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Efforts Towards Major Tax Reforms in Utah Stalls, Work to Continue Throughout the Year

Throughout the 2017 General Session, your Taxpayers Association has been working alongside legislative leaders, to put major tax reform efforts in place that would broaden and strengthen Utah's tax base, while lowering the overall rates on sales, income, and corporate income taxes.

Unfortunately, it was announced late in the Session that many of these proposals would not be addressed during the 2017 General Session. However, legislative leaders announced that these discussions would continue in the coming months, and your Taxpayers Association will be heavily involved in those discussions.

Here's a summary of the proposals that were discussed during the Session.

The first of these efforts proposed was to make Utah's income tax more flat. Lawmakers had been looking at various scenarios that would phase out credits and deductions and lower the overall rate. If done correctly, this could play a role in attracting new business to the state of Utah, while keeping more money in Utahns' wallets.

One key area within the income and corporate income tax reform is a pillar of the Utah Taxpayers Association's Utah 2.0 initiative - expansion of single sales factor apportionment for the corporate income tax. This change in the way Utah calculates the corporate income tax would have decreased the tax burden on Utah businesses, by only using sales that occur within Utah to calculate the income taxes due to the state.

In doing this, Utah would be sending the message that if businesses choose to locate in Utah by bringing their jobs and purchasing property in the state, their overall tax burden will be lower compared to other states.

This isn't just good for business, all Utahns would benefit from this apportionment change through the creation of new jobs. These new employment opportunities would add to Utah's personal income tax base that funds the education system, as well as ensuring that those students and the growing population have *(continued on page 3)*

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My Corner: Appropriate Bonding Respects Taxpayers

Association Vice President Billy Hesterman

While Howard Stephenson is serving at the Legislature, Mr. Hesterman will author My Corner.

From time to time, some of Utah's elected officials mistakenly fall into the belief that bonding for capital projects will lead government entities into "bondage". This is simply not true. Bonding can be wholly appropriate to pay for government projects as long as sound taxation principles are followed when the bonds are pursued.

Bonds are loans taken out by the government to pay for capital facilities. Traditionally, bonds are used to build police stations, fire stations, schools, highways, and other infrastructure needs.

Bonding in this case creates a "user fee" for these facilities built by the government. By having a bond over a period of years, taxpayers who benefit from the facilities pay for those facilities.

The practice of government entities that save taxpayer dollars for years a time to pay for a project without taking any loans is something the Utah Taxpayers Association adamantly opposes. This places the burden to pay for the facility or project on the backs of those who may not benefit from it through the collection of sales taxes. Additionally, this is an over-collection of tax by the governmental entity. Tax dollars saved by the entity for this purpose could have been better used by taxpayers rather than by the government.

Bonding for infrastructure is also appropriate to increase economic activity. The Utah Legislature has been considering bonding to pay for construction of I-15 in northern Utah County to complete the rebuild of the highway in the county. This particular area is the base of Utah's Silicon Slopes. Economic growth in this area is harmed by the traffic congestion.

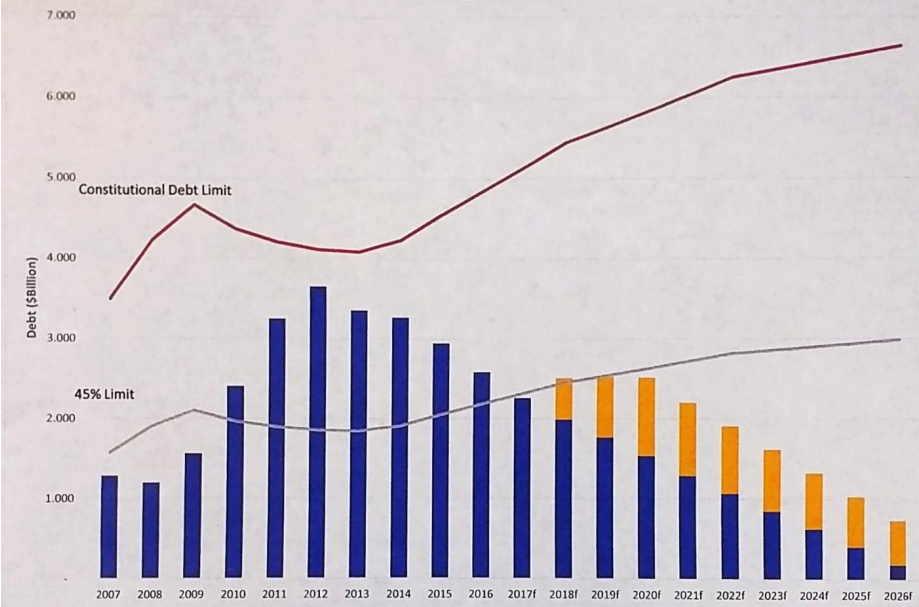
The chart on the right shows the current state bonds, and the bond amount if the proposed transportation infrastructure bond were to be adopted.

