May 2010 Volume 42

THE UTAH TAXPAYER

A PUBLICATION OF THE UTAH TAXPAYERS ASSOCIATION

Happy Birthday UTOPIA

Time to grow up and acknowledge your failure

Happy birthday, UTOPIA! You've turned 8 and reached what LDS Church members believe is the age of accountability. Let's hope that you will stop blaming others for your financial and operational woes, accept responsibility and quit asking taxpayers for another bailout.

UTOPIA's creation was heralded by hopeful promises that municipal broadband would usher in an era of economic growth and long-term revenue streams for its far-seeing member cities. Having fiber-optic cables running to every home and business in each UTOPIA city, its backers claimed, would make those cities economically competitive with cities worldwide that have similar broadband Internet, phone and TV capabilities.

Unfortunately, those lofty promises proved to be mere fantasy. UTOPIA's tale of financial and operational mismanagement is well known, but a few key stats from its own audited, year-end financial report bear repeating. As of July 1, 2009, UTOPIA's net assets were in the red $125 million. In other words, if UTOPIA sold itself to repay its debts, it would still owe its creditors $125 million.

Unfortunately, the longer UTOPIA has been in business, the larger its net asset hole has grown. And that trend is not improving. For the budget year ending June 30, 2010, UTOPIA anticipates an operating deficit of $25 million. Deficits this large are possible because they consistently rely on rosy revenue projections, and ignore or minimize the pressures of an already competitive telecommunications services market.

If UTOPIA signed up all 48,646 of its marketable customers, and received from them the same $417 per year that it receives from its current customers, UTOPIA would receive $20.3 million. That's hardly the $54.6 million it needs for its operating, principal and interest costs.

MAY 2010
VOLUME 42

Register NOW for the 32nd Annual "Utah Taxes Now" Conference

Your Taxpayers Association will be hosting its annual "Utah Taxes Now" Conference on Tuesday, May 11, 2010 at the Little America Hotel. Leaders from the Utah House of Representatives and Senate, the Governor's office, The Cato Institute, and community leaders will cover a broad range of tax issues, including the Salt Lake County Police Fee, Jordan School District's long-term funding chasm and the Taxpayers Association's latest cost of government report.

Teed Off On Taxes Golf Tournament

Join the Utah Taxpayers Association for their annual "Teed Off On Taxes" Golf Tournament on Thursday, June 10, 2010 at the Eaglewood Golf Course in North Salt Lake. Sponsorship opportunities are available.

Register for the "Utah Taxes Now" Conference and "Teed Off On Taxes" Golf Tournament by visiting www.utahtaxpayers.org or contacting Tyler Pace at tyler@utahtaxpayers.org or (801) 972-8814.

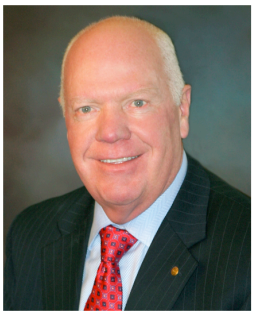
Instead of acknowledging its failure, UTOPIA hopes taxpayers in its member cities will bail it out by backing another $20 million in bonds, hoping to keep the lights on just a little bit longer. UTOPIA stubbornly refuses to acknowledge that its own actions created its current plight. Most importantly, it refuses to accept that the market does not demand ubiquitous fiber-optic cables. The vast majority of Utah businesses and individuals find the market offers a price and service balance that they like.

UTOPIA, and its enablers on the city councils in UTOPIA's member cities, have heard these concerns repeatedly. Many even agree that these arguments should have persuaded their predecessors in the city governments to not venture down this path at all. However, they feel compelled to pony up more money, to make sure taxpayers don't lose the money already committed to back UTOPIA's bonds. Unfortunately, that money is already gone.

It's time for UTOPIA to grow up. Instead of blaming predecessors, the Legislature, the federal government or other participants in the telecommunications services market, UTOPIA must acknowledge that it has failed. The naive hope that elected officials, with none of their own money at risk, will better gauge the state of the market is what got UTOPIA into this mess in the first place. The responsible decision for UTOPIA, and for today's elected officials, is to acknowledge failure.

