



THE UTAH TAXPAYER

A PUBLICATION OF THE UTAH TAXPAYERS ASSOCIATION

November Ballot Packed with Tax Issues, Yields Mixed Results

In November, Utah voters were asked to weigh in on tax-related ballot issues across the state. Your Taxpayers Association weighed in on many of these proposals.

Non-binding Opinion Question #1 - Poll Question on a 10-cent Increase to the Gas Tax

This non-binding opinion question stemmed from discussions during the 2018 General Session between legislative leaders and the group, Our Schools Now. In 2017, Our Schools Now had pushed for additional education funding through an increase in the income tax rate, which then evolved into an increase in the income and sales tax rate.

By negotiating with legislative leaders, Our Schools Now agreed to increase education funding by undermining Truth in Taxation on the statewide basic levy through a property tax rate freeze, and the creation of this non-binding opinion question. The question asked voters whether they would support raising the gas tax by 10 cents in order to better fund transportation, which in turn would leave more money for education.

While many polls show that Utahns support an increase in education funding,

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SAVE THE DATE 2019 Legislative Outlook Conference on January 7, 2019

The annual Utah Taxpayers Association's Legislative Outlook Conference will be held on January 7, 2019. The event will begin at 8:30 a.m. at the Little America Hotel, located at 500 S Main St., Salt Lake City.

Hear from Utah Governor Gary Herbert on his tax modernization proposal, legislative leaders will discuss tax issues, and other tax experts on what you can expect during the 2019 General Session.

Sponsorship opportunities are available.

To RSVP, please contact Bren at (801) 972- 8814, bren@utahtaxpayers.org or head to our website, www.utahtaxpayers.org.

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My Corner: Governor and Legislature Prove Once Again Why Utah is the Best Managed State



Association President
Howard Stephenson

Consensus revenue figures for the state budget were recently announced, revealing a record \$1.3 billion in state surpluses. About half of this amount is ongoing and the other half one-time.

Legislative Fiscal Analyst
Jonathan Ball has warned lawmakers that the economic signs and revenue spike surrounding this budget surplus are eerily similar to the

downturn. Despite sizable rainy-day funds, at that time the state had to make significant cuts in ongoing spending to balance the budget. Ball recommends, and legislative leaders agree that instead of growing government much of the one-time cash and projected revenue growth should be used to pay down debt, and pay cash for one-time expenditures such as roads, state buildings, and \$235 million for the next phase of the new state prison.

When I am in meetings with economists affiliated with national tax policy think tanks, they often single out Utah as the state which should be emulated by other states wishing to improve their business tax climates. Art Laffer's Rich States Poor States has named Utah as number one best economic outlook all 11 years it has been published. The recent session of the Utah Legislature should ensure that designation for years to come as the legislature this year passed single sales factor corporate income tax reform and totally eliminated sales taxes on manufacturing, mining, and data centers.

Keeping the Promise on Wayfair

The legislature is expected to keep its promise to ensure that \$200 million in new tax revenue from the US Supreme Court decision on Wayfair which allows states to collect sales taxes from remote sellers, will be used to cut taxes dollar for dollar.

The 2018 Legislature has already cut \$85 million of the \$200 million and is expected to lower other taxes to fulfill the remaining \$115 million promise. To accomplish this there has been talk about reducing the federal tax reform

impact on large families and lowering the state income tax rate from its current 4.95%.

Expanding the Sales Tax Base

Governor Herbert has called for reevaluating Utah's sales tax base which has eroded over the years due to a shift from the durable goods economy to services.

Additionally, sales taxes on food and residential energy, including electricity and natural gas have experienced lower sales tax rates which are being reevaluated. (Utah's current food sales tax rate is 1.75%, whereas the general state sales tax rate is 4.7%. That is expected to increase due to voters' approval of a sales tax increase for Medicaid expansion.)