The red line shows the constitutional limit that the state can bond for. The gray line below is 45% of the total constitutional bond, which is what is recommended in order for the state to maintain a AAA bond rating.

As you can see, if the bond were to be put in place, due to the decrease of expiring bonds, the state would remain under the 45% recommended limit.

If economic activity in that area of the state is expected to continue to grow, traffic that builds can negatively impact Utah's ability to attract new businesses to the area, and across the state. If the congestion in this area are to be addressed, it would require that the state bond for the project, alongside others. It would be unwise of the Legislature to push the project further down the road when it makes complete sense to move forward now, when interest rates remain low.

Elected officials sometimes fall under the "bonding is bondage" trap, applying the same principles of a family budget to a government entity. That practice is harmful to taxpayers and not a sound path to handle government budgets. Often these elected officials forget that loans are tools that help most Utah families afford their home and cars. While consumer debt can be harmful, debt to help a family have essential needs,



Constitutional limits for bonding, including the anticipated bonding amounts if the transportation infrastructure bond proposed in the 2017 General Session were to be approved by the Legislature.

such as a home or a vehicle, are appropriate.

This same principle can be applied to government. Elected officials should resist bonding for "nice-to-have" projects, but when it comes to essential capital projects that protect our cities, better educate our children, and provide better transportation flow for economic activity, then bonding is appropriate.

The Utah Taxpayers Association often weighs in on whether a bond is appropriate or not. We are a resource to entities and government officials that are looking to propose a bond.

When officials pursue bonds, a general obligation bond is the way to go. This type of bond will include voters in the process of a government entity incurring debt. It also has a lower interest rate, which saves taxpayers money throughout the life of the bond.

Additionally, this process also gives voters the chance to be involved in the creation of the bond. They are able to work with elected officials to determine what is best for the taxpayers who will be impacted by the bond and ensures that the process remains open and transparent.

By following these suggested guidelines for sound tax policy in bonding, governments can keep up with the often rapidly changing needs of our communities and citizens and ensure that taxpayers are getting their fair say in the spending decisions being made with their tax dollars.

Efforts Towards Major Tax Reforms in Utah Stalls (continued)

high-paying, quality jobs in the future.

We have been at the forefront of discussions on expanding the single sales factor apportionment to additional Utah businesses. The Association has led efforts to ensure this expansion is targeted to protect businesses that add great value to the state and implemented to prevent winners and losers being created in the tax code.

Another proposal would have aligned the sales tax on food with the general statewide sales tax. Currently, Utah charges 4.7% sales tax on all purchases, but a reduced 1.75% rate on unprepared food. Legislative leaders had floated the idea of increasing the tax charged on food but lower the overall rate to make the change revenue neutral to the state.

The reduced rate on unprepared food took place in the mid-2000's during Governor Huntsman's tax reform package. Your Taxpayers Association expressed concerns about bifurcating the sales tax rate at that time, as food is a stable base for the sales tax. This stability prevents a need for tax increases when economies ebb and flow. The Association supports an alignment of the two taxes as long as the move is revenue neutral overall to the state.

Unlike the previous two proposals, changes to Utah's gas tax are still progressing through the Legislature. In 2015, the Legislature increased the gas tax by five cents, and also put in place an index that allows the tax to rise an additional ten cents as the price of gas increases. That index included a threshold based on the average wholesale price of fuel. Once that threshold is passed, it would trigger the index and allow the state to increase the gas tax rate as the price of gas increases. That threshold is $2.45/gallon (wholesale price). The Legislature is looking to lower that threshold to $1.78 to allow for the index to start sooner so to allow the gas tax to increase.

The Taxpayers Association argues that user fees, such as a gas tax, should more fully fund Utah's road systems. Currently, Utah's general fund, subsidizes the state's roads by more than $500 million. Allowing this index to take effect will allow the Legislature to decrease its dependence on general fund dollars to build and maintain roads.

Also being considered is a bill that includes freezing the statewide property tax levy; which would allow Utah's schools to collect additional funding through a tax increase on Utah's property owners, eliminating the sales tax penalty on business inputs that last less than three years for manufacturers, and equalizing the playing field among all retailers by requiring out-of-state online retailers to collect and remit sales taxes on all purchases made by Utahns.

