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THE UTAH TAXPAYER

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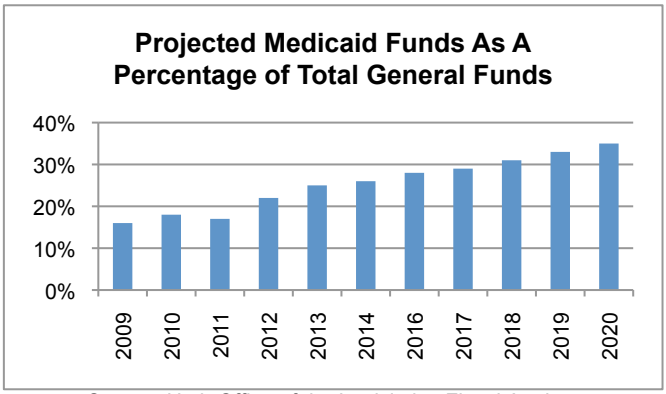
Medicaid Reform: Now or Never

During the 2010 session, Utah's State Legislature cut spending and used portions of the rainy day fund to balance the budget. However, legislators had no choice, but to fund the state's $540 million Medicaid contributions. Utah's annual Medicaid spending consumes over 25 percent of General Funds and continues to grow at three times the rate of the state budget. Utah's Medicaid expenses are on an unsustainable trajectory.

State Senator Dan Liljenquist, (R-Bountiful) explains, "The path we are on is unsustainable. Healthcare spending in general has all the characteristics of a classic bubble, and it is time to reform Medicaid."

Medicaid is a federally and state funded program to provide healthcare for the needy, but expansions in services have increased enrollment and costs. From FY 2009- FY 2011 increasing Medicaid costs were partially offset by match rates and direct federal funding provided in the American Recovery and Reinvestment Act, i.e. the federal stimulus bill. However, starting in FY 2012, stimulus money will no longer be available and must be supplanted by state General Funds.



Source: Utah Office of the Legislative Fiscal Analyst

Senator Liljenquist explains that Medicaid is no longer a safety net; it's a destination. "We are doing more elective procedures, we are doing more prescriptions, which in Medicaid we don't require co-pays, and its very inexpensive so the incentive is to sometimes over-utilize."

In addition, federal health care reform will alter the Medicaid cost structure

Taxpayers Association Is Moving

Your Utah Taxpayers Association will be moving to a new office at the end of December. Please update your records to reflect our new address. Our new mailing address is effective immediately. Our phone and fax numbers will remain the same.

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beginning in FY 2014. Utah's Legislative Fiscal Analyst estimates that by FY 2020, Medicaid - including the cost of federal health care reform - will make-up 42 percent of state General Fund spending. If all those earning below 133 percent of the federal poverty level were to switch from private insurers to Medicaid, Medicaid's proportion of total GF in FY 2020 would be 45 percent.

Your Taxpayers Association strongly supports Medicaid proposals to reform this broken, expanding system, including changes to how doctors are paid, how Medicaid doctors are chosen, and standards of care.

Medicaid reform will be critical to balancing future budgets since Medicaid and education spending are the two largest expenditures for Utah. Without reform, Medicaid's ballooning costs will eventually be forced to draw money from education spending.

State Senator Dan Liljenquist

Association President Howard Stephenson

Congressional Lame Ducks- Don't Be Lame

Extend the Bush Tax Cuts

After two years of unmet expectations, real change is finally coming to Washington, DC. In January a new congress will be sworn in, arriving on a wave of voter discontent with oversized government, crippling taxes, soaring deficits, and a stagnant economy.

On the heels of this true "change election," the Deficit Commission has begun to release its work. No doubt those who served did so with the best of intentions, but as with other huge, intractable problems, there are few easy answers.

If we put these elements into the context of a lame duck session with Senator Harry Reid (D-NV) and Rep. Nancy Pelosi (D-CA) still at the helm, we see the opportunity for additional mischief.