It's time for UTOPIA's member city councils to require that UTOPIA make do with the resources it has. That's very tough love and may be politically difficult. But like a child, no organization can grow up unless it's allowed to fail.

My Corner: Avoiding California's Mistakes



Association President Howard Stephenson

Having spent the last 33 years working for lower taxes and more efficient government policies, I'm painfully aware of who the biggest advocates for more government spending are. The tax and spend crowd want to make sympathetic social programs the face of higher spending, but the real advocates for higher taxes and spending are public employees. And public employees have found that the best way to advocate for more spending for themselves is to unionize.

Public employee unions are more effective negotiators than unions representing the private sector because they have the opportunity to select their own negotiating opponents. With concerted effort in county council, mayoral and school board races, public employee unions can elect a negotiating opponent who supports the union's agenda.

In "The Beholden State: How public-sector unions broke California," the Manhattan Institute's Steven Malanga outlines key public policies these unions need for this strategy to succeed. First, they need the right to negotiate wage and benefits on behalf of their members. Second, they need easy access to members' political donations.

California's history over the past 50 years more than adequately shows how those two changes led to some of the most outlandish spending policies imaginable. It also shows how those tax and spending policies have chased business investment away.

The Decline and Fall of the California Empire

California's recent economic trajectory is truly amazing. Fifty years ago, California was America's promised land. The innovators who created Silicon Valley were flocking to the Bay Area, and much of the rest of the country was following the Joad family to "the Golden State."

Fast forward to 2010. eBay and Google top the list of California companies looking to invest outside of California, but they are just the highest profile companies fleeing the state's perennial budget deficits, Sacramento's IOUs, and one of the highest individual and business tax burdens in the nation. When advertisements featuring "the Governator" and other members of "the glitterati" are the best available tool for economic development, and when markets grade California bonds as the lowest in the nation, the Golden State's economic sheen needs burnishing.

The Growth of California's Public Sector Unions

Reports of California's runaway government spending are hardly news. Less well understood are the fundamental changes in the structure of California politics over the past several decades that enabled this tax and spend mentality to take hold. The first critical change came in 1968, when the California Legislature extended bargaining rights to local government workers. Teachers and other public employees won the rights less than a decade later.

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Despite this change, California's economy and population continued to grow. However, the number of public employees increased even faster. In 1960, California's 874,000 public employees made up about 5.5% of the state's population. By 1990, their numbers had swelled to 2.1 million, and they constituted 7.0% of the state's population.

That dramatic shift in the structure of California's work force dramatically increased the political power of public sector unions. California's public sector unions continue to wield another potent political weapon. Through automatic payroll deductions, these public sector unions have very easy access to millions of dollars in political donations.

For example, the California Teachers Association (CTA) collects more than $1,000 per year in union dues from each of

its 340,000 members. The California Correctional Peace Officers Association boasts a membership of 31,000, and an annual budget of nearly $25 million. And the California affiliate of the SEIU (Service Employees International Union) represents another 350,000 public employees.

How California's Public Employee Unions Wield Their Influence

Because these unions are so large and can so easily collect so much political money from their members, these unions wield enormous influence in California politics. Having donated millions to Gray Davis' gubernatorial campaign in 1998, the CTA was in a great bargaining position when California temporarily ran a budget surplus in 2000. Governor Davis rewarded them with $1.84 billion of the state's surplus. Unfortunately, most of that spending was devoted to ongoing, not one-time programs.

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Perhaps the most shocking example of these public sector unions influence were pension changes made in 1999. Governor Davis gave RETROACTIVE cost-of-living adjustments for already retired public employees, and granted public-safety workers the right to retire at age 50 with 90 percent of their final year's salary.

Among the many tax and spend decisions California has adopted, few have been as far reaching as those two. Governor Davis and the California Legislature adopted these policies based on naïve, even absurd projections that California's economy, and thus tax revenues, would continue to rise indefinitely. When that house of cards crumbled, multi-billion dollar annual deficits became California's norm.

