



THE UTAH TAXPAYER

A PUBLICATION OF THE UTAH TAXPAYERS ASSOCIATION

Association Tobacco Tax Predictions Coming True

Tobacco Sales Down Almost 50 Percent Over Last Year

During the 2010 legislative session, your Taxpayers Association strongly opposed proposals to increase Utah's tobacco tax. Despite editorials, tax alerts, emails and newsletter articles articulating Taxpayer Association concern, the legislature passed HB 196, which increased the tax on cigarettes by \$1.00 per pack. Utah's tobacco tax is now the highest of its neighboring states (except for Arizona).

The Utah Taxpayers Association predicted that a tobacco tax hike in Utah would produce disastrous results. Proponents of the tax increase insisted that a tobacco tax hike would help fill Utah's budget gap. However, tobacco taxes are one of the worst types of taxes and fail to meet even the most basic standards of good tax policy. Tobacco taxes impose a high tax on a narrow base, are the most regressive of all taxes and attempt to force behavioral change through tax policy. But, worst of all they decrease Utah tax revenue by pushing sales outside of the state.

Utah's latest tobacco tax increase took effect on July 1, 2010 and ever since Taxpayer Association predictions have been coming true. As the Salt Lake Tribune reported on August 24, 2010, "A hefty tobacco tax hike appears to have led to a huge drop in demand for cigarettes." Jim Gibbs, owner of The Tobacco Shop in South Salt Lake reported that his sales are down almost thirty percent. Utah's oldest smoke shop, Jeanie's Smoke Shop, closed its doors after the tax increase passed; other shops have laid off employees.

Tobacco taxes impose a high tax on a narrow base, are the most regressive of all taxes and attempt to force behavioral change through tax policy. But, worst of all they decrease tax revenue.

The Utah Tax Commission reports that following the tax increase on July 1, the sale of cigarettes decreased by nearly half compared to the average sales for the first five months of the year.

This dramatic decrease in sales and revenue should be no surprise. Utah's previous tobacco tax hikes have demonstrated the failure of such proposals. Utah's tobacco tax

increase in 1997 led to a 23 percent spike in cigarette sales in Evanston, Wyoming as Utahns crossed the border to make their tobacco purchases out of state. In 2009 following the federal tobacco tax increase, Utah revenues immediately declined especially, revenue from cigarette taxes, as is shown in Table 1.

Table 1: Utah Tobacco Tax Revenue Following April 2009 Federal Tobacco Tax Increase

	2009 Revenue	2008 Revenue	Change	% Change
Cigarette Licenses & Fees	\$5,888	\$6,161	(\$272)	-4.40%
Cigarette Taxes	\$23,200,718	\$28,548,159	(\$5,347,441)	-18.70%
Tobacco Products Tax	\$4,996,865	\$5,750,412	(\$753,547)	-13.10%

Source: Calculations by the Utah Taxpayers Association using data from the Utah State Tax Commission's Revenue Summary for the first seven months of FY 2010

SEPTEMBER 2010 VOLUME 46



My Corner: Recreating Florida's Miracle in Utah

Page 2



Save Our Secret Ballot: Protect Your Right To A Secret Ballot

Page 3



Can Privatization Help Utah Balance The Budget?

Page 3



Corroon Proposes Sales Tax Increase

Page 5



Truth In Taxation Hearings: Government Pushing Their Pain On Taxpayers

Page 6

ASSOCIATION STAFF

Howard Stephenson	President
Royce Van Tassell	Vice President
Jacquelyn Evans	Research Analyst
Tyler Pace	Executive Secretary

EXECUTIVE COMMITTEE

Jack Towsley	Chairman
John Ward	Vice Chairman
James Hewlett	Secretary
Kathryn Hymas	Treasurer
Mark Buchi	Legislative Chair
Margo Provost	Immediate Past Chair
H. Val Hafen	At Large
Max Miller	At Large

Other states have experienced equally disappointing results. According to the California State Board of Equalization, tobacco tax increases in California last year have resulted in decreased sales and a loss of \$74 million in tax revenue.

During the 2010 legislative session, Utah's own legislative fiscal analysts predicted that this tax increase would reduce

private sector annual sales by over \$53 million.