It appears that a compromise will yet emerge on the Bush-era tax cuts, but it also seems the outgoing leadership may insist on a last ditch push for policies that will delay economic recovery and job creation even longer. Even in defeat they turn a deaf ear to the cries of the voters (in the name of taxing the rich).

The peril of the Deficit Commission is that job-killing policies will be advertised as reasonable for the sake of deficit reduction. The Utah Taxpayers Association will stick to its core beliefs that government deficits at whatever level always come from overspending -- not under-taxing. We call upon Utah's delegation to remain clear that economic recession is no time to take the middle road of so-called "reasonable" tax hikes coupled with nominal spending cuts.

A great example is the attempt by the soon-to-be minority in Congress to raise taxes on oil and gas production. These attempts come either to "pay for" various programs or as attempts to placate environmentalists. Cap and trade appears dead, but Utah is still in the fight to thwart the Obama EPA's intention to impose by executive order what even a Democrat-controlled Congress would not.

Various other efforts include measures to tax oil and gas producers by repealing Section 199. Section 199 was passed during the Reagan years, and allowed U.S. producers to compete with state-owned and subsidized foreign producers by reducing their U.S. tax rate from 35 percent to 32 percent.

The administration also seeks to eliminate so-called "dual capacity" tax credits. This provision allows corporations to offset their U.S. income tax against foreign income taxes already paid in countries where they do business. Apparently the Obama administration considers relief from "double-taxation" – which states do as a matter of course – a "loophole."

A new study by Louisiana State University economist Joseph R. Mason finds the combined effect of repealing Section 199 and dual capacity provisions would eliminate 154,000 jobs nationally in the next two years, with over 1,400 of them here in Utah, and thousands more in years to come throughout the economy. That translates to $68 billion in lost wages over the next decade on top of more than $341 billion in lost economic output nationwide.

The world's appetite for affordable oil, gas and coal will increase rapidly in the near future as we witness greater industrialization globally. Under the cover of closing loopholes for oil and gas producers, the Obama administration seeks to further hike the cost of energy for domestic markets. Closing the "loopholes" will also close "doors" to further energy development here in Utah.

Utah has tremendous potential reserves of gas, coal and tar sands. Granted, not all are economically feasible at this time, but there is still plenty of need for investment and exploration. Shutting off investment by imposing new tax burdens on oil and gas is hardly in tune with the message of November 2010.

Property Taxes Are Utah's Most Taxpayer Friendly Tax

Property taxes are the most hated tax, while sales taxes are barely noticed. There is a rich irony in those preferences, since the average Utahn pays more in sales tax than they do in property tax. Because property taxes are eminently transparent, everyone knows to the penny how much they pay. Sales taxes are the least transparent, so almost no one knows how much they pay.

The Transparency of Property Taxes

Each year every property owner receive two notices describing how much property tax they owe. In June, the first notice indicates how their property's assessed valuation has changed, which taxing entities plan to hike property taxes, and by how much. For each tax hiking entity, that notice also lists when and where the taxing entity will listen to public comment

about the proposed tax hike, a meeting more commonly known as a "Truth in Taxation" (TnT) hearing. In October, taxpayers receive a second notice, their annual property tax bill.

Almost inevitably, TnT hearings are difficult for elected officials. They have an opportunity to explain why they want to raise taxes, but irate property owners are typically very willing to express their displeasure with the tax. Meetings with dozens or scores of upset taxpayers are common; this decade has seen two TnT meetings, in Davis County (2003) and Jordan School District (2008), where literally thousands of property owners expressed their anger at large tax increases.

This TnT process is designed to be transparent. Taxpayers know exactly who is raising taxes, by how much, and they have a very specific opportunity to express their frustration. TnT is the reason that Utah's property tax is the only major tax imposed by Utah that is less than the national average.

