



# THE UTAH TAXPAYER

A PUBLICATION OF THE UTAH TAXPAYERS ASSOCIATION

## Tax Commission Must Put a Stop to Nuisance Personal Property Audits

For years, county assessors have been conducting personal property tax audits in a way that is becoming a significant burden to small business owners. Many businesses have shared stories of county auditors coming into their business and auditing personal property for two or three days, only to end up issuing a \$30 bill for additional property taxes owed. Clearly, this is a waste of time and resources for both business owners and county auditors, and is a practice that should be stopped. To curb nonsensical county audits, retiring State Representative Jim Nielsen has proposed changing the value at which business personal property can be taxed.

Currently, the state of Utah allows businesses an aggregate \$10,000 exemption for business personal property and only taxes property above that threshold. After visiting with various stakeholders, Rep. Nielsen proposed a \$3,000 *per item* threshold to the November Business and Labor Interim Committee.

This proposal, however, would require amending Utah's Constitution. The legislature by a 2/3 vote of each House would first have to place a constitutional amendment on the ballot (for voter approval) that would compromise the equal protection clause of the Utah Constitution. This could also potentially run afoul of the US Constitution. This would be a disastrous move by lawmakers. In effect, it would allow lawmakers the ability to prefer some types of personal property to others, and create a system of winners and losers in business personal property taxes.

In Arizona, where there are no equal protections for owners of personal property, dozens of different personal property tax rates exist, ranging from 1% on certain items to 38% on others. This is not the kind of tax environment we want in Utah. We can have a better tax system.

Preventing imprudent audits doesn't require amending the Utah Constitution. Your Taxpayers Association calls on state lawmakers to direct the State Tax Commission to handle this problem internally. The Tax Commission administers and supervises all tax law within the state of Utah. It is appropriate for the Commission to come up with a county audit program that is cost effective and less burdensome to Utah businesses. Under

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**Association President  
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## My Corner: Ballot Language to Blame for Amendment A Failure

Ballot language can make a very bad issue successful or cause a very good issue to fail. We saw this in the crushing defeat of Amendment A in Utah's recent general election.

The amendment, which would have eliminated the partisan requirement for Utah's Tax Commission members, went down in flames on Election Day with 60% of voters rejecting the constitutional change. The reason? It was not because voters didn't want to remove the partisan requirement, but because the wording of the ballot question was so clumsily written that voters were left with no choice but to vote against the issue.

The question on the ballot read, "Shall the Utah Constitution be amended to modify qualifications for members of the State Tax Commission?"

That wording does nothing to educate voters on what the qualification changes for the commission would be or what the amendment actually does. With such a vaguely worded question on that ballot, voters behaved as expected given the situation. When in doubt, vote no.

Voters also didn't know that the bill the amendment was based on had already sailed through the legislature with only two Senate members and five House members voting against it.

The Legislature's Office of Legislative Research and General Council drafted the ballot language for the Amendment A question. Per statute, ballot language is supposed to be no longer than 100 words and not sway the voter either direction on the issue. The drafters certainly accomplished both of those tasks, using only 16 words for the question, but completely missed the mark on properly educating voters on what was at stake.

Tax Commissioners are Utah's tax judges. They do not set policy - rather they enforce the policy enacted by the legislature. There is no need for a partisan requirement for these commissioners. What Utah needs is the best talent available to be the judges on state tax issues, regardless of party affiliation. Partisan requirements limit the Governor's ability to appoint qualified commissioners.

None of those nuances were explained in the ballot question. Had a more informative question been written, the amendment might have passed and Utah taxpayers may have benefited from having the most qualified tax commissioners.

In the case of Amendment A, it may have been appropriate for the state Supreme Court to intervene and re-

write the ballot language. This wouldn't have been the first time the Utah Supreme Court did so. In the 2000 general election the Justices took it upon themselves to draft

the actual ballot language for Initiative B, Utah Property Protection Act, because they didn't like the wording written by the statutorily-designated drafters, the Office of Legislative Research & General Counsel. The state Supreme Court also intervened on the November 2000 Initiative A ballot question regarding English as Utah's official language.

As we have learned from the controversial "Initiative King," Bill Sizemore, words do matter when it comes to ballot questions. Sizemore has sponsored dozens of conservative initiatives in Oregon and advises sponsors in other states. His key to winning is he shops for winning ballot language. Under Oregon law, ballot language is drafted by the state election office prior to the collection of signatures. Sizemore then tests the language through public opinion polling and keeps submitting the petition until he gets the ballot language that will win. He knows before ever collecting signatures whether he has a winner.