Proponents of the tobacco tax increase insist that decreased sales are just a passing phase. However, local business owners like Jim Gibbs are less confident, "Customers just don't have the money. They taxed it too much." Utah's tobacco tax increase is a poor tax policy and will continue to lead to decrease sales and revenue for Utah.



**Association President
Howard Stephenson**

My Corner: Recreating Florida's Education Miracle

Your Taxpayers Association has assisted over the years in successfully improving government transparency in a number of ways, including Senator Wayne Niederhauser's recent transparent.utah.gov, where citizens can see checks written by state and local government online, Utah's Truth-in-Taxation law, Utah's Truth-in-

Bonding Act, and the Uniform Fiscal Procedures Acts for municipalities, counties, and school districts.

But there has been little transparency regarding the performance levels of local public schools and school districts. Everybody seems to think neighborhood schools are doing OK, but they can't be sure.

For the last ten years the state of Florida has provided public education transparency that not only holds schools accountable, but has been a catalyst for bringing Florida student performance out of the basement to what is now one of the top-performing states in the nation. The transparency system requires letter grading of schools based on student performance on statewide standardized tests and gives extra credit for improvement, especially improvement with the lowest performing students.

During his recent visit to Utah, former Florida Governor Jeb Bush recounted the results of Florida's education transparency system. For example, when he took office, the average Florida 4th grade reader scored a 206 on the National Assessment of Educational Progress (NAEP), universally known as the "Gold Standard" of student testing. By contrast, the average Utah 4th grader at that time scored 216.

The NAEP test is useful precisely because it provides a standard against which states' education performance can be gauged over time. The test is designed and scored so that a 10-point difference is approximately one year's worth of learning. Accordingly, Utah's 4th graders were reading about one full year ahead of their Florida peers.

Throughout the next decade, Gov. Bush implemented education reform programs focused on making public education transparently accountable to the public. His first, and he believes the most important reform was assigning traditional letter grades to each Florida public school, and focusing the grading criteria on student achievement.

Previously Florida had provided variations of these grades to each public school, but Floridians didn't know whether a "one" was a better or worse score than a "five." Governor Bush changed that rating system to the A-F grades with which every parent is familiar.

The results have been nothing short of breathtaking. While

Utah's scores on the 4th grade reading portion of the NAEP test are flat (216 vs. 219), Florida's scores have jumped from 206 to 226. In other words, Florida's 4th graders improved their reading achievement by two full years, while Utah's students barely improved by 1/3 of a year.

Governor Gary Herbert's Education Excellence Commission will be looking at recommending a Florida-style grading system. Whether the Commission endorses such an approach or not, Senator Wayne Niederhauser and Representative Greg Hughes will be sponsoring legislation to implement the school grading system.

Critics of Gov. Bush's methods usually take one of two paths. Some claim that the NAEP data can't be relied on, that Florida teachers were "teaching to the test." On August 28, 2010 the Salt Lake Tribune called NAEP "the nation's report card." The Tribune's description is widely agreed upon. That title means NAEP describes what American students should know and be able to do. If so, then teaching to the NAEP test ought to be a national goal. Unfortunately, however, the NAEP is hard to teach to because the statistical sample of students in each state who take the test isn't known by their teachers until just before the student sample is selected.

Other critics of Gov. Bush's methods, notably the Salt Lake Tribune's editorial board, note that Florida spends substantially more per student than Utah. Frankly, that is a truism. As long as the federal government owns 2/3 of Utah land and Utah families continue to have the largest families in the nation, Utah will spend less per student than any other state in the nation. Additionally, Utah spends more of its school funds in the classroom than most states, and I have not heard anyone argue that increased school administrative spending increases student performance.

Gov. Bush's education reforms had great success. Today, Florida's low-income Hispanic students score higher on the NAEP 4th grade reading test (218) than the average Utah student (216). (Utah's low-income Hispanic students today score a 192.)

Rather than continuing to beat the drum of "lowest in the nation in per pupil spending," I hope the Salt Lake Tribune will join me and my legislative colleagues in seeing how Utah can use Gov. Bush's example to recreate the Florida miracle. Utah's children deserve no less.