The Impenetrable Sales Tax

Sales taxes work in almost exactly the opposite fashion. The state imposes a uniform sales tax of 4.7 percent, but every city, county and transportation district imposes a wide variety of other sales taxes. Taxpayers have no idea who has imposed how much of that tax. By design, it is nearly impossible to penetrate.

The Utah State Tax Commission publishes a quarterly update of the sales taxes imposed by every county and every city. Instead of an annual update like property taxes, sales taxes change QUARTERLY. Moreover, the sales receipt gives no indication of who imposes what portion of the sales tax.

To complicate matters even further, sales taxes apply to some purchases, but not others. For example, purchases of automotive services are subject to sales tax, but purchases of legal services are not. Purchases of goods from an online retailer located outside of Utah are subject to use tax, but not sales tax. Purchases of installed carpet are subject to sales tax on the installation costs, but purchases of carpet that taxpayers install themselves are subject to sales tax on the retail carpet cost.

Confused by Utah's sales tax? If not, you're doing better than most. The sales tax is Utah's least transparent tax, which is why elected officials like it. Taxpayers don't know who imposed it; they don't know how much they pay; so taxpayers have a tough time knowing whom they can hold accountable. Unfortunately, those are the very same reasons elected officials prefer to impose sales taxes instead of property taxes.

Transparency Lets Taxpayers Hold Elected Officials Accountable

When taxpayers recognize how taxpayers and elected officials view property and sales taxes, they can see why elected officials find this exchange so tempting. Exchanging what is publicly unpopular (the transparent property tax) for what is publicly popular (the impenetrable sales tax) has obvious political advantages.

However, the more transparent our tax system, the better it is. And although they would have to go through TnT, many taxing entities would likely reimpose the property taxes a couple years later. The politically popular and well-meaning tax swap would result in higher taxes and less transparency.

As your Taxpayers Association approaches the 2011 Legislative Session, we will be watching for the inevitable attempts to swap out property and sales taxes. And to make sure your taxes remain low and transparent, we will oppose those attempts.

Eliminate Salt Lake County's Police Fee

Despite economic downturn; Salt Lake County budget remains bloated

Your Taxpayers Association helps every county adopt fiscally prudent, efficient budgets. We distribute a budget questionnaire to identify key budget changes, and evaluate each county's budget. As the accompanying table indicates, only five taxing entities that budget on a calendar year are raising taxes.

As often as we can, we meet with county representatives to hear specifics on their proposed budgets. This year, we met with representatives from both Cache County and Salt Lake County. Because the Taxpayers Association is so concerned with Salt Lake County's "Unified Police Fee," we spent a great deal of time combing through Salt Lake County's budget.

Planning, Police and SL County's Municipal Services Fund

Salt Lake County's budget differs from other county budgets, because Salt Lake County has a great deal of development in unincorporated parts of the county. The Taxpayers Association remains concerned at Salt Lake County's choice to offer so many municipal services.

The state has counties and cities for different reasons. Residents in unincorporated portions of a county should expect that they will receive fewer services than if they lived in an incorporated city. In many ways, Salt Lake County's municipal services fund blurs that line between county and city.

Notably, the discussion in the budget of Planning and Development Services emphasizes that the department is focused on "future development," particularly along the west bench. That paints the police fee in a very different light. It suggests that the police fee allows the county to spend more of its municipal services fund on planning new developments in unincorporated Salt Lake County.

Within the municipal services fund, police and planning services are fungible. Police service, however, is much easier to sell to the public than planning services. Hence, the County Council asks the public to accept the police fee, instead of a planning fee, or a property tax increase.

Economic development is one key reason that the Taxpayers Association has consistently and vehemently fought proposals authorizing counties to impose utility franchise taxes. Without oases where large energy consumers can afford to locate, Utah generally, and individual counties specifically, become economically uncompetitive.

Salt Lake County Competes with the Private Sector

A second concern the Taxpayers Association has with Salt Lake County's budget centers on the decisions the county has made in what services they provide in house, and what services they provide through private contractors.