Learning from California's Mistakes

With various studies and analyses calling Utah the nation's "best managed state" and listing Utah as the "most business friendly" in the nation, it might be easy to ignore California's experience.

However, unions have already won the right to negotiate for 2,500 of Salt Lake County's 4,000 employees. And the UEA's political fundraising has increased significantly since its precipitous fall when Paycheck Protection first took effect. When public sector unions first won these battles in California, their ultimate consequences were barely recognized. With the benefit of hindsight, we cannot afford to be so lax.

Fortunately, Utah has been attempting to insulate itself against this kind of fall for some time. I sponsored Utah's Paycheck Protection law, and your Taxpayers Association led Utah's legal charge in defending it before the U.S. Supreme Court.

Last year, the Taxpayers Association won passage of HJR 8, which placed a proposed constitutional amendment protecting the right to vote by secret ballot before the voters this fall.

This legislative session, Senator Dan Liljenquist successfully proposed two pieces of legislation to reform Utah's pension system and remedy Utah's $6.5 billion unfunded liability. SB 63 caps state employer contribution amounts and reduces retirement benefits for new public employees. SB 43 prohibits retired state employees who return to state employment from receiving both a salary and a retirement paycheck in a false retirement. Both pieces of legislation are essential to prevent Utah from following in the pension bankruptcy footsteps of California.

Utah's economy is nowhere near as resilient as California's was just a couple of decades ago. If public sector unions can topple mighty California, Utah must continue in the path of fiscal responsibility and learn from their mistakes.

The 3rd Semester Program: How to increase teacher pay by 50%, with NO tax increase

For the last year, the Taxpayers Association has promoted a proposal to expand the school year from 2 to 3 semesters. By not leaving school buildings empty for that third semester, school districts could avoid having to build new buildings, and increase teacher pay by 50 percent without any tax increase.

Everyone loves the idea of paying teachers more, but generally they have a hard time understanding how the pay increase we tout can happen without a tax increase. Let me explain exactly how that works.

Because the Jordan School District's financial plight prompted our review of this proposal, I'll use Jordan as an example. However, the raw numbers matter less than the basic ratios, so the same math will apply as well in the Nebo or Ogden districts as it does in Jordan.

The Jordan School District has approximately 48,625 students distributed between seven high school prisms. (A high school prism is the high school and its feeder junior high, middle and elementary schools.) Because of the dramatic changes this proposal would require if implemented across an entire district in one fell swoop, this analysis assumes that a 3rd semester proposal is implemented one prism at a time, so that no teacher or parents feel forced into the 3rd semester option.

On average, the 267 teachers in each of the Jordan School District's prisms currently teach two semesters to 6,946 students. However, 178 teachers could teach the same 6,946 students, if each of those teachers taught for 3 semesters. That would mean the district wouldn't need as many teachers.

At first glance, that sounds like a recipe for laying off teachers. It's not. Remember that teachers retire or otherwise stop teaching every year, so every school district hires scores of new teachers each year. The Jordan School District hires approximately 200 new teachers. Moving one high school prism to a 3rd semester program simply means the Jordan School District would only hire 111 new teachers.

If the 178 teachers in the 3rd semester prism are still teaching 6,946 students, the district no longer has the costs associated with the 89 teachers who weren't hired. The salaries the 89 teachers would have earned are instead spent on 50% pay increases for the 178 teachers teaching a third semester.

The benefits to teachers who opt into the 3rd semester are even

richer. While school districts pay teachers for the 2 semesters they teach, they buy their teachers' health and dental insurance for a year. That means the district doesn't have to spend on insurance what they would have spent for the 89 teachers who aren't hired.

That savings is equal to about 40 teaching days for each teacher who opts into the 3rd semester. This savings would allow the district to offer 3rd semester teachers 3 weeks, or 15 days of discretionary, paid vacation, plus 10 paid holidays.

