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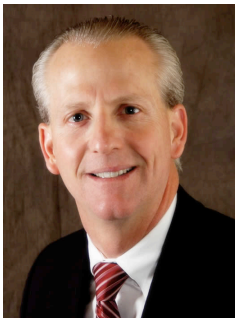
THE UTAH TAXPAYER

A PUBLICATION OF THE UTAH TAXPAYERS ASSOCIATION

Utah's 59th Legislative Session Begins

Utah's 59th legislative session convened last week and your Taxpayers Association has been hard at work, continuing its efforts to hold government agencies accountable, prevent tax hikes and further support programs with high return on investment (ROI) for taxpayer dollars. In just the first two weeks, your Taxpayers Association is tracking over fifty pieces of legislation. In order to view our most updated legislative watch list, visit www.utahtaxpayers.org.



Senator Wayne Niederhauser
Senate Majority Whip

One of our top priorities is improving the accountability process for new state programs, agencies and appropriations. Senator Wayne Niederhauser proposed Senate Joint Resolution 5 (SJR5) to require performance notes on new appropriations, programs and agencies. Performance notes would outline the objectives and goals of any new organization to evaluate the success of the program in the years following its creation.

This information would allow the legislature to proactively make funding determinations for new programs that have not met their pre-determined expectations. Your Taxpayers Association strongly supports SJR5.

Senator Niederhauser is also working to clarify Utah's domicile rules for income tax purposes through a three-tiered, brightline system. Senate Bill 21 (SB21) outlines that an individual is considered to have domicile in Utah if the taxpayer claims as a dependent a student who is in Utah K-12 public schools or if the taxpayer or the taxpayer's spouse is enrolled in and paying resident tuition at an institution of higher education in Utah. Other rebuttable presumptions are included in the second and third tiers of SB21 to help further clarify domicile. Your Taxpayers Association supports SB21.

Representative Wayne Harper
Rules Committee Chair

Representative Wayne Harper is working to put an end to the Salt Lake County police fee. Since it's inception, your Taxpayers Association has fiercely opposed the fee. By imposing a police fee on unincorporated areas of Salt Lake County, the County Council avoided the transparency of the Truth In Taxation process. Representative Harper's House Bill 226 (HB226) would eliminate the authority of counties to sidestep Truth In Taxation

Senator Steve Urquhart
Senate Co-Chair of the Higher Ed Appropriations Subcommittee.

FEBRUARY
VOLUME 51

and impose an emergency service fee on service areas created by the county. Your Taxpayers Association will continue working with Representative Harper to pass HB226.

As reported in previous editions of The Utah Taxpayer, Senator Steve Urquhart is proposing Senate Bill 97 (SB97) to match higher education funding to market demand and career focused degrees and certifications. Senator Urquhart explains, "Most Utah college students spend time and spend lots of money (theirs, their parents', and taxpayers') on Utah's public institutions, only to eventually drift away without a degree. Without a degree, the investment was wasted."

Senator Urquhart proposes increasing funding for alternative degree and certification programs, including technical institutes and community college programs that allow students to garner marketable skills in a reasonable timeframe. Your Taxpayers Association strongly supports SB97.

The accompanying table shows some of the priority bills being monitored by your Taxpayers Association. This priority list will continue to grow throughout the legislation session. Be sure to visit www.utahtaxpayers.org in order to view the full Utah Taxpayers Association legislative watch list and stay updated on the legislature's progress. For additional information, join the Utah Taxpayers Association at its weekly legislative committee meetings on Thursdays at 7:00 am in the Kletting Room in the East Annex building of the Capitol.

Bill #	Title	Sponsor	Description	Position
SB 21	Tax Revisions	Niederhauser	Clarifies state domicile and residency rules for income tax purposes.	👍
SB 97	Higher Education Mission Based Funding	Urquhart	Matches higher education funding to market demand and career-focused degrees and certifications.	👍
SJR 5	Joint Rules Resolution on Fiscal Note Process	Niederhauser	Requires performance notes on new appropriations, programs and agencies.	👍
HB 72	Taxes and Related School Funding Provisions	Noel	Increases the sales tax on food with a property tax offset to equalize statewide education funding.	👎
HB 183	School District Leave Policies	Grover	Prevents union representatives from being paid with school district funds for union work.	👍
HB 226	Local Government Fee Authority	Harper	Eliminates the authority to impose an emergency services fee, beginning January 1, 2012.	👍

Vice-President
Royce Van Tassell

Due to Howard Stephenson's service in the Legislature, February's My Corner article comes from Association Vice President Royce Van Tassell.