Printing

It's hard for the Taxpayers Association to understand why Salt Lake County needs it's own printing division. Under the leadership of Senator Brent Goodfellow, the state's Privatization Policy Board recommended that the state contract with a private company for their print services. The state got out of that business, and can now use the resources that previously

went to their inhouse printing to meet more pressing needs.

ArtTix

It's also hard to understand why the county needs to run ArtTix. Apparently Salt Lake County feels that the consumer surcharge of $10 per ticket through SmithTix is too high. Through ArtTix, that surcharge is only $3.

That argument doesn't resonate very well, given that Salt Lake County spends about $3.5 million per year subsidizing this program, while operating revenue only generates $2.5 million per year. In other words, taxpayers are providing a substantial portion of that $7/ticket difference between what consumers pay SmithsTix, and what they pay ArtTix.

Why should taxpayers subsidize buying tickets to the theater or the opera, when people buying tickets to Jazz games, concerts at Usana, etc. don't get a subsidy? The reality is, Salt Lake County shouldn't be providing a subsidy to either group.

Golf and Fitness Centers

Salt Lake County, like every other public entity, needs to get out of the golf business. Companies like Billy Casper Golf, for example, are more than willing and able to manage public golf courses. Moreover, they are willing to pay the county for that privilege. Salt Lake County needs to do that not just for the South Mountain golf course, but for ALL of its golf courses. Taxpayers should not subsidize rounds of golf.

Similarly, the Taxpayers Association opposes publicly-funded recreation/fitness centers. The private sector is more than willing to risk their capital on those projects, where they perceive sufficient demand.

When the private sector measures demand, they include a measure for what people are willing to pay. By contrast, public recreation centers are premised on having taxpayers who never have and never will use those facilities artificially lower the cost for those who do use it. There is simply no valid justification for the county to compete with the private sector this way.

Your Taxpayers Association has expressed these and other concerns about their budget to Salt Lake County. We are hopeful that the new County Council will work with us to implement these suggestions. Doing so will allow them to eliminate the police fee, and better protect taxpayers in SL County.

Is Your Local Government Raising Taxes?

The Utah Taxpayers Association annually reviews the proposed budgets of Utah's local governments. Seventeen of twenty-nine counties have so far responded to our inquiries. Of those responders, most local governments are balancing their budgets without tax increases, however some are proposing a tax increase and have scheduled a Truth In Taxation (TnT) hearing. Visit www.utahtaxpayers.org to view the continually updated list of hearing dates and times.

Entity	Truth In Taxation Hearing Date/Time	Average Home Value	Current Tax on Average Home	Proposed Tax On Average Home	Change	% Increase
Grand County	7-Dec, 7:00 PM	$200,000	$319.55	$332.66	$13.11	3.90%
Summit County Wildland Fire District						
North Tooele Fire	14-Dec, 6:30 PM	$250,000	$80.30	$95.98	$15.68	16.30%
Castle Valley Service District	21-Dec, 6:00 PM	$100,000	$139.64	$141.93	$2.29	1.6%
Oquirrh Rec and Park District						

TRC Proposes Legislation Clarifying Residency For Tax Purposes

Currently a great deal of litigation exists over the issue of domicile for income tax purposes. The proposed legislation is taxpayer friendly insomuch as it creates a much clearer path to establish domicile or to end domicile in Utah for income tax purposes and establishes a safe harbor for those out of the state on temporary assignment.

The following are the key points of the domicile bill. The bill attempts to create more of a bright line test than exists under current law. In the bill there are three strata of tests.

Strata 1: Bright line test – An individual is considered to have domicile if a taxpayer claims as a dependent a student who is in public schools, kindergarten through 12th grade in Utah, or if the taxpayer or the taxpayers spouse is enrolled in an institution of higher education and is paying resident tuition.

Strata 2: A rebuttable presumption of domicile exists if the taxpayer or the spouse takes advantage of the residential exemption under the property tax rules; the individual or the individuals spouse is registered to vote in Utah; or the individual or the individual's spouse asserts domicile in Utah for purposes of filing a state individual income tax return.