Your Taxpayers Association will be strongly supporting the Niederhauser/Hughes bill for letter grading of Utah schools. I am confident that Utah's public school system will experience the same kind of student performance increase Florida's public education system made. Transparency will motivate parents, students, teachers, and administrators to forego the excuses and produce results.

Save Our Secret Ballot: Protect Your Right To A Secret Ballot

Campaigns are well under way across the state, and many candidates are focusing on the need to rein in spending and lower the nation's debt. One key issue Utah taxpayers must consider is "Amendment A," or the "Save Our Secret Ballot" Amendment (SOS Ballot). If approved by a majority of Utah voters this fall, SOS Ballot inserts a guarantee into the Utah constitution that every election, even for employee or individual representation, be by secret ballot.

Why Utah needs Amendment A

As President Obama took office, he and his congressional allies promised national labor unions that they would pass the "Employee Free Choice Act" or EFCA. Under EFCA, unions could veto employees' right to a secret ballot, and instead require that each employee's vote in unionization elections be public. If each employee must cast their vote in public, union leaders can identify which employees aren't supporting the union position, and may need persuading.

Most Utahns and most Americans assume that secret ballots are a basic constitutional right, but union leaders prefer avoiding secret ballots in unionization elections. In fact, Teamsters President James Hoffa asked, "Since when is the secret ballot a basic tenet of democracy?" (Teamsters press release 3/10/09)

The rise of the Tea Party movement and key changes in the Senate put passage of EFCA on hold in Congress. However, Congress will come back into session after the November elections. At that point, President Obama and EFCA's union supporters would have several opportunities to pass EFCA. For example, they could place EFCA into a "reconciliation" budget bill like they did in passing their healthcare initiative. As with President Obama's healthcare initiative, using a reconciliation budget bill would prevent opponents from filibustering the bill.

Prior to the election, that maneuver would be politically untenable. Afterwards, though, the calculus changes completely. Majority Leader Harry Reid (D-NV), and Senators Barbara Boxer (D-CA), Michael Bennet (D-CO), Russell Feingold (D-WI), Blanche Lincoln (D-AR), and Patty Murray (D-WA) will return to the lame-duck session, having either been narrowly re-elected, or narrowly defeated. If they've won, their union supporters will insist that they pass EFCA. If they lose, they'll join Senators Evan Bayh (D-IN), Charles Burriss (D-IL), Christopher Dodd (D-CT), Edward Kaufman (D-DE), and Arlen Specter (R/D-PA) as lame ducks who no longer care

what taxpayers think, and may be willing to pass EFCA.

Either circumstance gives congressional supporters another chance to pass EFCA. Some observers even wonder if this is why, for the first time in U.S. history, both the House and Senate have failed to pass a formal budget this year. With no formal budget passed, a lame-duck Congress could consider everything part of a "reconciliation" bill.

To protect Utah employees, in 2009 your Taxpayers Association worked with Representative Carl Wimmer to put Amendment A before the voters. The SOS Ballot modifies Utah's state constitution to include:

"All elections, including elections under state or federal law for public office, on an initiative or referendum, or to designate or authorize employee representation or individual representation, shall be by secret ballot." Voters in Arizona, South Carolina and South Dakota will consider similar SOS ballots.

Voting YES on Amendment A establishes a constitutional right to a secret ballot, so no one will feel intimidated to vote a certain way, whether that pressure comes from the union boss or the employee's boss. With a secret ballot, you're the boss.

Will SOS Ballot be legally challenged?

EFCA's union supporters will claim a federal law allowing unions to take away your right to a secret ballot trumps a state constitutional amendment. As SOS Ballot went through the legislative process, that was the constant cry of our opponents. However, EFCA only permits unions to take away your right to a secret ballot; it doesn't require them to do so. Under relevant constitutional precedents, state constitutions can forbid what federal law merely allows. After all, the federal government may not take the right to a secret ballot seriously, but Utahns prize that fundamental right.

In a time when the federal government sees no limits to its authority, protecting Utahns' right to a secret ballot is a fight worth having. In fact, Utah's Attorney General Mark Shurtleff, who serves on the Save Our Secret Ballot Advisory Board, has already said, "Given the fundamental importance of individuals right to a secret ballot, I would welcome the opportunity to stand in (its) defense."