My Corner: Finding Consensus to Fix the Restaurant Tax

Sometimes, consensus is the best way to solve a problem. And in the case of your Taxpayers Association's efforts to fix the restaurant tax, I think we just might have consensus.

The Taxpayers Association has worked for years to fix the restaurant tax. As long time readers of the Utah Taxpayer will recall, the restaurant tax has two problems. First, it discriminates against the restaurant industry. Why should people who eat at restaurants pay this tax, while people who eat at convenience stores or grocery stores don't? Second, it applies a very high rate (a full one percent!) on a very narrow base (restaurant sales). Good tax policy demands the lowest possible rate applied to the broadest possible base.

Our legislative efforts to fix these problems have repeatedly been stymied, because none of our proposed solutions sufficiently addressed the concerns of the Utah Association of Counties. The Counties have outlined two requirements any legislative proposal on the restaurant tax must meet. First, the proposal must maintain the amount of funding the restaurant tax has provided. Second, the proposal has to create a distribution method that leaves the counties who impose the restaurant tax unharmed.

Addressing the Counties' first requirement isn't difficult. By estimating the amount of restaurant tax counties will collect in FY 2012, and the total taxable sales in FY 2012, it is relatively easy to set a tax rate for all taxable sales that will generate the same amount of "restaurant" tax. Our preliminary estimates suggest that a sales tax rate of .08 percent over all taxable sales (including food) will generate the approximately $34.1 million the current restaurant tax should create in FY 2012. Importantly, our proposal solution means the counties' "restaurant" tax revenue will continue to grow as the value of goods and services grows.

How the counties divide that $34.1 million matters little to us.

Or should I say, it used to matter little to us. During the 2010 General Session, it became clear that a solution to the restaurant tax problem requires the counties to be active participants in the negotiations. So this year we are addressing the distribution question as well.

As we have evaluated the distribution question, we revisited the current distribution method. That method is very straightforward: each county keeps the restaurant taxes collected in their county.

Needless to say, any change altering how much each county receives fails the Counties' second requirement. Initially, we toyed with measuring the average annual percentage of restaurant tax revenues that each county received. Calculating that percentage isn't difficult, so why not just assign those percentages in statute?

The problem with that method is that Millard and Piute counties don't impose the tax today, but may decide to later. Imposing a fixed set of percentages would mean those counties would get no revenue, even if they impose the tax. Clearly, that solution can't work.

As we further considered the issue, we realized that the Tax Commission can use the distribution method in place today, whether or not the current restaurant tax exists. Knowing how much restaurant sales occur in each county, the Tax Commission can use the same formula to distribute the $34.1 million to the counties.

First, the Tax Commission calculates what proportion of the total restaurant sales occur in each county. Second, they multiply each of those shares by $34.1 million in "restaurant" taxes collected statewide. That product must give each county the same amount of revenue as it would receive with the current distribution method.

As I said earlier, the .08 percent proposed tax and the $34.1 million in restaurant taxes are estimates. When the Legislative Fiscal Analyst and the State Tax Commission finalize their estimates, these numbers may change up or down a little bit. But those changed estimates won't change the way this proposal meets the concerns of the Counties and the Taxpayers Association.

As elegant and apparently workable as this solution appears, your Taxpayers Association still faces many hurdles in passing this proposal. Foremost among those hurdles is this: our proposal only works if the Legislature agrees to put the full sales tax back on food. That will be no small feat, but there is growing agreement that food should be taxed at the same rate as the rest of the sales tax base.

Taking food out of the regular sales tax base violated the good tax policy of a broad base and a low rate. It's time to fix that problem. And while we're at it, I think we can fix the restaurant tax too.

Stop Paying Union Reps With School Tax Dollars

Guest Commentary from Representative Keith Grover

They say the third time is the charm. In the case of House Bill 183, I hope that is true. Sadly, this bill based on accountability, fiscal responsibility, and principle should have passed easily the first time around. Unfortunately, the power and influence of the teachers' union too often triumphs over the best interests of our students.

Representative Keith Grover

No practice illustrates this better than what's called "district leave." This practice adopted and sanctioned by local school boards allows a district employee to be granted leave from the school district to work full-time for the teachers' union while still receiving half of their salary and benefits from the school district. What this actually means is that taxpayers are paying union salaries. No other union in Utah allows this practice. And for good reason! The interests of the union are in conflict with those of the taxpayer.