Most who support this review say that expanding the base and restoring the rates should not increase net tax revenues but should stabilize the sales tax base and insulate it from economic peaks and valleys.

There is general agreement that any expansion of revenue should be used to reduce tax rates dollar for dollar.

Ending Property Tax on Small Business

Another important tax reform to be considered in the upcoming Legislature will be ending the double taxation of business personal property taxes. Over the years the legislature has eliminated that double taxation on mining, manufacturing, and data centers but small business must pay the sales tax on the purchase of the personal property and then pay property taxes for years into the future.

The Revenue and Taxation Interim Committee unanimously passed a proposal for the total elimination of personal property taxes on small businesses. Residential personal property such as home furnishings have been exempt from property taxes for decades. Over the years the personal property tax on small business has become an onerous compliance burden and has resulted in annoying audits.

The Legislative Fiscal Analyst has estimated that small business personal property taxes generate only

\$70 million a year for roughly 2% of total property tax revenues. When contrasted with the cost of compliance and auditing, Utah could vastly improve its competitive advantage by completely eliminating the tax.

Education Funding

In spite of voters rejecting a 10 cent per gallon gas tax hike for education by a 2 to 1 margin, the governor and legislative leaders are generally in support of significant funding increases for public education.

However, much of the increased education funding is expected to appear outside of the weighted pupil unit (WPU) funding formula which, under current law, requires that at least 15% of the revenue to fund the

WPU comes from the state-wide education property tax Basic Levy. If the WPU grows faster than property tax revenues, the school property tax rate will automatically rise.

Consequently, in order to avoid property tax hikes the legislature will need to focus on education reform spending programs instead of the WPU. This will also cause a healthy focus on the total percent of education spending not just the value of the WPU.

In past years, for example when the WPU was increased 3.5% and total education spending increased more than 9%, the focus was solely on the 3.5% which did not give the legislature full credit for its commitment to education funding.

November Ballot Packed with Tax Issues, Yields Mixed Results (continued)

this measure failed 65.5% to 35.5%. In the post-election, leaders of the Our Schools Now initiative claimed that it failed due to a lack of voter education and confusion in messaging. However, the result could have been due to Utahns' unwillingness to see yet another tax increase that is such a visible and direct hit on their own wallets.

It is unclear whether Our Schools Now will make another push for a tax increase.

Proposition Number 3 - Expansion of Medicaid

This initiative increased the current state sales tax rate by 0.15%. While the Association strongly opposed this initiative, voters approved it. Therefore the statewide sales tax rate will increase from 4.7% to 4.85% and direct the revenue that comes from the increase in the rate to be used to pay for Medicaid expansion.

The state estimates the change in the rate will result in \$84 million in increased revenue.

Constitutional Amendment A - Adjusting Property Tax Exemption for Military Members

In 2017, the Utah Legislature passed HB 258, Veterans Tax Amendments, which would allow for a property tax exemption for the home of a person serving in the military but has been assigned out-of-state for an extended amount of time.

Previously, a member of the military would qualify for the tax exemption if they served out-of-state for 200 days in a calendar year. This would occasionally put

military members who may be deployed later in a calendar year outside the exemption window. The Legislature rightly decided to make the change from a calendar year to a continuous 365-day period. A Constitutional amendment was required by the voters in order to make this change, which was approved 79% to 21%.

The fiscal impact of the change is expected to save a military person, with a residence valued at \$250,000 with a 1.35% property tax rate, about \$1,856 per year.

Constitutional Amendment B - Property Tax Exemption for Government-Leased Buildings

This is the second time Utah voters have been asked to approve this change in the Utah Constitution. Constitutional Amendment B would have allowed for a property tax exemption when a governmental entity (state, county, city, school district etc.) leases property or land from having to pay property taxes on the land. The owner of the property would also be exempt from property taxes if the government entity is leasing the whole building. Your Taxpayers Association believes that taxes should not be used to pay other taxes. Constitutional Amendment B would have solved this problem.