By voting YES on Amendment A, Utah has an opportunity to protect itself and to tell Teamsters President James Hoffa that he's dead wrong - the secret ballot is a basic tenet of our democratic-republic and deserves constitutional protection.

Can Privatization Help Utah Balance the Budget?

As the economy has slowed, state governments across the country have looked for the most efficient ways to provide necessary government services. Louisiana Governor Bobby Jindal, Virginia Governor Bob McDonnell and many other elected officials have followed the recommendations of your Taxpayers Association, and are looking at how privatization fits into those plans.

Here in Utah, the Privatization Policy Board (PPB) is leading the discussion of how to use privatization to make public dollars go further. Following passage of HB 75 in 2008, the PPB began systematically evaluating each state agency's activities,

and is determining whether those activities are "commercial" or "inherently governmental."

During the first pass of each agency's activities, several items stood out as ripe for additional study, including the management of state parks and retail distribution of liquor and wine. In both cases, private entrepreneurs in Utah have expressed interest in providing these services.

Privatizing the management of Utah state parks

Private management of public parks is hardly a new concept. For 20+ years, the U.S. Forest Service and the Bureau of Land Management have relied on private companies to manage

campsites, federal parks, and many other federal lands. Three Utah companies, American Land and Leisure, Scenic Canyons, and Aud & Di Campground Services, manage most federal campgrounds in Utah; they also have contracts to manage many other sites within the federal system.

Unfortunately, Utah and many other states have not recognized the opportunity to save millions of dollars by having a private company manage state parks. During the 2010 legislative session, Senator Steve Urquhart suggested the Legislature evaluate that possibility, so the Legislative Auditor General is now studying the issue.



In Arizona, Recreation Resource Management (RRM) brought a privatization option to the Legislature. Under this proposal, Arizona would retain operations of their most profitable parks, but

would bundle for private management a few parks that sometimes require a subsidy with other parks that regularly require state subsidies.

With this bundled program, RRM would maintain the parks to the standards set by the state, and would pay the state a portion of the user fees paid by visitors to the state park. Arizona would not only avoid having to subsidize those parks' operations, but would also receive a revenue stream to help balance their budget.

Arizona's budget pressure is more severe than Utah's, so no proposals have advanced that far before Utah's Privatization Policy Board. However, preliminary PPB estimates suggest State Parks could save as much as \$20 million, if the right types of RFPs and contracts are let.

Privatizing the retail sales of liquor and wine

Alcohol sales in Utah are a politically sensitive topic. Utahns are rightly concerned about the potential health problems associated with higher alcohol consumption, so legislators are wary of significant changes to the state's liquor laws.

Nevertheless, private retail distribution of liquor and wine occurs in Utah. While the state owns and operates many liquor stores along the Wasatch Front, they also pay more than 100 private retailers to manage "package agencies," or privately run stores that retail liquor and wine.

Importantly, privatizing the retail (or wholesale) distribution does not mean the state gives up regulatory authority over alcohol sales. To the contrary, the state would continue to regulate the sale of liquor and wine, just as they regulate the sale of tobacco. The only difference is that the state would not be in the distribution and sales business.

Operators of Utah's package agencies retain approximately six percent of their gross sales to manage the store. Six percent is very low, but not unusual for similar organizations. Washington state generally pays operators of its contract stores 6.45 percent for sales above \$21,000. This November Washington state voters are considering two ballot propositions to privatize the retail and wholesale distribution of liquor. Each proposal sets different limits on who may distribute alcohol, but regulatory authority remains with the state.

The fiscal impact of privatizing liquor distribution

In January 2010, Washington State Auditor Brian Sonntag

published a study evaluating the potential savings and costs associated with privatizing the retail and/or wholesale distribution of liquor. Sonntag projected state revenues from liquor sales between 2012 and 2016 as a baseline, and then evaluated the fiscal impact of five privatization alternatives against that baseline.

In Sonntag's analysis, Washington state stands to gain up to \$244 million more if they privatize retail sales and increase the number of retail outlets from 315 to 372. Under the least attractive option, Washington could lose \$47 million in revenue if they simply converted state-owned liquor stores to contract stores.