Ballot language plays such a pivotal role in determining the outcome of a proposal that we as a state need to ensure that the greatest amount of detail and scrutiny is used to write these important questions on the ballot. At the very least, Legislative Research ought to use as many of the 100 allowed words as possible and test sample the



*Scott M. Matheson Courthouse  
in Salt Lake City*

wording to see if readers accurately understand the effect of the proposal.

While Amendment A failed in this year's election, all is not lost on the issue of ensuring we have the most talented tax commission available. During the 2014 legislative session Your Taxpayers Association successfully lobbied for Senate Bill 19, which tightened up the qualifications for state tax commissioners. The bill directs the governor to request a list of potential names for tax commissioner from the state bar, organizations that represent public accountants and organizations that represent individuals that appraise or assess property. This will move towards ensuring Utah's

tax commissioners are well versed in tax policy before they ever take office.

SB 19 does not accomplish everything we hoped for in strengthening Utah's Tax Commission, however, it is a step in the right direction. Your Taxpayers Association plans to further look at options available to amend the constitution to remove the partisan requirement on tax commission members. Until a new campaign can be mounted to alter the requirements, your Association plans to ensure the legislature vigorously vets each future candidate for the Tax Commission, thus providing Utah with the best tax judges to serve our state. ♦

## Small Businesses Facing Personal Property Audit Burden

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such a program it could be ensured that county audits are fair and efficient.

It is tempting to run to the legislature and rewrite laws every time problems are discovered in the way government interacts with business. But this is an issue that can be fixed without any legislative changes, thus preserving our state's constitution and sound personal property tax policy. ♦

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## December Truth in Taxation Hearings Line-Up

Only two calendar-year taxing entities are planning Truth in Taxation hearings this December for a property tax increase. Counties and Special Districts in Utah are to be commended for their fiscal restraint.

### Wayne County

Wayne County, home to Canyonlands National Park and Capitol Reef National Park, has seen a dramatic rise in emergency service costs. Following production of the film *127 Hours*, which follows the experience of a climber who becomes trapped under a boulder in Wayne County, many visitors to the county have sought the beautiful landscapes in the movie and found themselves in need of search and rescue services. These calls usually require dispatching a helicopter and quickly become very expensive to the county. The bulk of Wayne County's \$80,000 tax increase will be dedicated to meeting those increased emergency service costs. Wayne County hasn't held a Truth in Taxation hearing since 2003 and has been

using fund balance to balance the budget for several years. This year's proposed tax rate would render a \$24.58 tax increase on a \$150,000 home and a \$44.69 increase on a business of the same value. Wayne County has historically had one of the lowest property tax rates in Utah.

### Moab Valley Fire Protection District

The Moab Valley Fire Protection District, primarily active in Grand County, San Juan County and Arches National Park, is proposing a \$100,000 tax increase to meet needs in their capital equipment fund. This is a 23.96% revenue increase over the previous year and translates into a \$14.19 increase per year on a \$223,000 residence. Back in 2012, the District underwent Truth in Taxation to increase tax revenue by 18.68% - roughly \$9.00 per year on a \$200,000 residence. At the time, the money was needed to cover lease payments on fire trucks. The District's

December Truth in Taxation Hearings		
Entity	Wayne County	Moab Valley Fire Protection District
Budget Increase	<b>\$80,000</b>	<b>\$100,000</b>
TnT Hearing Date	<b>12/15/14</b>	<b>12/10/14</b>
TnT Hearing Time	<b>6:00 PM</b>	<b>6:00 PM</b>
Annual dollar increase on average home	<b>\$24.58</b>	<b>\$14.19</b>
Last TnT	<b>2003</b>	<b>2012</b>

current fire chief indicated that this year’s \$100,000 tax increase sent to the capital equipment fund will be used to replace old engines on two fire trucks and be prepared for three more engine replacements coming up in the future. The money currently going to the capital equipment fund is only sufficient to pay lease payments, but not enough to cover new engines. In the words of the fire chief, the District would like to “save” the new tax revenue so that when engines are due to be replaced, the District will have the finances to do so.

