rather than removing ineffective teachers from the classroom, districts often shuffle them from school to school in what many observers despairingly call "the dance of the lemons."

Utah simply cannot afford to allow unions to insert continuing status into a district's collective bargaining agreement. Bad classroom teachers prevent our children from getting the education they need to succeed in a 21st-century economy. If a teacher isn't effective, districts need to get him out of the classroom. Period.

Ending Collective Bargaining

Unfortunately, tenure isn't the only bad policy unions negotiate in collective bargaining agreements. When Wisconsin Governor Scott Walker enacted Act 10, he emphasized how public employee unions use collective bargaining to drive taxpayer costs up without producing better outcomes. Under Act 10, public employee unions can only negotiate base wages.

Public employee unions went berserk. They staged massive and sometimes violent protests at the Wisconsin State Capitol, helped their legislative friends flee the state, attempted to recall Governor Walker and eventually challenged Act 10 in court. In a 5-2 ruling this week the Wisconsin Supreme Court upheld Act 10 in full.

Utah code does not mandate collective

bargaining, but it does permit it. School boards often allow the local NEA affiliate to bargain on behalf of all employees, regardless of whether those employees are members of the union or not, and regardless of whether union affiliate's membership includes a majority of the district's teachers.

Some of Utah's best teachers leave the profession because they cannot negotiate higher pay and benefits based on their own teaching abilities. Under the current system, lock-step salary schedules ensure that a P.E. teacher is paid on the same scale as a highly qualified mathematics teacher, even though there is a long line of candidates for P.E. teachers and a shortage of qualified math teachers.

If blue states like California and Wisconsin can rid their school systems of teacher tenure and collective bargaining, then why can't the reddest of the red states accomplish the same for the benefit of children and the Utah economy? ♦

State Auditor Report

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property's new higher value comes onto the tax rolls, an unrelated decrease in commodity values associated with a mine or another centrally assessed property could eliminate the increase in value of the now-ended RDA project.

In that case, the school district would have subsidized the development of the RDA project for years, yet collected no additional property taxes from the new, higher valued property associated with that project. And given the structure of Utah's TnT system, the school district would forever lose the revenue that the former RDA project was supposed to generate.

The auditor's report found two other significant problems with RDAs and property taxes. First, it noted that the Tax Commission has no way of tracking RDAs' money flows. With rare exceptions, cities don't report property tax revenue associated with the RDA and then transfer that revenue to the RDA. Instead, the records suggest the city never received it in the first place. As your Taxpayers Association has said repeatedly, this poor reporting makes it virtually impossible to track RDAs within a given city, and completely impossible to track state-wide. (The State Office of Education maintains the "best" publicly available [database of RDAs statewide](#), though its structure does not lend itself to longitudinal or financial analysis.)

Second, the audit report noted that every year since at least 1987, the Tax Commission has inadvertently subtracted the value of RDA land from the property tax base twice. This double counting of the value of RDA land has lowered the property tax base by approximately \$1 billion per year.

Salt Lake City Mayor Ralph Becker has seized on this error to argue that taxing entities have been shortchanged by millions of dollars per year. The error is real, but fixing it does not require taxpayers to shell out more money. Salt Lake City and other taxing entities have managed to provide excellent services with the money they've received. Mayor Becker's desire to collect more taxes rather than lower property tax rates simply shows that no amount of money will ever sate his thirst for more taxpayer dollars.

Your Taxpayers Association is working with members of the Legislature's Revenue and Taxation committees and a working group of officials from the RDA Association, city representatives and county representatives to resolve all these important issues. ♦

Truth in Taxation

The 5 Worst Proposed Property Tax Hikes of 2014

Utah residents in more than 40 cities, school districts, and special districts face property tax hikes this year. Simply looking at the proposed percentage or dollar value increase is an unreliable way of evaluating the merit of a property tax hike. Some areas proposing major increases have justifiable needs, while other entities' proposed increases might look minor at face value, but are really just money grabs. Here are Utah's 5 worst proposed property tax hikes of 2014:

