



THE UTAH TAXPAYER

A PUBLICATION OF THE UTAH TAXPAYERS ASSOCIATION

Utah Tax Freedom Day 2011: April 11th

Utah's Tax Freedom Day will arrive on April 10th this year, one day earlier than 2010, according to the Tax Foundation of Washington DC. Utah's Tax Freedom Day is the 15th latest in the nation, which means our tax burden is 15th heaviest in the nation. The national Tax Freedom Day arrives on April 12th, three days later than 2011.

Tax Freedom Day is a broad economic measure that accounts for the amount of federal, state, and local taxes paid as a percent of the state's or national income. It answers the basic question, "What price are taxpayers paying for government?" An official government figure for total tax collections is divided by the total national income. The answer for 2011 is that taxes will amount to 27.7% of our total national income (the 101 days from January 1 to April 11 is 27.7% of the year).

Utah's late Tax Freedom Day is largely a result of high state and local tax burdens. Utah's state and local tax burden as a percentage of Utah personal income is 9.7 percent, 20th highest in the nation.

The even later arrival of 2011's national Tax Freedom Day is largely due to recent signs of economic recovery. As individuals increase their income, they fall into higher tax brackets with greater tax burdens. Tax Foundation Staff Economist Kail Padgett explains, "Tax Freedom Day 2011 is later than last year largely because of income changes rather than statutory tax law changes. As the economic recovery continues, individual's rising income pushes them into higher tax brackets. Also corporate tax revenue has seen a resurgence."

One flaw of Tax Freedom Day as an economic measure is its failure to include the federal budget deficit when considering the burden of government on taxpayers. The Tax Foundation reports that if Tax Freedom Day calculations were to include the growing federal deficit, Tax Freedom Day would be moved from April 12th to May 23rd. Taxpayers would need to work an addition 41 DAYS to pay for all of the federal government's spending.

33rd Annual "Utah Taxes Now" Conference

Your Taxpayers Association will be hosting its annual "Utah Taxes Now" Conference on **Monday, May 23, 2011** at the Little America Hotel. Leaders from the Utah House of Representatives and Senate, the Governor's office, policy experts and community leaders will cover a broad range of tax issues, including Medicaid reform, the restaurant tax, education reform and federal and state tax alignment. CLE and CPE credit will be available.

Teed Off On Taxes Golf Tournament

Join the Utah Taxpayers Association for their annual "Teed Off On Taxes" Golf Tournament on **Friday, June 10, 2011** 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 Chase Everton at chase@utahtaxpayers.org or (801) 972-8814.

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My Corner: Bringing Utah Education Into The 21st Century

The Utah Legislature made big strides in the 2011 General Legislative Session by dragging public and higher education kicking and screaming into the 21st Century. The measures described below were accomplished despite strong and persistent opposition from the education establishment.

Success in Public Ed Reform

SB 59 - School Grading. Provides that all public schools in Utah receive annual letter grades A-F, based on both student proficiency and student academic growth to ensure accountability and transparency in school performance.

SB 65 - Online Education. Provides freedom for Utah high school students to receive credit from any of 8 publically funded school district and charter online schools in addition to the current monopoly provider at the State Office of Education. The next step is allowing quality private providers to also participate.

HB 183 - School District Leave. Will no longer allow school districts to misuse taxpayer dollars by paying the salaries of teacher union representatives while doing union business.

SB 256 - Teacher Effectiveness Evaluation Process. Will now require annual evaluations of teachers to increase quality instruction. (And you thought this was already being done?)

SB 73 - Teacher Tenure. Prohibits Utah public schools from using "last hired, first fired" when implementing reductions in force.

SB 206 - Union Dues. Ensures that teachers can discontinue the deduction of union dues at any time during the year.

Previously, some districts would require the teacher to deduct for the entire year.

HB 2 - Scholarships. Increases ongoing appropriations for the Carson Smith Special Needs Scholarship to allow additional students to participate in the program that has now gone into a lottery due to demand and very limited funding.