Strata 3: Applies if the first two strata are not determinative or if a taxpayer wishes to rebut the second strata presumption. The factors in the statute are an updated version of the current Tax Commission rule. Decisions are to be made based on a preponderance of the evidence using the factors in strata 3.

Additionally, a safe harbor is created wherein the state will not tax individuals who have left the state for a period of 730 days if neither the taxpayer nor the spouse is in the state for more than 30 days per year during that 730 day period. There are additional requirements to meet the exemption. If for any reason the taxpayer fails the safe harbor test during the 730 day period, and a return is filed within 105 days of the failure and tax and interest is paid by the same date, there is a provision for the abatement of certain penalties. A taxpayer may elect to remain a resident for tax purposes during the 730 day period by merely filing a Utah resident return.

When terminating domicile an individual is required to file a form with the county advising them that they no longer qualify for the residential property tax exemption.

The bill also modifies the definition of pass through entity by adding the pass through portion of trust income.

Why the Taxpayers Association is Suing Over The Restaurant Tax: The Story the Standard Examiner Failed to Tell

No one would ever trust the Taxpayers Association, if our editorials were as unsubstantiated as the Standard Examiner's editorial on our restaurant tax lawsuit. Since they didn't get the facts, I'm obliged to provide them.

The Utah Taxpayers Association's lawsuit over the restaurant tax claims that the tax unconstitutionally discriminates against restaurants. As written and applied, the restaurant tax taxes food purchased at restaurants, while exempting purchases of the same or similar food from retail establishments (such as Maverik or 7-11).

Unsurprisingly, policy makers and the media have peppered us with questions about our lawsuit. Inevitably, they want to know what our goal in filing this suit is. The Taxpayers Association's responses to questions from the Salt Lake Tribune and the Deseret News, and our November 2010 newsletter (available for free at www.utahtaxpayers.org) explained our position. The Standard Examiner's editorial board did NOT speak to us prior to publishing their editorial.

As an Association, we have consistently opposed the way counties have used the restaurant tax to avoid soliciting voter approval for capital projects. Nevertheless, many counties have bonded against the revenues provided by the restaurant tax, so any resolution to our lawsuit must protect those bondholders.

The question is how to equitably and constitutionally generate the revenue to hold those bondholders harmless. Targeting part of an industry for a very high tax, while exempting competitors in that same industry, is neither constitutional nor equitable.

Working with the courts, or with the counties and the Legislature, the Taxpayers Association is very confident in our ability to solve this problem. For example, last year the Taxpayers Association supported Rep. Craig Frank's HB 48. Under this proposal, the one percent tax on food purchased at restaurants (but not retail establishments) would have been replaced by a .10 percent tax on all taxable goods.

This rate and base combination was specifically chosen to preserve the same amount of revenue as the counties were receiving from the restaurant tax. It also reflects the sound tax policy Utah has long pursued of imposing a low rate on the broadest possible base.

Unfortunately, the counties rejected this proposal; they weren't comfortable with how the revenue would be divided between the counties. Frankly, the Taxpayers Association doesn't care how that revenue is divided. If the counties and the Legislature will agree to generate this revenue equitably and constitutionally by imposing a low rate over a broad base, we are happy to let the counties decide how to distribute that revenue.

The most disturbing element of the Standard Examiner's editorial is that they failed to verify even the most basic facts. Such low journalistic standards are inexcusable. Since their editorial position about our lawsuit is not supported by any relevant facts, the Standard Examiner must recant their editorial.