Salt Lake City School District

The Salt Lake City School District recently paid off some bonds. Instead of now eliminating the \$6.8 million in taxes that were repaying those bonds, the District wants to keep taking that money from taxpayers for other uses. This is a new tax. Class size reduction would consume \$2.6 million, a sum the District acknowledges is too small to *actually* reduce class sizes. The rest would create a fund for "pay as you go" building needs. This logic is unfair to taxpayers because it takes the current productive value of taxpayers' money and locks it up for future use by the District. Building schools is a worthy endeavor, and can be paid for using voter-approved bonds *when the project is actually undertaken*. Bottom line: taking money from taxpayers *now* that will be used *later* for projects that the taxpayer may never enjoy is wrong.

West Point City

This year's proposed increase, a mere \$43,000, looks benign at first, but West Point plans to boil the frog slowly. Their City Manager told the Taxpayers Association the City Council wants to

Entity Name	TnT Date	TnT Time	% Increase
Upper Sevier River Water Conservancy District	29-Jul	8:00 PM	488%
Lewiston City	5-Aug	7:00 PM	0.92%
Logan City	5-Aug	6:00 PM	1.6%
Grand County School District	5-Aug	6:00 PM	1.8%
Juab County School District	5-Aug	6:00 PM	3.1%
Alta Town	5-Aug	6:00 PM	15.2%
Midvale City	5-Aug	7:00 PM	18.1%
Wasatch	6-Aug	6:00 PM	2.5%
Wasatch County Fire Protection Special Service District	6-Aug	6:15 PM	74.6%
Salt Lake City School District	7-Aug	7:00 PM	6.7%
Murray City School District	7-Aug	7:00 PM	1%
Granite School District	7-Aug	6:00 PM	2.7%
Rockville Town	11-Aug	6:00 PM	130.9%
Cache	12-Aug	6:30 PM	6.1%
Logan City School District	12-Aug	7:30 PM	12.1%
Daggett County School District	12-Aug	6:00 PM	1.3%
Clinton	12-Aug	7:00 PM	39%
Kaysville	12-Aug	6:00 PM	100%
Castle Valley Town	12-Aug	6:30 PM	100.4%
Kanab City	12-Aug	7:00 PM	7%
Morgan County School District	12-Aug	6:00 PM	6.3%
Salt Lake City	12-Aug	7:00 PM	0.69%
West Valley City	12-Aug	6:30 PM	0.46%
Unified Fire Service Area	12-Aug	8:30 AM	0.43%
Salt Lake Valley Law Enforcement Service Area	12-Aug	10:00 AM	0.47%
North Sanpete School District	12-Aug	7:00 PM	3.7%
Tooele County School District	12-Aug	7:00 PM	3.9%
Elk Ridge City	12-Aug	6:00 PM	23.3%
Heber City	12-Aug	7:00 PM	32.4%
Washington County School District	12-Aug	6:00 PM	2.1%
Weber Fire District	12-Aug	6:00 PM	13%
Carbon County School District	13-Aug	6:00 PM	2%
Emery County School District	13-Aug	7:00 PM	1.6%
Davis County Mosquito Abatement District	14-Aug	7:00 PM	29.2%
Sanpete Water Conservancy District	14-Aug	7:00 PM	31.6%
Ogden City School District	14-Aug	6:00 PM	7.2%
Cottonwood Heights Parks and Recreation Service Area	18-Aug	6:00 PM	14.8%
West Point	19-Aug	7:00 PM	11.5%
Park City School District	19-Aug	6:30 PM	7.9%
North Central Fire Special Service District	14-Aug	6:00 PM	New

Source: Utah State Tax Commission

raise taxes by a small amount every year to meet vague needs he had a remarkably hard time articulating. Over time these increases add up to significant taxpayer burdens. Bottom line: West Point is mocking Truth in Taxation by annually raising taxes to pay for less than pressing needs.

Midvale City

Midvale has seen public safety costs increase by nearly half a million dollars over the past year. Shockingly, with \$125,000 going towards UTOPIA operating expenses instead of essential police and fire services, the City Council has been diverting funds away from public safety so that they can voluntarily (and illegally, according to our attorney) subsidize UTOPIA. Now they want taxpayers to foot the bill. Bottom line: If Midvale weren't subsidizing UTOPIA's operations with \$125,000, they wouldn't need this tax hike at all.