The health impact of privatizing liquor distribution

As noted above, health concerns are at least as important to alcohol discussions as fiscal concerns. A comprehensive new study by George Mason University economist Don Boudreaux compares the alcohol-related health statistics in the 32 license states with those in the 18 control states. Utah is a control state that monopolizes the distribution and sale of liquor and wine, while license states have privatized some portion of the sale and distribution of liquor and wine.

Using data from the Center for Disease Control's Alcohol Related Disease Impact software, the National Survey on Drug

Table 1: Alcohol Related Health Statistics, Control vs. License States

	Control States	License States	Statistically Significant?
Alcohol related deaths per 100,000 persons	33.79	34.64	No
Binge drinking among 12-17 year olds	9.95%	10.17%	No
Binge drinking among 18-25 year olds	42.77%	44.02%	No
Drunk driving fatalities per 100 driving fatalities	31.06	31.85	No

Source: Impaired Judgment: The Failure of Control States to Reduce Alcohol-Related Problems, Virginia Institute for Public Policy

Use and Health, and the National Traffic Safety Administration, Boudreaux compares the number of alcohol related deaths per 100,000 persons, binge drinking among teenagers, binge drinking about young adults and drunk driving fatalities in control and license states.

Along each of these standard measures, Boudreaux could not identify a statistically-significant difference between control and license states. "Statistically-significant" is a key modifier. It means that using standard scientific confidence measurements, the apparent differences were not large enough to simply rule out random chance as the explanation. He concludes, "alcohol-related problems are unrelated to whether or not a state government prevents private, competitive businesses from selling spirits to the general public."

Data on the privatization of public services indicates that the private sector is capable of providing excellent service and value to taxpayers without sacrificing safety or operational standards. The Privatization Policy Board needs to continue evaluating the most efficient ways to provide government services. Your Taxpayers Association is working closely with them to accomplish just that.

Corroon Proposes Sales Tax Increase

Campaign seasons resurrect the worst economic policies around, and this year is no exception. Salt Lake County Mayor Peter Corroon, the Democrat candidate for Governor, is proposing tax policies that would chase economic



**Salt Lake County
Mayor Peter Corroon**

development out of Utah, and into other states or countries.

Over the past two decades your Taxpayers Association has led the charge in eliminating sales taxes on business inputs. Taxing business inputs dampens business investment. It also results in double taxation, since the sales tax on the final product is also applied to the sales tax cost in the business input.

Unfortunately, we have not been able to completely eliminate sales taxes on all business inputs.

Instead, we have eliminated these taxes piecemeal. Last year the Legislature eliminated the sales tax for business inputs for web search portals. Previously, the Legislature eliminated sales taxes on mining equipment. Before that they eliminated sales taxes for manufacturing equipment.

The elimination of these sales taxes on business inputs has helped make Utah a destination for companies fleeing states like California. In just the past few months, Utah's business-friendly tax climate has lured Oracle, Ebay, Electronic Arts, Twitter and Adobe to expand in Utah. These investments have

brought well-paying jobs and higher assessed valuation, both of which help improve Utah's public schools.

As part of his recently announced education plan for Utah, Mayor Peter Corroon lamented this trend away from taxing business inputs. He looks at this important tax policy through a rearview lens. In his view, Utah hasn't been making progress towards removing sales tax from all business inputs; rather, since 1981 the Legislature has "increased" the number of "sales tax exemptions" from 11 to 81. As he sees it, this multiplication of "sales tax exemptions" has sapped the state's ability to pay for public and higher education.

His solution is equally backwards. Instead of aggressively pursuing further economic development by further eliminating sales taxes on business inputs, he believes "sales tax exemptions should be subject to review and re-approval every five years."

That degree of economic uncertainty is guaranteed to scare would-be investors away from Utah. Rather than risking their investment in a state that could soon be taxing their business inputs, investors will look to build in states that may have no income tax, or a lower sales tax, etc. With capital markets fluid internationally and domestically, Utah is also competing with emerging nations with much lower labor costs. To remain economically competitive, the state simply cannot afford to erect impediments to investment and entrepreneurship.

The elimination of these sales taxes on business inputs has helped make Utah a destination for companies fleeing states like California.