Your Taxpayers Association will continue to be involved in the key discussions on these issues as the Legislature concludes its work for this year. It is vital that tax reform is done in a thoughtful and strategic manner to ensure Utah's economy remains strong for years to come. We will push for sound principles of taxation when any of these issues come up in these remaining days of the Session.

Guest Commentary: More Bonding Transparency

General obligation bonds are the most cost-effective and transparent way for local governments and school districts to finance public capital projects. These are voter-approved property tax bonds.

Interest rates are lower for general obligation (G.O.) bonds than for other types. More importantly, elected officials must go to voters for approval before issuing the bonds. They must justify the projects without spending tax money to persuade.

Theoretically, G.O. bonds are the most transparent as well. Unfortunately, sometimes elected officials are tempted to disguise a bond's true impact of in the information they provide to voters.

Transparency Done Right

Soon after Canyons School District was created almost 10 years ago, its school board approached voters with a $250 million bond election to build and repair schools. The plan was to add on the bond payments and old bonds were paid off, avoiding payment increases for property taxpayers.

Elected school board members wisely made it clear to voters that without the new bonds, their taxes would go down in the future as the old bonds were paid off, and would remain constant if they voted "Yes" on the new bonds. They said the tax *rate* would not increase, but would otherwise go down. It appeared at the time that voters generally understood this. This was a commendable approach.

Unfortunately, it doesn't always happen this way. Elected officials proposing such bonds to replace old ones have told voters there would be no tax increase if they voted "Yes". They provided no further explanation, giving the impressing there was no advantage to voting "No".

S.B. 150 Adds Clarity

Note that state law requires the ballot language and voter information guide to disclose the cost impact. Unfortunately, often this information is buried near the bottom, and can be confusing to voters looking to understand how much this will cost them.

Salt Lake County Councilmember Richard Snelgrove

Senate Bill 150, sponsored by Sen. Deidre Henderson in the current legislative session, would significantly improve disclosure. Voters need to have a clear understanding of a proposed bond's impact, which includes a tax decrease, if existing bonds are set to expire.

Excluding this information shrouds the tax impact on voters, and can be hard to decipher. Entities must be upfront with the voters and explain that existing bonds, if applicable, would expire over time and lead to a net decrease in taxes if a newly proposed bond were to be rejected. The Utah Taxpayers Association has endorsed this bill and so have I.

More Transparency Needed

A related problem can occur when a bond is paid off and elected officials decide to keep the tax rate the same, rather than letting it drop when the taxes are no longer needed for bond payments.

Salt Lake County did this in its 2016 budget. Twenty years earlier, voters approved bonds to build the main County jail. Those bonds were paid off at the end of 2015, reducing the property tax rate by $9.4 million. The County Council, on a 6-3 vote, approved raising the General Fund by the same amount as the expired tax rate. I called this a tax increase; some called it a tax continuation and not a tax increase.

In my opinion, if a bond is paid off, the state's Truth in Taxation laws require a public hearing in the case of a tax increase under such circumstances.

Late Tax-Related Legislation Drafted, Other Bills Progress During 2017 General Session

With less than one week left in the 2017 General Session, a flurry of new tax-related legislation has been made publicly available, while several major alterations have been made to existing legislation. Your Taxpayers Association is tracking nearly 60 bills so far this Session. Here are just a few of the highlights that have emerged since February's newsletter. (To learn more about earlier bills, click here.)

Utah 2.0 -

First up, the Association's legislative initiative Utah 2.0. This initiative is designed to bring equity for business, along with strengthening Utah's economic development through better tax policy for Utah's families and students.

HB 377 - Tax Revisions - McCay

HB 377 expands the industries that could calculate their corporate franchise tax using the single sales factor.

Single sales factor is an apportionment that businesses use to calculate their corporate income tax burden. Essentially, businesses that are currently able to file under single sales factor are only taxed on their sales made within the state, rather than on sales, payroll, and property in the state.

The single sales factor apportionment rewards companies that invest their capital and jobs here in the state of Utah, and HB 377 expands it to apply to many more businesses and industries. Your Taxpayers Association is highly supportive of this legislation.

SB 197 - Refinery Sales and Use Tax Exemption Amendments - Adams

This bill expands the elimination of the sales tax penalty for inputs that last less than three years. The bill would apply to refineries in order to incentivize the production of Tier 3 fuels in Utah.

The elimination of the sales tax penalty for business inputs has long been a tenet of the Utah Taxpayers Association.