Logan City School District

Last November taxpayers in the Logan City School District approved a leeway that will give the District an additional \$1.3 million to address classroom needs. As this new tax takes effect, the District is now thanking taxpayers by trying to tack on an additional \$400,000 property tax increase. The

District needs to be straight with the people. If that \$400,000 was going to become an essential need of the District so soon, they should have informed the voters last November. Let the taxpayers in the District feel the effect of the increase they *did* approve before adding an additional non-voter-approved tax. Bottom line: the District is abusing taxpayer confidence with unexpected tax increases.

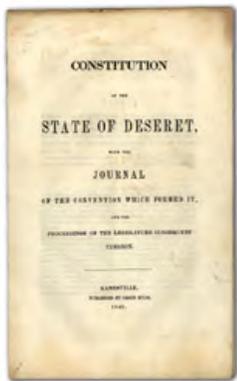
Heber City

Earlier this week, Heber City began demolishing their existing public safety building to prepare for a new building. The new building will be financed by a \$6.7 million Community Impact Board loan with a 30-year term. The city needs revenue to cover debt service expenses on the loan, and they plan to get that revenue by raising property taxes. The Council attempts to justify the non-voter-approved loan because of its low interest rate, but with a 30-year term, taxpayers are getting locked into something they didn't bargain for. Bottom line: Heber should never have agreed to a 30-year term for this loan. ♦

For more information about property tax increases and notification, visit the Utah Public Meeting Notice website at <http://www.utah.gov/pmn>.

Vote YES on Amendment A

Since Utah became a state in 1896, the Utah Constitution has included a partisan requirement in determining the make up of the Utah State Tax Commission. Perhaps that requirement was



justifiable earlier in our history, but with the complexity of Utah's 21st century economy, the Governor and Senate should ignore partisan considerations and instead focus solely on a potential Tax Commissioner's experience, qualifications and temperament.

The Utah Constitution prohibits having more than two members of the same political party on the Tax Commission at the same time. The 2014 Legislature overwhelmingly approved a proposed amendment to the state Constitution that would eliminate that partisan requirement. This fall voters will have the final say, voting on November 4 whether to approve Amendment A. Your Taxpayers

Association encourages Utahans to vote YES on Amendment A.

The Legislature writes the tax code, but attorneys and accountants for various companies understand that code and its application differently (if only because their clients conduct business in such disparate ways). The State Tax Commission must decide what the code means, and how it applies to the multiplicity of circumstances of these existing and emerging companies.

For example, just a decade ago, software as a service (SaaS) was virtually unknown; today Utah companies like At Task, Domo and others sell hundreds of millions of dollars of SaaS annually. Should Utah impose sales tax on SaaS in the same way it does on canned software, or as it does on legal, accounting and other similar services? There is no Republican or Democrat answer to that question.

Nor is there a partisan answer to this one: "What is the most accurate way of assessing the value of a mine, or any other centrally assessed property?"

The answer to that question hinges on a thorough understanding of economic and business models of value, and the assumptions built into those models.

Because of this complexity, and because the Tax Commission's chief role is to adjudicate application of the Tax Code, members of the State Tax Commission need to be leading experts in the theory, practice and application of tax law. Partisan affiliation should play no part in determining whether someone can serve on the Tax Commission. Utah needs the best practitioners, and no one should

no one should care whether a would-be Tax Commissioner registers Republican, Libertarian, Democrat, or chooses not to register at all.

When appointing and confirming members of the State Supreme Court, the Governor and the Senate evaluate knowledge, experience and judicial temperament. Partisan questions play no role. The same should be true of appointments to the State Tax Commission. To make sure that is the case, on November 4 vote YES on Amendment A. ♦

Guest Commentary:

Corporate Inversions: A Symptom of Our Broken Tax Code

Most of the talk in Washington about taxes these days sadly has not been about the need to reform our broken tax code. Most of the discussions have been about what to do about so-called "corporate inversions," or when a multinational firm moves its legal home to a country with a lower corporate tax rate and a territorial tax system.