It may come as a surprise, but teachers do not currently receive any paid holidays or paid vacations. In fact, teachers who take a day off have to pay for their substitute teacher out of their own pocket. These 25 days of paid vacation and holidays should go a long way towards mitigating the concern many people have voiced about teacher burnout associated with a 3rd semester.

Even if the paid vacations and holidays alone do not stop the teacher burnout, the insurance savings offer other opportunities to help teachers. With the remaining 15 days, the district could pay for teacher training, and/or hire part-time administrative help to do the grunt work of data entry that so often burns teachers out.

Moving one prism to a 3rd semester program means every teacher who wants to continue teaching in the district could do so, whether the teacher prefers the higher pay of a 3-semester program, or the free semester of a 2-semester program.

And because this program is entirely voluntary, teachers from across the district would have the opportunity to opt into or out of the prism using a 3rd semester program.

June vs. November Bond Elections: Double Voter Turnout in November

Bond elections are an opportunity for taxpayers to decide if they are willing to increase their taxes and assume more debt. When bond elections are held in June instead of November, a disproportionately small number of voters decide the tax fate of their communities and fellow taxpayers.

Since all taxpayers are on the hook for a bond, taxing entities should hold their bond elections when they are most likely to get maximum voter turnout and participation.

Just last year, Nebo School District held a June election for a $160 million bond. Less than 10% of registered voters turned out and the bond passed by less than 125 votes. Residents of Nebo School District will be paying for the bond for the next five years because 3,133 voters approved a tax increase for over 60,000 residents.

Voter turnout in November is more than double the voter turnout in June. Therefore, bond elections should be held in November, when more voters will participate and be aware of the issues on the ballot.

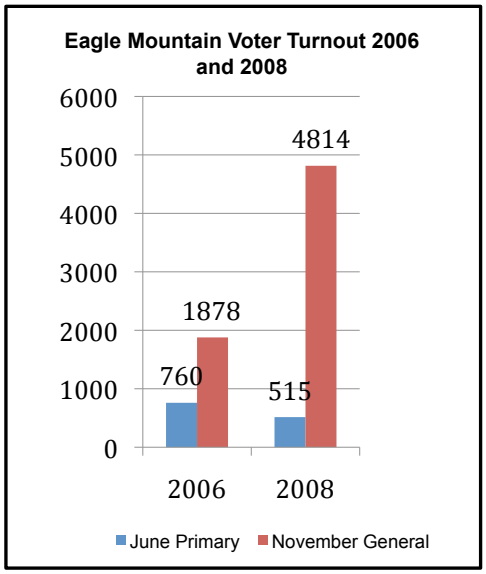
Unfortunately, the trend to hold bond elections in June instead of November continues. The most recent example is Eagle Mountain's push to put a $7 million rec center bond on the June ballot. Mayor Heather Jackson claimed, "A June election will bring out the people who are interested, whether they be positive or negative…November voters may be less interested and distracted by the other issues on the ballot. "

Taxing entities should hold their bond elections when they are most likely to get maximum voter turnout and participation.

Clearly this is not the case. A taxpayer who's paying for the property tax hike is an "interested" taxpayer. Since the number of "interested" taxpayers who will vote in November is more than double the number who will vote in June, November is when the bond election should be.

Your Taxpayers Association and Eagle Mountain residents have lobbied Mayor Jackson and the members of the Eagle Mountain City Council, reminding them that increased voter turnout should be the number one priority of an election, especially when a city is proposing to increase their debt and the burden on taxpayers. Your Taxpayers Association presented data from Eagle Mountain elections in 2006 and 2008 to the Council.

In the June 2006 election, 760 voters cast ballots compared to November 2006 when over 1,800 turned out to vote. In 2008, a Presidential election year, the difference was even more startling. In June 2008, 515 voters, or 8 percent of registered voters, cast ballots while in November 2008 over 4,800 voters, or 71 percent of registered voters, participated on election day. The adjacent table illustrates this data.