Your Taxpayers Association recognizes the importance of having reliable fire equipment

to serve citizens in southeastern Utah. But using a \$100,000 permanent property tax increase to “save” for the future is unwise. Rather, we support bonding or borrowing for capital equipment at the time of purchase, so that those benefitting from the equipment are those paying for it. The District should not take money out of the pockets of taxpayers in the district before the money is actually needed to make payments on a purchase. In today’s economy, many taxpayers can barely afford their property taxes, and some even borrow in order to pay their property taxes. If the District thinks it is saving money for the people, this is misguided, because the District is actually taking the current productive value of individuals’ money and locking it up against future use. The Moab Valley Fire Protection District should wait until the time of purchase to tax for capital equipment needs, thereby ensuring that the taxpayers paying for the equipment are the ones benefitting from the equipment. ♦

## Mike Edmonds Named Chair of Utah Taxpayers Association Board of Directors

On November 21, 2014 the Utah Taxpayers Association held its Annual Membership Meeting. Among other business, Mike Edmonds of US Magnesium was named to replace Jim Hewlett as Chair of the Board of Directors. Mr. Edmonds was first elected to the Association’s Board of Directors in 2009



*Mike Edmonds*

and has previously served as the Association’s Treasurer. He is a certified public accountant with experience at PricewaterhouseCoopers. Prior to joining US Magnesium, Mr. Edmonds held several positions at Rio Tinto, including accounting positions and General Manager of their shared services offices in Salt

Lake City. He has been with US Magnesium for 6½ years and is currently their Chief Financial and Administrative Officer.

Other changes to the Executive Committee included

naming Brice Arave of IM Flash Technologies as treasurer and Jim Hewlett as Immediate Past Chair. The positions of Vice Chair - Kent Stanger, Secretary - Eric Isom, Legislative Chair - Morris Jackson, and At Large - Val Hafen remained unchanged.

Heather Lare of Autoliv has retired from the Board and was replaced by Greg Argyle, also of Autoliv. Other new board members include Alan Dayton of Intermountain Healthcare and Greg Hardy of Chevron. The Association is excited to welcome the newest members of the Board and the new Executive Committee appointments and looks forward to relying on their expertise and direction.

The Taxpayers Association would like to thank retiring members of the Board for their years of service and thank Mr. Hewlett for his dedicated service as Chairman of the Board. ♦

## Utah's Tax Climate Ranked 9<sup>th</sup> Best Nationally

Last month the Tax Foundation of Washington DC released its annual [State Business Tax Climate Index](#) for 2015. Utah ranks 9<sup>th</sup> overall nationally for having one of the best business tax climates. This is the same ranking Utah received in 2014, but is one rank worse than Utah's rankings in 2013 and 2012. This doesn't necessarily mean that Utah's tax climate has worsened, but may simply reflect improvements in other states.

The Tax Foundation's Tax Climate Index does not compare tax rates or tax burden by state, but rather looks at how well state governments *structure* their tax systems. Beyond total taxes paid, structural elements of a state's tax system can enhance or harm the state's business competitiveness. While many factors combine to influence a state's business environment, changes to the state tax code are one of the quickest ways to either improve or damage the business climate.

In order to compare fifty states with highly diverse tax codes, the Tax Climate Index compares states on over 100 different variables in the five major areas of taxation: corporate taxes, individual income taxes, sales taxes, unemployment insurance taxes, and property taxes. The results then add up to a final, overall ranking for each state. States are rewarded for particularly strong aspects of their tax systems, or penalized for particularly weak aspects.

Most states with the highest rankings don't have one of the five major taxes. For example, Wyoming, Nevada, and South Dakota have no corporate or

terms of structure.

States that rank low on the index suffer from complex, non-neutral taxes with high rates. For example, New Jersey, which ranks worst overall, has some of the highest property tax burdens in the country, is one of just two states still levying an inheritance and estate tax, and maintains a poorly structured individual income tax.

Because a state's tax code has such an impact on the competitiveness of that state, some of a state's biggest competitors are other states. Lawmakers are understandably concerned about how their state ranks in global competition, but companies moving from one state to a neighboring state should be as big a concern as companies moving abroad.

Mindful of the importance of their state's business tax climate, lawmakers are often tempted to use lucrative tax incentives and subsidies as a way of drawing business into their state, rather than relying on broad-based tax reform. This is dangerous, because if a company is drawn to a state because of impressive tax credits from state and local governments, but the state's overall environment isn't appropriate for the company, the business may choose to leave after only a few years of operation, failing to ever "pay back" in taxes what was spent on subsidies. Lawmakers are intending to create jobs and promote economic development, but often states use these incentives to cover for a poor business tax climate, or other disincentives for businesses. The best way of

ensuring long-term economic development and stable jobs is to improve a state's overall tax climate.