The number of American companies in the worldwide list of Fortune 500 companies has declined dramatically over the past decade, which is very unfortunate. This decline means less capital and investment in the United States, a smaller tax base, and most importantly, it means more jobs that should be created here in America are being created elsewhere.

Over the past few months, we've seen a handful of legislative proposals to address the issue of corporate inversions. Unfortunately, most of them have been punitive and retroactive and would build walls around U.S. corporations in order to keep them from inverting. This approach, in my view, completely misses the mark.

Ultimately, the best way to prevent corporate inversions is to reform our corporate and international tax system to make U.S. corporations more competitive.

Under current law, U.S. corporations are taxed on their worldwide income. But foreign corporations are subject to U.S. tax only on income arising from the United States. In other words, we subject our own corporations to a worldwide tax system, while subjecting foreign corporations to a territorial tax system. On top of that, most of our major trading partners tax companies domiciled in their own countries on a territorial basis as well.

"Tax reform, if it's done right, will get at the root problem, rather than simply dealing with symptoms."

Our system of worldwide taxation places us at a competitive disadvantage and makes the United States a less than optimal place for companies to locate their businesses. That being the case, as important as it is to get the corporate tax rate down, no matter how low we get the rate, we still need to scrap and replace our outdated worldwide taxation system.

That is why tax reform is so important. Tax reform, if it's done right, will get at the root problem, rather than simply dealing with symptoms.

Instead of imposing arbitrary inversion restrictions on companies retroactively and thereby further complicating the goal of comprehensive tax reform, we should first keep our focus on where we can



Senator Orrin Hatch (R-UT)
*Senate Finance
Committee Chair*

agree. By uniting around the goal to create an internationally competitive tax code, we can keep American job-creators from looking to leave in the first place.

Tax reform can reverse the trend of corporate inversions, make the United States an attractive place to locate businesses and global headquarters, and prove a base for more jobs in America.

But in order to achieve meaningful, comprehensive tax reform, we need a commitment on all sides – from the President on down – that they will work to achieve this critically important goal. Instead, what I received the other week was a politically-charged letter from Treasury Secretary Jack Lew, which indicated that the Obama Administration seems more focused on trying to make corporate inversions a political issue rather than working with Congress to address the issue in a meaningful way. What’s more, the Obama Administration proposal could cause US-based businesses to shift management operations overseas or make US firms more attractive targets for foreign takeover.

In his letter, Secretary Lew wrote to me that “[w]hat we need now is a new sense of economic patriotism.” I wrote back to Secretary Lew and said that I hope his “definition of ‘economic patriotism’ is not so narrow as to only include a particular business practice that happens to be the tax topic of the month in the political echo chamber.” I added that “I hope that

“I hope that... ‘economic patriotism’ includes a desire to fix the problems that are truly ailing our country and threatening the livelihoods of future generations.”

[Secretary Lew] shares my view that ‘economic patriotism’ includes a desire to fix the problems that are truly ailing our country and threatening the livelihoods of future generations.”

The simple fact is that, if we only act to address this problem with a short-term punitive fix, and not work on a long-term solution to fundamentally reform our tax code, we will be right back in this position again soon. However, there may be steps that Congress can take to at least partially address this issue in the interim. While I don’t support the anti-inversion bills we’ve seen thus far, I am open to considering alternative approaches, though I do have a few stipulations as to what proposals I’ll consider.

For example, whatever approach we take, it should not be retroactive or punitive. And, it should be revenue neutral. Our approach should move us towards, or at least not away from, a territorial tax system and should not enhance the bias to foreign acquisitions. Most importantly, it should not impede our overall progress toward comprehensive tax reform.