A legislative audit requested by the original bill sponsor revealed, "The association president represents the interests of teachers which, at times, conflict with the interests of the district." The report also found, "Districts are not fulfilling their statutory responsibilities to ensure that association leave has a direct benefit to the school district" (http://www.le.state.ut.us/audit/09_bilr.pdf).

The Salt Lake Tribune characterized it best in an editorial opinion they wrote in support of this bill the year it was introduced. "But what does it mean to 'directly benefit education'?" This was the question posed in their March 1, 2009, opinion article, *UEA Pay Deal*. Their answer summed it up well. "It has evolved to mean, in practice, that some districts continue to fork out hefty amounts to pay people who are no longer working strictly for the district. In fact, in union parlance, these UEA officials are being paid by the employer, the opponent in contract negotiations. It's like having one foot on the ground and the other on a moving train."

In 2009, then teacher's union president, Kim Campbell stated, "This bill would take away the voice of teacher associations" *(Deseret News Feb. 24, 2009)*. The union is a private organization whose sole responsibility is to represent the interests of dues paying members. It is not the responsibility of taxpayers to subsidize an organization that does not represent us or our children. It's not our responsibility to provide the union with a voice.

HB183 would prohibit granting paid association leave and require reimbursement to a school district, including the cost of benefits, for the time that the employee is on unpaid association leave. HB183 addresses fiscal responsibility. We cannot afford to divert money away from the classroom, especially in lean budget years. Districts must be held accountable to taxpayers to spend their budgets directly on the education of our children. Union salaries are not an appropriate expenditure.

It's time to put an end to this ethically questionable practice and place the best interests of the taxpayers and students of Utah ahead of the conflicting interests of the teachers' union by passing HB183.

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Privatizing Prisons: Same Service, Lower Cost

The idea of privatization within the Department of Corrections has been around for a long time. Utah has had enabling legislation for public/private partnerships in Corrections since the mid 1990's, and there have been some efforts to move services to the private sector. However, we are now at a critical time where it is becoming ever apparent that the key to success in this area is "partnership." This means bringing the best of the public and private together to meet the needs of the state.

In the past, the debate surrounding the use of private sector solutions within the Corrections arena has been centered on the ability of private providers to supply lower priced services, while responding more quickly to rising needs. Innovations in technology, staffing, economy of scale and other aspects of the private world have made for a new approach to this long-standing entrenched government service. The discussion must now shift slightly as we consider the current crisis facing every state in the country; the ever increasing cost of government. Employee salaries, pensions, office space and other capital costs have added a new layer to the need to explore the savings that can be had through a private solution.

The Utah Department of Corrections houses approximately 6500 inmates in 30 facilities, with most being housed in Draper and Gunnison. In addition, UDOC utilizes county jails in 21 of the 29 counties in our state. Once released from prison, an inmate becomes the responsibility of Adult Probation and Parole that supervises these individuals as they reenter the community. There are four main areas of the budget: Programs and Operations, Medical Services, Jail Contracting and Utah Correctional Industries. Public/Private partnerships could be achieved in each of these areas in many different ways. Some of the solutions apply to every state agency from technology outsourcing to staffing to private partnerships of basic services such as cleaning, food, and other common needs. The specific areas of Programs, Operations, Medical Services, Mental Health Services and Education are those that can show the most significant impact on the cost and efficiency of state government.

There has been a steady increase in the number of private solutions in each of these areas. As in every business, some solutions will work, others will not. The system that has grown in Utah has been put together with an eye toward staying as current as possible with new and emerging ideas regarding the management of this unique population. However, the size and scope of state government does not lend itself to move quickly and as efficiently as the private sector. New staffing ideas, current treatment options, shared capital costs, and the ability to move more quickly in strategies for better service are just a few of the benefits of partnering with private industry.

The Utah Department of Corrections has recognized the benefit of such partnerships and has been open to looking at the best possible way to meet the increasing needs of not only bed space, but treatment options and other necessary services. The Utah Legislature has put in place the Privatization Policy Board that has been given the task of looking at the options available for the partnerships that are inevitable to sustaining and meeting the increasing needs of Utah's citizens. Now is the time to take action. The idea of using private solutions has already taken hold in many states and it is time for Utah to catch up. A careful evaluation of the ever increasing services available in the private sector, working together with the experts within the Department of Corrections will give our state the opportunity to provide a more efficient, lower cost and potentially better solution to the public safety needs of Utah.

We've Moved!

Your Taxpayers Association has moved. Please update your records to reflect our new address. Our phone and fax numbers remain the same.

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