As stated in the Tax Foundation's introduction to their report, "In reality, tax-induced economic distortions are a fact of life, so a more realistic goal is to maximize the

occasions when businesses and individuals are guided by business principles and minimize those cases where economic decisions are influenced, micromanaged, or even dictated by a tax system. The more riddled a tax system is with politically motivated preferences, the less likely it is that business decisions will be made in response to market forces." ♦

**Utah's Business Tax Climate Rankings**

Overall Rank	Corporate Tax Rank	Individual Income Tax Rank	Sales Tax Rank	Unemployment Insurance Tax Rank	Property Tax Rank
9	5	12	19	22	4

individual incomes tax. Utah is unique by ranking within the top ten while still levying all the major taxes. This is because Utah's taxes are generally levied with a low rate and a broad base, one of the pillars of sound tax policy.

While Utah ranks well overall, Utah lags on sales taxes and unemployment insurance taxes. However, our property tax system is 4<sup>th</sup> best in the nation in

## \$585 Million Individual Income Tax Hike on the Horizon?



*Representative  
Jack Draxler*

State Representative Jack Draxler (R-Cache County) has drafted legislation for the upcoming 2015 Legislative Session that would increase the individual income tax rate from 5% to 6%, imposing a whopping \$585 million tax hike on Utah citizens. The purpose of this tax increase would be for public education funding, specifically increasing teacher salaries. The Education Task Force has applauded Draxler's courage and are recommending that the money go into base salaries for teachers instead of just performance pay. But praise of Draxler's tax plan is misguided.

The true issue with teacher compensation is not low salaries. Rather, the problem is that teachers are essentially "laid off" for a third of the year. If meaningful changes are to be made in teacher compensation, they should come through allowing full-time employment for teachers.

Beyond problems with where Draxler is hoping to channel the increased tax revenue are problems with the tax increase itself. As explained in the previous accompanying article, Utah ranks well on overall business tax climate in part because our individual income tax structure is fairly good relative to other states. The individual income tax has the single biggest

impact on business competitiveness and high-paying jobs. Businesses with the best paying jobs don't want to locate in states with a high individual income tax rate, because the company can't attract top executives. Rep. Draxler misunderstands this when he says that his tax change "does not touch the corporate rate so we maintain our place as a state for business." The corporate tax rate is only one of many tax factors influencing business.

In 2007, your Taxpayers Association successfully worked to lower the individual income tax rate from 7% to 5% following years of state revenue surpluses. We have been able to keep that rate down throughout the recession, and will continue our role as watchdog to ensure that the income tax rate is not raised. Your Taxpayers Association will push for even lower rates that will boost state competitiveness, individual well-being, and the long-term tax viability of our state. ♦

## Alpine School Board Members Choose Corporate Welfare Over Funding Kids Education

On November 25, 2014, four members of the Alpine School Board put corporate interests over children's education in their vote to approve the University Place CDA.

The Alpine School District is one of the lowest funded school districts in the state, yet John Burton, JoDee Sundberg, Scott Carlson and Deborah Taylor voted to give up \$38.5 million in property tax revenue so that Woodbury Corporation can enjoy a tax subsidy in redeveloping Orem's University Mall.

These four school board officials have rolled children under the bus in favor of subsidies for a mall and office space. Their vote shows how economically illiterate these school board members are and questions their fitness to manage precious education resources.

Do the Alpine Board members really believe that by

subsidizing more retail and office space there will be new economic activity in Utah beyond the temporary construction project? Do they believe the existing population will spend more because of subsidized new retail stores, or that there will be greater demand for office space because Alpine School District decides to subsidize a developer instead of educating kids? Or do they actually believe people from neighboring states will flock to Utah County to shop at University Place? Every activity subsidized by the Alpine School District in the University Place project would already occur in the Utah economy without a tax subsidy. There will not be one more retail sale or retail job resulting from the subsidy; instead, other retailers already established in the broader community will have fewer sales and



John Burton



JoDee Sundberg



Scott Carlson



Debbie Taylor

to the District's students.

School Board members warned that Woodbury would only invest \$100 million in the project if the CDA was not approved, but would spend \$500 million if the agreement gained a favorable vote. These school board members were duped

fewer jobs. Since commercial property taxes are based on the income approach, the net property values in the larger community will not be positively affected by the subsidy. Similarly, the office space in the project will simply take from projects that would have been built elsewhere in the greater community without tax subsidies. This is basic Economics 101, a class obviously missed by the four board members who approved the scheme.