While the fiscal impact was only estimated to be \$1.8 million, Utah voters did not approve this legislation, primarily due to a lack of understanding and confusing ballot language which did not clearly state the true nature of the property tax exemption.

The language reads: "Shall the Utah Constitution be amended to authorize the creation of a property tax exemption for real property, such as land or buildings, that the state or a local government entity leases from a private owner?"

The question, which is drafted by the Office of Legislative Research and General Counsel (OLRGC), seems ambiguous and does not appear to accurately describe the issue. The focus of the question appears to be on a property tax exemption for private owners, rather than spotlight a property's use by a governmental entity.

The Office of Legislative Research and General Council is statutorily required to draft the language and question of a proposed constitutional amendment. The only language that guides OLRGC during draft is a few lines found in [20A - 7 - 103](#).

It reads, in part, "The legislative general counsel shall: Entitle each proposed constitutional amendment "Constitutional Amendment ____" and assign it a letter..." and " draft and designate a ballot title for each proposed amendment or question submitted by the Legislature that summarizes the subject matter of the amendment or question..."

Outside of this language, there do not appear to be any additional guidelines or rules that OLRGC creates these by, including speaking with sponsors of the legislation. The drafting of this question alone may have tanked all the efforts of the proponents.

In Oregon, Bill Sizemore has been involved in ballot initiatives and how to get voter support. He is considered one of the main proponents of the Oregon tax revolt, which is a movement that sought to reduce taxes in the state. He has been behind the passage of many ballot initiatives, primarily due to his use of focus group to judge passage of ballot questions. If one specific question's language does not test well, he tried again until he found language that the focus group showed voters would support.

On the other hand, Utah's OLRGC drafts the language without an opportunity for proponents to have input on language that would sell the issue. Consequently in the past ballot language has been contested and the Utah Supreme Court has rewritten the OLRGC's unacceptable language before it appears on the ballot.

Local Bond Issues

Your Taxpayers Association also got involved in bonds during the 2018 election cycle.

Your Taxpayers Association endorsed both the Washington County and Iron County school districts' bonds. Both these areas are seeing tremendous increases in student enrollment, and new facilities are required in order to educate these new students while protecting their safety.

While these districts can demonstrate the need, the primary reason for receiving the support of the Association was due to their promise to not increase the stated bonding amount using unethical calculation methods.

Senate Bill 122, backed by your Taxpayers Association, specifically prohibits government entities from exceeding more than 2% of the amount stated in the bond proposition. This, in turn curbs these accounting methods that can give entities millions more than they initially requested of the taxpayer. While this bill goes into effect January 1, 2019, the Association asked every entity who requested an endorsement that they promise to adhere to the rule in SB 122 before it takes effect.

The \$125 million Washington County School District bond will be used to construct two new elementary schools and a career and technical high school. The bond revenue will also be used to enhance security features at all district schools to ensure student safety at WCSD campuses. WCSD has experienced incredible growth in enrollment in recent years. The bond will assist the district in providing education to the estimated 1,000 students it is seeing in enrollment growth each year.

Iron County School District's \$92 million bond, which was primarily geared for increasing student safety and building a new elementary school, failed 58% to 42%. The increase would have cost the average homeowner, with a home valued at \$217,000 roughly \$17 annually.

Provo also asked voters to approve a bond in order to reconstruct a new city hall, as well as a new, modern police headquarters, and additional firefighting facilities. Your Taxpayers Association toured the current facilities and there is little question for a need, particularly for a new police headquarters. The current city hall was sufficient enough to continue operating in.

The Association remained neutral, and voters approved this bond 51% to 49%.

The voters of Salt Lake City, who haven't seen in a tax increase they don't like in recent years, voted to approve a bond for a general fund purpose, specifically roads and transportation. This bond passed 68% to 32%.