SB 229 - Sales Factor Weighted Tax Modifications - Harper

This bill also addresses single sales factor, however it would clarify current statute when a company with multiple economic activities is calculating its corporate franchise tax apportionment.

The standard in the current code to distinguish between industries has proven ambiguous. The purpose of this bill is to clarify this standard so taxpayers and the Tax Commission have a predictable and stable means of determining a taxpayer's industry.

Transparency -

House Bill 164 - Municipal Enterprise Fund Amendments - J. Moss

Cities often own and operate their own utilities, such as power, water, or sewer. Each month, residents of those cities receive a bill charging them for what many ratepayers believe to be their direct use of those services.

Current law allows for unlimited transfers from an enterprise fund (utility funds) for any purpose as long as it is disclosed in their budget (which are often hundreds of pages long).

HB 164 will bring accountability to cities when they subsidize their general funds on the excess income being given to the cities by ratepayers. This bill would require notices and public hearings on these transfers, to help citizens understand that their utility fees are being, at least partially, used for general fund purposes. Read more about this bill in the next article.

Senate Bill 94 - Local District Revisions - Fillmore

SB 94 is a step in the right direction, giving Utahns greater access to these special service district board members and the ability to better hold them accountable for their actions. Under the bill, if a district desires to raise property taxes it must first hold a truth-in-taxation hearing and then also have the board members report to the entities that nominated them to the board, in an open meeting, about the tax increase.

You can learn more about this legislation in the next article.

Proposed Tax and Fee Increases -

Senate Bill 198 – Utah Communications Authority Amendments – Harper

This bill would increase fees for telephone customers to support an independent entity, the Utah Communications Authority (UCA), with little oversight over their use of taxpayer dollars.

The UCA needs more oversight, transparency and governance reforms before they seek addition funding from taxpayers.

The Utah Taxpayers Association is opposed to this legislation.

Senate Bill 276 – Transportation Funding Modifications – Van Tassell

SB 276 is a change that would lower the trigger

amount for increasing the gas tax. When the increases occurs, money transferred from the state's general fund to the Transportation Investment Fund of 2005 would be reduced.

In 2015, the Legislature increased the gas tax by five cents, and also put in place an index that allows the tax to rise an additional ten cents as the price of gas increases. That index included a threshold based on the average wholesale price of fuel. This bill lowers that threshold. The bill would also move money collected from the increase away from the general fund, which makes transportation more reliant on user fees.

The Taxpayers Association is supportive of Sen. Van Tassell's efforts.

You can read more about these bills, and many others in our updated legislative Watchlist, simply by clicking here.

Transparency-in-Taxation Bills Move Forward During the 2017 Legislative Session

A major focus for Your Taxpayers Association during the 2017 session has been increasing transparency in the taxes and fees collected by government. Throughout the session we have worked with legislators to support a slate of bills that will give taxpayers greater access to information about the taxes and fees imposed on Utah residents. We appreciate the legislature for their wisdom in supporting these key pieces of legislation and greatly appreciate the bill sponsors for their endless amounts of hard work to protect Utah taxpayers.

Senate Bill 150 - Local Government Bond Amendments - Senator Deidre Henderson

SB 150 will increase transparency for taxpayers on the cost of a bond, which typically deals with temporary tax increases, by requiring that the cost of the bond be placed at the top of the ballot question before any additional information is given. In many cases bond ballot questions are written such to put the tax impact in the best light possible. The facts of the bond are still given but often the full cost of the bond is placed toward the end of the ballot question.

Sen. Henderson's legislation will now require that a bond question on the ballot give the full cost of the bond, without any justifying information, before any additional information is given. This will give taxpayers a full understanding of the tax impact of a bond and make sure taxpayers know how their property taxes will be impacted whether the bond passes or fails.

Senate Bill 94 Local District Revisions - Senator Lincoln Fillmore

One often-forgotten level of government that has property taxing authority is Utah's special service districts. In general, these districts provide services to multiple municipalities such as fire or police, water, sewer or mosquito abatement. These types of districts can be beneficial to the taxpayer as they reduce the cost of services for an area as it is shared among a greater number of taxpayers.

These districts, however, can run into problems of transparency and accountability. Often times the boards of these districts are appointed by the participating government entities of the district and are given the authority to impose property taxes. The issue comes that if the public is concerned with the increase in property taxes by the special service district there is no way for the public to vote for or against those on the board who imposed the property tax. Since the board members are appointed by the participating entities, they are held accountable by the governments that nominated them to the board and not by voters.

SB 94 is a step in the right direction, giving Utahns greater access to these special service district board members and an ability to hold them accountable for their actions. Under the bill, if a district desires to raise property taxes it must first hold a truth-in-taxation hearing and then also have the board members report to the entities that nominated them to the board, in an open meeting, about the tax increase.