Success in Higher Ed Reform

SB 97 - Mission Based Funding of Higher Education. Changes the higher education funding model from enrollment to funding accomplishment of mission-based goals. Ultimately this leads the system to value what is best for Utah students and the Utah economy, instead of institutional growth.

Higher Education budgeting was also reformed this year based on return on investment analysis. As a result of the leadership of co-chairs Senator Steve Urquhart and

Representative Mike Morley of the Higher Education Appropriations Subcommittee the Utah College of Applied Technology's (UCAT) budget was protected from the 2% cuts given to Utah's colleges and universities because of UCAT waiting lists.

Reforms Left Undone or Unfunded

HB 313 - Phantom Students. Would have ended the funding of phantom students in district schools when students leave to attend charter schools. Under the current funding formula, districts are paid "tribute money" equivalent to approximately 75% of the local property tax revenues generated by the student now attending a charter school. Failure of the legislature to correct this kick-back to the districts ensures that districts are paid approximately \$67 million annually for students no longer in their schools.

SB 224 - Partisan Elections. Would have provided for partisan election of Utah State School Board members, ensuring recruitment and vetting of more qualified candidates by 300 or more delegates to party conventions.

SJR 9 - Education Governor. Would have amended the Utah Constitution to place public and higher education under the general control and supervision of the Governor. Currently the Governor has no authority to direct education in Utah, although every candidate for Governor pretends campaign as "The Education Governor."

SB 305 - Economic Development through Education/Career Alignment. Would have expanded the current Utah Futures steering committee to include three employer representatives and two legislators, to ensure the system informs Utah secondary and post secondary students with accurate information to assist them in aligning their educational paths with optimum career opportunities. This bill was actively opposed by the education establishment and vetoed by the governor even though every amendment the governor requested was made to the bill.

Back-sliding on Market-Based Reforms. While the Utah Legislature has been moving forward with conservative free-market modifications to Utah's public and higher education system in recent years, this year the legislature failed to fund a program put in place 10 years ago to provide \$10,000 signing bonuses for highly qualified math and science teachers. The legislature also failed to eliminate 12-month waiting lists for Career and Technical Education certificates and licenses. These are low-cost training programs that are sorely needed by Utah employers, but the legislature gave higher priority to other spending.

Reverse the Geneva Redevelopment Agency (RDA)

The proposed Geneva urban renewal area (URA) is the worst redevelopment project the Taxpayers Association has ever seen. (URAs are one flavor of redevelopment projects. Other flavors include RDAs, EDAs and CDAs.) Not only will the Geneva URA siphon off school property taxes for 35 years and cost more than \$300 million (\$200 million coming from Alpine School District), but it turns redevelopment policy on its head.

The Utah Taxpayer analyzed this RDA in our August 2010

issue. As we noted at the time, the Geneva URA wants taxpayers to provide more than \$300 million in taxpayer assistance to help remediate the site of the Geneva Steel plant, and then improve the site to give it a competitive advantage over other non-URA competitors. Our earlier analysis supported the half of the project dedicated solely to remediating the site to greenfield condition. Your Taxpayers Association opposed the second half of the project designed to

improve the site beyond greenfield. Since our original analysis, the Taxpayers Association have learned even more about the proposed project. Based on this new information, we now oppose the entire project.

In theory, RDAs allow local government to conscript taxpayers into assisting with a development in a blighted part of their community that is not currently viable in the market. The school district, city, county and other taxing entities typically rebate to the developer some or all of the property taxes the developer would normally pay. With taxpayer help, the project becomes economically viable and moves forward.

As the buildings go up, the value of the site increases, which means the public entities that rebated property taxes receive more property taxes than they would have without the original rebate. Everybody wins. That's the theory.

The theory is only valid, if the project actually creates new economic activity *that would not otherwise have occurred* within the greater community without the RDA. In most cases, though, RDAs are abused because they are used to subsidize retail projects like office space, residences or store front projects. None of these kinds of projects increase economic activity, since taxpayer subsidies don't change the number of shoes or groceries or movie tickets sold. They can change where consumers buy them – Vineyard instead of Orem, for example – but they don't increase the total number of transactions, office leases or homes.