A few others of note:

- Nebo School District \$298 million bond to rebuild 3 high schools and build three new middle schools: passed 58% to 42%.
- Ogden School District \$87 million bond to renovate or rebuild four elementary schools: passed 56% to 44%.
- Park City Open Space \$48 million to purchase open space called Treasure Hill: passed 78% to 22%.

Utah Legislature To Be Filled with New Members, New Makeups of Revenue and Taxation Committees in 2019

With roughly 33% of the Utah Legislature retiring in 2018, and nearly half of House members serving 2 years or less, the 2019 Session is expected to be different than those of us that follow the Hill have seen in a long time. There will be new leaders of both houses, and legislators joining leadership for the first time.

Here are the new standing committees for Revenue and Taxation in 2019.

Senate Revenue and Taxation Standing Committee

Lincoln Fillmore, Chair	Wayne Harper
Curt Bramble	Dan Hemmert
Gene Davis	Deidre Henderson
Luz Escamilla	Evan Vickers

House Revenue and Taxation Standing Committee

Robert Spendlove, Chair	Jefferson Moss
Tim Quinn, Vice Chair	Stephanie Pitcher
Kyle Anderson	Doug Sagers
Stuart Barlow	Rex Shipp
Joel Briscoe	Andrew Stoddard
Steve Eliason	Mark Strong
Ken Ivory	Norm Thurston

Your Taxpayers Association look forward to working with the new Revenue and Taxation standing committee members, as well as all legislators during the 2019 Session and beyond.

Revenue and Taxation Interim Committee Sends Message that Taxes Ought to be Cut in 2019

The Revenue and Taxation Interim Committee met for the last time in November before the 2019 Session to try and finalize upcoming tax policies before January, and adjusting for action taken during the July special session.

Keeping the Promise

In June, the U.S. Supreme Court weighed in on Wayfair, Inc. vs. South Dakota, which allows states to begin the collection of remote sales taxes. These taxes are collected for the most part by sellers, from purchases made outside of a state's boundaries. Utah's fiscal analysts expect that Utah would receive roughly \$200 million in new revenue.

The Legislature in July reacted to this decision by not only allowing the collection of these taxes, but also

worked to cut taxes in order to prevent the growth of government. This promise to cut taxes in an equal amount of the new revenue had been made through legislation in 2013 by Sen. Wayne Harper (R - Taylorsville).

Utah would not use the estimated \$200 million to grow government but would instead reduce taxes correspondingly. In 2013, the Utah Legislature would not have passed the legislation without that promise, and your Taxpayers Association fully intends to ensure the Legislature keep it.

During the July special session, the Legislature cut taxes by \$85 million through family income tax reductions and elimination of the three-year life sales tax penalty on manufacturing and mining. This leaves

an additional \$115 million to be cut in order to keep the promise.

With this in mind, during a discussion on technical changes to the income and corporate tax rate, Rep. Dan McCay (R - Riverton) proposed to instead reduce the income tax rate from its current position at 4.95% to 4.9% across the board. This reduction would account for an additional \$40 million in tax cuts. Rep. McCay added that the committee should send a strong message to the entire Legislature that reducing taxes is a major priority.

Other members of the committee agreed, with Rep. Travis Seegmiller (R - St. George) suggesting that the rate be dropped even lower, to 4.85%, triggering a total of \$80 million in tax cuts. The committee voted the proposal down by one vote. Your Taxpayers Association will continue to work with Reps. McCay and Seegmiller in order to accomplish the rate reduction during the 2019 Session.

Giving Small Business a Break

The Revenue and Taxation Interim Committee, however, did give approval towards reducing the burden placed on small business property taxpayers through the elimination of the business personal property tax.

Under current statute, Utah's business owners are required to pay property tax on items that they use or consume in the process of doing business. This can be something as small as a table in a restaurant to machines in a manufacturing facility. Utah's small business in particular, have a heavy burden in detailing the cost, calculating depreciation, and then submitting the necessary forms to the Utah State Tax Commission.