This will give voters an additional opportunity to be informed about the district's tax increase, as well as a chance to let the council that appointed the board member know their feelings on the proposal. Once those reports have been made, the districts would be able to then make a final decision on the tax proposal.

Sen. Fillmore should be praised for his efforts on this

legislation. He has worked for multiple years on the issue and found a way forward to increase transparency and accountability among these districts.

House Bill 164 Municipal Enterprise Fund Amendments - Representative Jefferson Moss

This legislation was highlighted in our February newsletter. The legislation seeks to add transparency to the funds collected by an enterprise owned by a city. Examples of city enterprises include a power or sewer company. Cities charge a separate fee for these services usually through a monthly billing as opposed to covering the cost of the service through the general fund.

Some cities collect an excess of revenue to cover the cost of the service by these enterprises and transfer that money to their general fund to pay for general government services.

To give taxpayers a clearer understanding of what the enterprise funds are being used for Rep. Moss's HB 164 will require cities to notify residents, through a mailed or emailed notice, that the city intends to transfer the funds from the enterprise to the general fund and that a public hearing will be held on the transfer.

The bill also requires the cities to send a second notice once the city council has approved the transfer to keep residents informed of the exchange.

This legislation increases taxpayers knowledge of the enterprise and gives them a clear picture of how the fees and taxes collected by the city are being used.

Utah Taxpayers Association Policy Brief: 911 Fees

Wireless service has become essential to daily life for individual consumers, businesses, and government. Few other services have seen the kind of explosive growth in subscribers that wireless service providers have enjoyed. Unfortunately, government has viewed this boon as a convenient revenue source, evidenced by the fact that over the past ten years the overall tax burden on wireless consumers nationwide grew three times faster than the general sales tax rate on any other goods and services.

In October of 2016, the Washington DC based Tax Foundation released a study on wireless taxation in the United States and found Utah has the 16th highest tax rate placed on wireless bills with a rate of 12.73 percent.

When combining federal, state and local taxes and fees Utahns pay a rate of 19.37% on their wireless purchases. This is more than double the sales and use tax Utahns pay on any other taxable goods and services. Nationally, the average of taxes and fees on wireless service is 18.6% in combined federal, state and local taxes and fees.

When compared to neighboring states, Utah ranks the highest for state-local wireless tax burden, with Nevada and Idaho having the second and third lowest rates in the country respectively.

Policy makers may think that high taxes on wireless communication are annoying to users, but aren't burdensome enough to change consumer behavior. But the data proves the opposite. The price elasticity of demand for wireless service, which shows how sensitive consumers are to price changes, indicates that for each 1% increase in the price of wireless service, consumer demand for such service falls about 1.2%.

Cell phones are becoming the sole means of communication and connectivity for many Americans, with nearly 48 percent of all adults "wireless only." Amongst low-income users, the percentage jumps to 64 percent. As such, low-income users are disproportionately impacted by excessive taxes on wireless communication.

Another downside to discriminatory taxes on wireless service is a slowdown in wireless infrastructure investment. Subscriber revenue determines the extent to which providers can invest in network modernization, so price sensitive consumers responding to high taxes on wireless service only feed the problem of slower infrastructure investment. This slowdown not only impacts the deployment of more advanced wireless network infrastructure, but limits economic benefits in the broader economy because so many sectors rely on wireless networks to boost productivity and efficiency.

If all businesses can operate more productively and profitably, they can create new jobs and generate further economic activity. While fixing discriminatory telecom taxes may reduce revenue in the short term, the increase in consumer demand and network

deployment as a result of a lower tax burden would likely over time counteract the lost revenue.

Wireless communication is a cornerstone for economic growth, and burdening wireless service users with fees merely shoots the messenger. Current telecom tax policies need to move away from discriminatory taxes on wireless communication towards more broad based tax sources that do no distort consumer purchasing decisions or slow investment in critical infrastructure.

Association Accomplishments During February:

- Met with House and Senate leadership weekly during the Legislative Session
- Spoke in legislative standing committees on behalf of tax-related legislation. These issues include Utah 2.0 initiative, remote sales legislations, and transparency for taxpayers.
- Continued lobbying activities at the 2017 Legislative Session
- Held the mid-legislative session Board of Directors meeting

In the News:

- Income Tax Hike Proposal
  - Bill mandates ballot math: Salt Lake Tribune
- Other Tax Legislation
  - House panel passes bill to stop gamesmanship in tax increase proposals: Deseret News