I hope the Obama Administration gets serious about finding a long-term solution and stops playing these political games. The reality is that if we work together on comprehensive tax reform, we can address corporate inversions and make our tax code work for both American businesses and hard-working families. ♦



New Report from The Center for American Progress: *Return on Educational Investment: 2014*

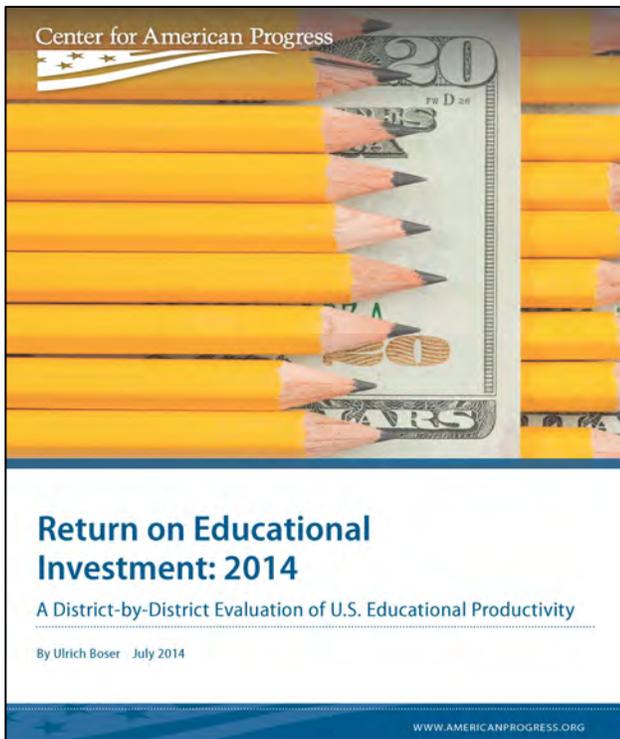
Last month, the Center for American Progress (CAP) released an updated report by Ulrich Boser titled “Return on Educational Investment: 2014 – A District-by-district Evaluation of US Educational Productivity.” Modeled after a previous report published in 2011, this study seeks to track the student achievement school districts produce relative to spending. The results indicate that the

nation suffers from a productivity crisis in education.

Your Taxpayers Association wholeheartedly agrees that dollars spent on education need to realize more value, and CAP’s study exposes many challenges facing education that we also see.

CAP defines productivity as “public school districts’ academic achievement relative to their

educational spending, while controlling for cost of living, student poverty, the percentage of students in special education, and the percentage of English-language learners." They conclude, "Too many districts are spending taxpayer money in ways that do not appear to dramatically boost reading and math scores." In fact, "only slightly more than one-third of the districts in the top third in spending were also in the top third in achievement, indicating that higher spending doesn't translate into higher productivity."



One of CAP's major hurdles in producing this report was the dearth of reliable data, due to gross inconsistency in fiscal data record keeping amongst states and even districts, non-transparent expenditure reporting and few local productivity measures. According to CAP, Florida and Texas are the only two states that regularly rate the productivity of local school dollars.

Texas does so through robust and detailed district budgets that track individual expenditures on a per-pupil basis. Florida has integrated two major data collection systems that include specific data across students, curricula, staff, program costs, and workforce information. This database tracks K-12 spending ROI in terms of post-secondary training and job placements, providing information about the effectiveness of education at various levels.

CAP identifies a robust way of tracking expenditures as the first step in increasing productivity.

Without clear records of where the money is going, the payoff of those dollars can't be accurately measured.

"Only slightly more than one-third of the districts in the top third in spending were also in the top third in achievement, indicating that higher spending doesn't translate into higher productivity."

CAP also notes that even

where good expenditure reporting does exist, decision makers often misplace spending priorities. For example, three districts in Texas spend more than \$1,000 per student on athletics, and simultaneously rank below average on test scores. CAP also specifically points out that many districts (including most in Utah) continue to pour money into master's degrees for teachers, even though the practice does not translate into improved student achievement.

School districts and states need to establish uniform accounting procedures, budgets, and fiscal data as a condition for any sort of meaningful productivity comparison and tracking to occur. The State Auditor is currently working on creating a unified chart of accounts for school districts in the state of Utah. We commend this effort, recognizing the need for greater uniformity and transparency.

"Return on Educational Investment: 2014" is a useful report in raising awareness of some of the hurdles to increasing the productivity of education dollars. ♦

To read the full report and access the interactive website with specific school district results, visit:

<http://www.americanprogress.org/issues/education/view>.