Unfortunately, the Geneva RDA doesn't even follow the "everyone wins" theory of RDA development. Under Senate Bill 197, passed in the 2010 legislative session, RDA projects can require taxpayers to subsidize development *that has already occurred*. That's right. Incredibly, current Utah law allows an

RDA to pretend that private investment on a given site has not yet happened by letting the RDA board set the starting date for their budget prior to the current year.

In the Geneva RDA's case they are setting the beginning date of the RDA project as 2006, five years before the RDA was even approved. Since 2006, Rocky Mountain Power has built a \$130 million power plant on the Geneva site. Fed Ex has built a \$10 million distribution facility there as well. These companies are already paying property taxes (which demonstrates the willingness and ability of the private sector to develop the site without taxpayer help).

The Geneva RDA is proposing that these private investments be retroactively subtracted from the property rolls, which means taxpayers throughout the rest of Alpine School District will see a tax increase to make up for the lost revenue.

Setting the starting date back to 2006 necessarily subsidizes economic activity that needs no subsidy. It already happened. In other words, the students in the Alpine School District will be giving up money that should pay to improve their education; in exchange, they will get NOTHING, and their parents will get a tax increase.

Your Taxpayers Association and the Alpine School District are adamantly opposed to this RDA. If not for the support of this RDA by the representative of the State Board of Education (see the accompanying article), this RDA would already be dead. Whether or not we overturn this particular RDA, we MUST overturn SB 197, and eliminate the authority of RDAs to subsidize developments that have already occurred.



Larry Newton: The "Educator" Who Voted to Give Away \$1 Billion of Property Taxes

As noted in an accompanying article, the Geneva URA is the most egregious abuse of the tax code your Taxpayers Association has ever seen. To make matters worse, Larry Newton, the representative of the State School Board for this RDA, was the swing vote in favor of the project. In other words, without his vote the project would already be dead.

While it is easy to fault the Vineyard Town Council (where the Geneva site is located) and Anderson Development (who owns the property) for requesting such a lavish subsidy, the real blame lies with Larry Newton, the representative for the State Board of Education. In 2001, the State Board of Education appointed him as their representative for RDAs, and directed him to follow State Board policy, which was generated in response to your Taxpayers Association's allegations about Newton's inappropriate votes on earlier RDA proposals to give away millions in school tax dollars.



Larry Newton

Since 2001, 12 of the 15 members of the Board of Education have changed. In other words, only Kim Burningham, Janet Cannon and Laurel Brown participated in appointing Newton

as the Board's RDA representative. As the Taxpayers Association and the Alpine School District see it, Newton can no longer claim to legally represent a board whose composition has changed by 80 percent.

On March 9, the Alpine School Board sent a letter to the RDA board governing the Geneva URA. That letter argued that the State Board of Education did not formally appoint Newton as their representative, and that the State Board of Education did not provide notice to the public of his appointment.

The State Office of Education acknowledges that the State Board last appointed Newton in 2001. Implicitly, the State Board and State Office acknowledged the need to reappoint him after such dramatic turnover, when the State Board formally appointed him this past February. Because this appointment came AFTER he voted for the Geneva URA, your Taxpayers Association shares the Alpine School District's concerns that his vote for the Geneva URA should be held invalid.

Even assuming that Newton could legally represent the State Board for RDAs, it's clear that he did not follow the Board's RDA policy. Among other things, the Board's RDA policy required him to bring RDA proposals of "significant political or economic implications" to the full State Board of Education "for its consideration." Since this project is the largest in state history, it clearly meets both of these criteria. Nevertheless, Newton failed to consult the Board before voting for the

Geneva URA. (As far as we can tell, since 2001 Newton has not brought to the State Board a single RDA project.)