Fortunately, Eagle Mountain's City Council has responded to the Taxpayers Association's arguments in favor of a November ballot election. In their April 13th City Council Meeting, the council agreed that voter turnout should be a priority and reported having received dozens of emails from concerned citizens who preferred a November ballot election. As a result of your Taxpayers Association and public outcry, Eagle Mountain City Council is likely to move their rec center bond election from June to November. Other communities are continuing to push for a June election. The Canyons Board of Education is insisting upon a June election for a $250 million bond for school repairs. Cottonwood Heights will also be holding a $5 million bond election in June to repair rec facilities. Your Taxpayers Association has encouraged both groups to hold elections in November to increase voter participation.

Utah Ranks First in Economic Outlook Index

In a time of broken state budgets throughout the country and proposed 2011-2012 budget gaps of over $117.2 billion, Utah has once again managed to keep its budget intact and rank as the country's economic outlook leader.

In the American Legislative Exchange Council's (ALEC) latest "Rich States, Poor States- Economic Competitive Index," Utah has ranked as the top state in terms of economic outlook compared to economic performance from 1998 to 2008. By evaluating fifteen state policy variables, including number of state employees per capita, state worker compensation costs, overall tax burden, unionization and tax progressivity, ALEC once again ranked Utah as having the more promising economic outlook for the third year in a row. In the fifteen categories, Utah ranked among the top ten states in nine categories.

Utah's fiscal management success stems from not falling into the trap of continuous state budget expansion. Between 1997 and 2007 most states significantly increased their budget and are now paying the price. California is one of the worst examples.

According to the ALEC 2010 report, from 1997-2007, California's total state budget and local spending increased 41.5%. The greatest growth occurred between 2003 and 2007 when the California budget grew from $75 billion to $99 billion, a 31 percent increase that was almost double the state's 17 percent population increase. And now that increased revenues have failed to continue, California is over $40 billion in debt and at greater risk of defaulting than Greece.

The Tax Foundation has reached similar conclusions about California and insists there is a lesson to be learned. "States should not assume that revenue surges in good times will continue indefinitely… Legislators should adopt wise spending and tax policies that recognize and prepare their states for these realities."

The ALEC report further defines "wise spending and tax policy" as setting reasonable spending limitations, creating spending priorities based budgeting and rejecting most tax increases.

According to a Reason Foundation study, if all state legislatures had set reasonable spending limitations and expanded their budget from 2002 to 2007 at the rate of population growth plus inflation, all states would currently be experiencing budget surpluses. Reports from the Beacon Hill Institute and Tax Foundation concur. Instead of expanding state budgets exponentially during prosperous times, legislators should expand budgets more reasonably by accommodating for population growth, inflation and allowing the extra dollars to return to taxpayers.

Colorado has modeled this solution. Following a Taxpayers Bill of Rights that mandates slower, more reasonable government expansion, Colorado has developed a competitive business climate, returned millions through tax refunds and become one of the most stable economies in the country.

Following the mindset of reasonable spending, the ALEC report encourages legislators to create priority based budget decisions. In the wake of the post-September 11th recession, Washington state used a series of questions to determine the programs and issues that merited continued or additional funding.

1. How much money does the state have?
2. What is the existing and forecasted revenue?
3. What does the state want to accomplish?
4. What are the essential services we must deliver to citizens?
5. How will the state measure its progress in meeting those goals?
6. What is the most effective way to accomplish the state's goals with the money available?

And while budget cuts and fiscal restraint are often unpopular among tax and spend advocates, residents in even the most liberal states prefer that their governments operate within their means. In California, 50% compared to 13% prefer decreased spending compared to tax increases. The same is true in New York where 58% to 30% prefer spending cuts to tax hikes.

Finally, avoiding tax increases and predatory tax policies is an essential element to fiscal responsibility. Of the ten states that raised their taxes most significantly in 2009, seven of the states

CATO Institute Joins 2010 Utah Taxes Now Conference

Don't miss Ilya Shapiro, Senior Fellow in Constitutional Studies and Editor-in-Chief, *Cato Supreme Court Review* as he discusses the constitutionality of federal healthcare mandates.