* This editorial appeared in the Standard Examiner on Sunday, December 5, 2010

Grading Public Schools: Developing Actual Accountability

Legislators in Utah plan to run a bill that will bring accountability and transparency to our public schools in a way never before seen in our state. The bill - grading our public schools with a letter grade of A-F. The purpose - to shine a bright light on whether or not our children are learning. The performance of a school is, after all, little more than the sum of the performance of its students. Legislators feel it's high time that parents, community leaders and stakeholders have a clear measurement of whether or not we are preparing our students to succeed. They want outcomes to be made transparent. Once we have that information we become empowered and collectively we can identify problems and find solutions.

Funny thing, after initially expressing a very vocal opposition and distaste for enacting such an accountability measure, the State Superintendent of Public Instruction, Larry Shumway and the State Board of Education are now considering enacting their own school grading rule in hyper speed fashion to try to circumvent and hopefully prevent a bill from being passed in the upcoming legislative session. Why? In the words of the Superintendent, "Most of us, if we were kings of the world, probably would not be grading schools. But given the environment, and especially after last Tuesday night (referring to the outcome of the elections), it's probably something that's coming anyway. That's my own estimation of the politics of it." He went on to say, "I would just as soon see you all involved in making the rule rather than less connected people further from the schools than you are." In agreement with the Superintendent, State Board member Dave Thomas stated, "We are creating the stick and giving it to them. The question is, we get to pick the size of the stick, how thick it is, that they are hitting us with. So I think it's better to get out in front of this."

How does their rule compare to the intent of the legislature? Well, pay no attention to the man behind the curtain, but to the naked eye the State Board's proposed rule appears to measure things. Unfortunately, it's not the right things. It's not focused on measuring student outcomes, but rather outlying peripheral inputs such as attendance, safe schools, parental satisfaction surveys, instructional quality etc. If they want to measure those factors as a Board, then great. But that has nothing to do with the intent of the Legislature when it comes to grading schools.

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The intent of the legislation is to report student gains so that we can then come together as a community of parents, educators, and community leaders and figure out where we've gone wrong with the inputs. If we simply want to know what we all have a right to know, whether or not our kids are actually gaining sufficient subject mastery and are successfully passing the required core academic subjects, what you will find instead with the Board's proposed rule are measurements on what appear to be status quo mantra - a new rule repackaged with new ribbon in the same old box. They do throw in academic performance in the context that they already report it but state no description on what outcomes they are seeking.

This is where there is a clear difference between what they are proposing and what the intent of the proposed legislation is. What is missing is a laser focus on individual and collective value-added student gains along with a defined metric on measuring that. This is how schools will be graded. It's important for us to know whether or not our students are progressing year to year at a rate that will allow them to reach their full potential. When we know that, we can then identify the causes and contributing factors. We fear the State Superintendent and Board are missing the point, whether intentional or not.

Public education needs to be transparent about how the students they have been given the charge to teach are performing and then once we have that information, we can assess the contributing factors and come together to address them with solutions. That is the premise behind grading our schools with a letter grade of A-F - simple, transparent, and easy to understand.

John Ward Named Chair of Utah Taxpayers Association Board of Directors

The Association Board of Directors elected John Ward as Chair of the Utah Taxpayers Association Board of Directors to replace Jack Towsley from MountainStar Healthcare on September 17, 2010. Mr. Towsley resigned due to a transfer to Nashville, Tennessee.

At the annual membership meeting held on November 19, 2010 the Executive Committee was elected along with three new board members to replace Keith Prescott, Greg Fredde and John D'Arcy who retired from the Board of Directors. They were replaced by Gary Nielsen from Gold's Gym, Kent Stanger from Merit Medical and Alan Peterson from Zions Bank.

Chair
John Ward
Harmons

Vice-Chair
Jim Hewlett
Intermountain Power

Secretary
Morris Jackson
Questar

Immediate Past Chair
Margo Provost
Log Haven

The new Executive Committee members are John Ward (Chair), Jim Hewlett (Vice-Chair), Morris Jackson (Secretary), Kathryn Hymas (Treasurer), Margo Provost (Immediate Past Chair), Stan Lockhart (Legislative Chair), Val Hafen (At Large) and Max Miller (At large).