The legislation the committee considered is a bit different than efforts in the past to eliminate it altogether. If approved during the 2019 Session, Utah business owners either pay the upfront sales tax

when purchasing equipment for their business, or they pay the personal property tax. Right now, many businesses are being double taxed for the same item.

Thanks to hard work done prior to the committee hearing by your Taxpayers Association, the committee approved this bill unanimously, which sends a strong message to the rest of the Legislature of how important of an issue this is.

The Association has worked to try to eliminate this burdensome tax in the 2018 General Session, and are encouraged by the action taken by the interim committee heading into 2019. Read more about this issue in this month's My Corner. You can read the [legislation here](#).

Protecting Homeowners from Valuation Bureaucracy

Many Association and soon-to-be members have contacted us questioning the significant valuation increases on their homes, and how the best way to appeal the valuation with the county.

Your Taxpayers Association has come up with a solution, thanks to help of Rep. Tim Hawkes (R - Centerville). Rep. Hawkes' proposal protects property taxpayers and homeowners during the valuation and appeals process.

The Revenue and Taxation Interim Committee heard his proposal that involves shifting the burden of proof during the valuation appeals process from the homeowner to the county. Currently, the homeowner must prove why their property is overvalued.

His proposal also creates an automatic review process if a property's value increases by more than the median property value change plus 15%.

The committee again, in showing that the Legislature as a whole move towards protecting taxpayer, voted to make this a committee bill by passing it unanimously.

Your Taxpayers Association wholeheartedly endorses this bill, and will work tirelessly on this effort to protect homeowners and other property taxpayers.

You can read the bill by [clicking here](#).



Utah Taxpayers Association Elects New Board of Directors, Officers for 2019

The Utah Taxpayers Association has re-elected Chairman Morris Jackson to lead the Association in 2019, at the annual membership meeting.

Jackson has served on the Board since 2008, and has previously served as the Association's Legislative Chair, as well as Vice Chair. Jackson is a certified public accountant, who was previously employed at the Questar Corporation, where he held several positions during his 38-year tenure. Since retiring from Questar, he has continued his involvement in state and local taxes and currently does tax consulting and income tax preparation for his clients.

The Executive Committee also has some new members. These changes are documented below.

- Vice Chair - Jennifer Somers (CenturyLink)
- Secretary - Bobby Rolston (Anadarko Petroleum)
- Treasurer - Nicole Lengel (Harmons Grocery)
- Legislative Chair - Casey Hill (Energy Solutions)
- Immediate Past Chair - Mike Edmonds (U.S. Magnesium)

The Utah Taxpayers Association also welcomes five new members to the Board of Directors. Scott Anderson of Zions Bank will join the Board in place of Alan Peterson, Brian Verwer of IM Flash, Heather Lare of Autoliv in place of Darcy Kruitbosch, and Luke Matiasevich of eBay in place of William Lasher.

We also welcome Jason Tomlinson of Ryan, Inc. to the Board beginning in 2019.

The Association would like to thank Brice Arave, Darcy Kruitbosch, William Lasher, Robert Maxwell, Alan Peterson, and Olga Siggins.



Utah Taxpayers Association Chairman
Morris Jackson

Association Accomplishments During November:

- ❖ Spoke with Utah County commissioners regarding proposed tax increase
- ❖ Participated in the Revenue and Taxation interim meeting
- ❖ Held the annual Utah Taxpayers Association meeting
- ❖ Elected the 2019 Utah Taxpayers Association Board
- ❖ Lectured at BYU regarding tax and economic issues of ballot proposals

In the News

- ❖ Economic Incentive Means Thousands of Jobs for South Jordan
 - [Jordan School Board Gives Green Light for Merit Medical Tax Incentive Extension](#) Deseret News
- ❖ Water District Salaries Often Higher than the Governor's
 - [Are Taxpayers Getting Soaked by High Water District Salaries?](#) KSL