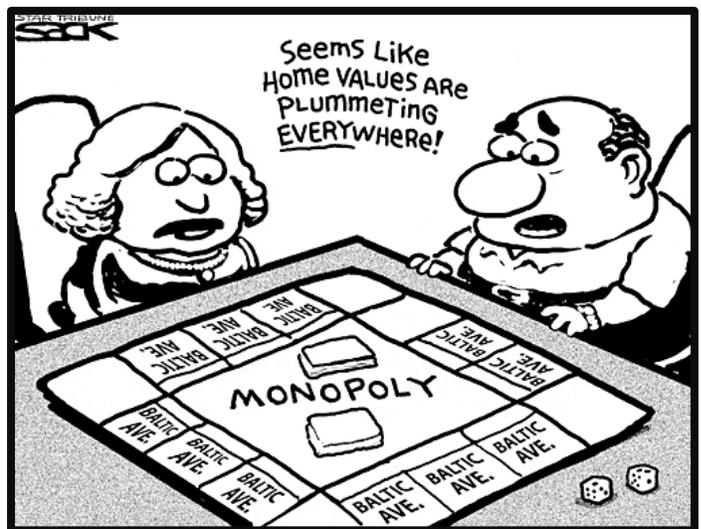
Truth In Taxation Hearings: Government Pushing Their Pain On Taxpayers

Throughout August, your Taxpayers Association reviewed proposed property tax increases by local governments and school districts. In each case, the Taxpayers Association encouraged elected officials to forgo tax increases. It is inappropriate for cities, counties and school districts to push the pain of their budget constraints onto taxpayers.

Despite public outcry for more cuts and fewer tax hikes, over thirty local government entities proposed property tax hikes and held public Truth In Taxation hearings. Through careful analysis of these local government budgets, proposals and state tax policy, your Taxpayer Association saved taxpayers million of dollars in tax hikes.

Davis County School District proposed a property tax increase to fill an \$8 million budget gap. Having lost two percent of their budget over the last two years, Davis County School Board refused to further "tighten their belts" and insisted that taxpayers should make up for their lost revenue. The school district proposed to increase property taxes through four rate increases, including their board and voted leeway rates in order to receive matching state funds. However, your Taxpayers Association investigated the claims of Davis County School District to discover that not only were their revenue losses mild in comparison to other school districts, but that their board and voted leeways did not need to be increased

until 2012 in order to receive matching state funds. As a result, Davis County School District withdrew part of their tax hike proposal, saving taxpayers millions of dollars. Despite this reduction to the tax hike, your Taxpayers Association joined over 150 Davis County residents at the Truth In Taxation



hearing in strong opposition to the increase.

Midvale City proposed a \$512,524 property tax increase to make up for their \$661,238 decrease in revenue from FY 2010 to FY 2011. Midvale claimed to have exhausted all other options by reducing its total workforce and eliminating merit and cost of living increases. However, Midvale must pay UTOPIA

Despite public outcry for more cuts and fewer tax hikes, over thirty local government entities proposed property tax hikes and held public Truth In Taxation hearings.

\$336,000 in FY 2011 to replenish sales tax pledges. Over 65 percent of Midvale's tax increase is to pay for UTOPIA and the sales tax pledges UTOPIA promised to never call upon. Your Taxpayers Association strongly

opposed the tax increase. Despite adamant objections, Midvale City Council passed the tax increase.

Helper City held a Truth In Taxation hearing to propose their 86 percent tax hike, the largest in Utah this year. Helper City Council needed to fill the \$150,000 budget gap caused by the

slowing economy. A standing room only crowd questioned the need for such a dramatic increase.

Helper Mayor Dean Armstrong explained that Helper City is in a strong position to receive matching emergency funds for infrastructure repairs, but a tax increase was necessary to meet the federal government's threshold. The City Council also insisted that funds needed to be generated to begin planning for capital projects. "Shovel ready" projects would have a greater chance of qualifying for federal stimulus money.

Helper City Council eventually agreed to raise property taxes by 65 percent instead of the full 86 percent, still the largest percentage increase in the state.

Every local government in Utah has experienced decreased revenue as a result of the economic downturn. In the same way, every resident and business in Utah has experienced decreased income. The only difference is the ability of government to push their pain onto taxpayers through tax hikes. During tough economic times when businesses and taxpayers are cutting their budgets, governments should be doing the same.