Ilya Shapiro
Senior Fellow
CATO Institute

Mr. Shapiro has thrown down the gauntlet and challenged "anyone, anytime, anywhere" to a public debate on the constitutionality of Obamacare. Your Taxpayers Association is excited to host Mr. Shapiro as he discusses the federal consequences of Obamacare and implications for state's rights.

Mr. Shapiro has contributed to the *Harvard Journal of Law & Public Policy*, *L.A. Times*, *Washington Times*, *Legal Times*, *Weekly Standard*, *Roll Call*, and *National Review Online*. He also regularly provides commentary on CNN, Fox News, ABC, CBS and NBC.

The 2010 Utah Taxes Now Conference will be held on Tuesday, May 11, 2010 from 8:00 am to 2:30 pm at the Little America Hotel.

The cost to attend is $100 for Utah Taxpayers Association members and $125 for non-members. Space is limited to 300 attendees so sign up quickly. To register online and view clips from the 2009 Taxes Now Conference visit www.utahtaxpayers.org.

The same prudence, which in private life would forbid our paying our own money for unexplained projects, forbids it in the dispensation of the public monies.
- Thomas Jefferson

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are ranked among the 30 percent of states with the bleakest economic outlook. And while Utah avoided general tax increases in 2010, Utah's predatory tobacco tax is already taking its economic toll. Utah's oldest smoke shop is closing its doors as a direct result of the tobacco tax. No economic model has been able to show how the tobacco tax increase will fiscally benefit the state.

Fortunately, Utah's overall wise tax and spending policies have made it an economic outlook leader. Despite minor set backs, Utah's balanced 2010 budget, reasonable spending limitations, priority based budgeting and generally low tax burden make it one of the best fiscally managed states in the nation.

Public Education: Paying Teachers For Success

Despite efforts to reform public education throughout the nation, nearly every option seems to produce the same poor results as the status quo continues: the public education forum is more of a job-creation platform than a student-teaching one. Recent national news articles highlight the complex issues which limit the effectiveness of public education to produce smarter students and better teachers, yet offer little in the form of viable options to improve the system down the road.

Last month, the Chicago-Sun Times evaluated the relationship between teacher salaries and student achievement in Illinois and discovered there wasn't one. In Illinois, as in Utah, teacher pay is determined largely by seniority and whether a teacher has an advanced degree. This system, however, doesn't improve student performance.

The Chicago Sun Times study points to the wide disparity between teacher pay and student achievement throughout the Illinois public school system. Only 7 of the top 25 elementary districts for the highest-paid teachers also made the top 25 in student achievement scores.

One high-school district ranks 3rd highest state-wide in teacher pay, at an average $92,300, but comes in 368th in students' test scores (out of 879). When asked why the payroll was so high in comparison to the overall performance of the student population, the district superintendent admitted it was due to age and seniority, arguing that the higher pay scale acts as a draw that enables the district to "compete for the best teachers in the state." Student performance suggests otherwise.

Unfortunately, the same system was protected in Florida, when Governor Charlie Crist recently vetoed a bill which would have required teachers to be "retained, certified and compensated based on student test scores on standardized tests – not years of experience or degrees held." In addition, the legislation would have penalized school districts that even consider length of service or degrees held when determining compensation or reductions in work-force. This common sense reform would have encouraged teachers to be retained and compensated for their performance instead of their seniority. Governor Crist's veto protected the broken system.

A recent report by the Empire Center for New York State Policy showed that over the last ten-years, the overall number of public school teachers had risen by 7 percent and non-teaching professionals had risen by 26 percent while total public school enrollment had decreased state-wide by over 4 percent.

Advocates argue that as class size decreases, student performance improves. However, as the study points out, class size has little impact on student performance. New York's pupil-teacher ratio is the eighth lowest in the nation, and they are first in public school spending, at $15,981 per pupil. Yet according to the PEW Center for the States, New York was given a C- grade for overall student achievement.

As the articles individually point out, it's clear that the status quo is alive and well. Rather than be concerned with the improved education of our nations youth, the education establishment are more concerned about creating more and higher-paying teaching positions.