During the school board's discussion of the CDA it was mentioned numerous times that the \$38.5 million was to be used for infrastructure development, not towards the retail activities of Woodbury Corporation. But this is a false dichotomy and reveals the economic ignorance of these board members. Subsidizing infrastructure only decreases the total development costs for Woodbury and allows them to financially benefit from money that could have gone

into believing that Woodbury would not invest in a project that they view as profitable simply because the school district refused to provide a subsidy. If the project is actually economically viable, we could expect Woodbury to pursue profits accordingly, without the need for a subsidy.

Voters in the Alpine School District need to hold John Burton, JoDee Sundberg, Scott Carlson and Deborah Taylor accountable for their shameful actions supporting corporate welfare at the expense of children.

The Association appreciates School Board members Paula Hill, Wendy Hart, and Brian Halladay for their "no" votes on the tax giveaway. ♦

## Upcoming 2015 Association Events

### 2015 Newly Elected Officials Conference

*Wednesday, January 7, 2015 from 12:00 PM to 5:00 PM at the Little America Hotel, 500 South Main Street, Salt Lake City.*

This conference is designed to educate newly elected local leaders from around the state on topics of local leadership and fiscal responsibility. Topics will include how budgets, financial statements and annual audits shape public policy, how sales and property taxes work, staffing, budgeting and taxing for a volatile economy, when RDAs are appropriate, bonding best practices, and more. There is no cost to attend, but an RSVP is appreciated at 801-972-8814 or via email to [heidi@utahtaxpayers.org](mailto:heidi@utahtaxpayers.org).

### 2015 Pre-Legislative Conference

*Monday, January 12, 2015 from 8:00 AM to 1:00 PM at the Little America Hotel, 500 South Main Street, Salt Lake City.*

The Utah Taxpayers Association's annual pre-legislative conference offers the opportunity for our members, the public, and policy makers to better understand the key tax-related issues in the upcoming legislative session and learn what the Association's priorities are on such legislation. State Senators, Representatives, industry representatives and opinion leaders will be discussing various issues facing the state, such as transportation funding, Medicaid expansion, education, and tax exemptions. There is no fee to attend, but please reserve your spot by calling 801-972-8814 or by emailing [heidi@utahtaxpayers.org](mailto:heidi@utahtaxpayers.org).

## **2015 Legislative Committee Meetings**

*Every Thursday morning during the 2015 Legislative Session from 7:00 AM to 8:30 AM in the East Senate Building, Seagull Room.*

These weekly meetings, held by the Utah Taxpayers Association during the legislative session, are an opportunity to be updated on the progress of key bills moving through the legislature. Each week Association staff will present an updated legislative “watch list” and will take questions and advice from Association members on the progress of key legislation. All Association members are welcome to participate at any time. For more information, or to indicate your intention to attend, contact Kelsey at 801-972-8814 or [kelsey@utahtaxpayers.org](mailto:kelsey@utahtaxpayers.org).

### **Association Accomplishments During November:**

- ❖ Reviewed the budgets of entities in Utah proposing property tax increases this December
- ❖ Attended the Utah Legislature’s Interim meetings and monitored upcoming tax-related legislative issues
- ❖ Sent our annual County Budget Survey to Utah’s 29 counties to track spending changes coming up in the 2015 calendar year
- ❖ Named Mike Edmonds as Chair of the Utah Taxpayers Association’s Board of Directors and elected other new members to the Board for 2015
- ❖ Held the Association’s Annual Membership Meeting
- ❖ Met with legislators and industry representatives to discuss transportation funding options for Utah
- ❖ Surveyed Association membership to receive feedback on Association performance and positions
- ❖ Met with small businesses and legislators to discuss the burden of business personal property tax reporting and audits

#### **In the News:**

- ❖ Discussed transportation funding options on KVNU’s “For the People” radio show
  - [610 KVNU](#)
  - [Cache Valley Daily](#)
- ❖ Attended the Alpine School Board’s public meeting to oppose a \$38.5 million subsidy for redevelopment of Orem’s University Mall
  - [The Daily Herald](#)
- ❖ Compiled the Association’s 2014 Actions and Results report
  - [Utah Taxpayers Association](#)
- ❖ Spoke out against a proposed \$585 million income tax increase
  - [Standard Examiner](#)
  - [Education Week](#)

**What Did We Do For You In 2014?**  
 Read our *[2014 Actions and Results](#)* report!