Your Taxpayers Association has reviewed the [spreadsheet of RDAs statewide](#) maintained by the State Office of Education. (In actuality, it's maintained by Newton himself.) Based on our analysis of this data, Newton has voted YES on 62 projects totalling more than \$1 BILLION just since 2001. To put that 62 in context, Newton voted YES on 75.6 percent of all RDAs that received a vote between 2001 and today.

On five separate occasions, including his vote on the Geneva URA, Newton voted to support RDA projects that the local school board opposed. Those votes are particularly glaring, since the 2001 Board policy explicitly directs Newton to consider the following two questions: "How does the local school district feel about the project? Is it important to the school district that they cooperate with the municipality or county?"

In these five cases, the local board's NO vote on these projects demonstrates conclusively that they are willing to cross the city or county requesting the RDA. That criterion alone should have dictated Newton's opposition to an RDA proposal. In fact, the Alpine School District tells your Taxpayers Association that just one week prior to the Geneva URA vote, Newton informed them he would oppose the project. Needless to say, they were

dumbfounded when Newton voted yes, thereby forcing Alpine School District to give up \$200 million in property tax revenue and raise taxes throughout the district.

This callous disregard for the needs of public education, and of Board policy governing his votes on RDAs is shocking.

Every year the State Board of Education begs taxpayers for more money, yet Newton has voted time and again to take a total of a billion dollars, and give it to developers. Not only should his vote on the Geneva RDA be considered illegal, but the State Board should make sure that Newton follows their policy to the letter. Taxpayers and students cannot tolerate these subsidies, especially when they come at the expense of Utah's students.

Number of RDAs Supported and Opposed by Larry Newton, and by Local School Boards Between 2001 and 2011

	School Board Support	School Board Oppose	Total
Newton Support	57	5	62
Newton Oppose	11	9	20
Total	68	14	

Source: Calculations by the Utah Taxpayers Association based on data from the Utah State Office of Education

Taxpayers Association Releases 2011 Legislative Scorecard

The Utah Taxpayers Association has released its 2011 legislative scorecard rating Utah's 104 legislators on fourteen key taxpayer related bills. One of the most prominent issues of the 2011 legislative session was education reform, therefore the 2011 legislative scorecard includes a higher number of education related bills. Education spending accounts for over half of the state budget, therefore efficient use of taxpayer dollars in education is an important taxpayer issue.

The average score in the House of Representatives was 68 percent. Five representatives receive a 100 percent score: David Clark, Keith Grover, Val Peterson, Brad Wilson and Carl Wimmer. The highest scoring Democrats are Mark Wheatly (45%), Patrice Arent (40%), David Litvack (40%) and Christine Watkins (40%).

The lowest scoring Representatives (less than 50%) are Tim Cosgrove (18%), Lynn Hemingway (22%), Rhonda Menlove (27%), Rebecca Chavez-Houck (27%), Brian King (30%), Janice Fisher (30%), Larry Wiley (33%), Jennifer Seelig (36%), Marie Poulson (36%), Carol Spackman-Moss (36%), Neal Hendrickson (36%), Susan Duckworth (36%), Joel Briscoe (36%), Jackie Biskupski (36%), Jim Bird (36%), Christine Watkins (40%), David Litvack (40%), Patrice Arent (40%), Mark Wheatley (45%), Douglas Sagers (45%), Lee Perry (45%), Kay McLiff (45%), Rebecca Edwards (45%). The lowest scoring Republicans are Rhonda Menlove (27%) and Jim Bird (36%).

The average score in the Utah Senate was 75 percent. No senator received a perfect, 100% score (The Taxpayers Association had not taken a position on SB 320 when it was voted in the Senate). Seven senators received a score of 92 percent: Stuart Adams, Margaret Dayton, Jerry Stevenson, Daniel Liljenquist, Wayne Niederhauser, Howard Stephenson and John Valentine. The highest scoring Democrats are Patricia Jones (58%) and Karen Morgan (50%).

The lowest scoring Senators (below 50%) are Ross Romero

(38%), Luz Robles (42%), Ben McAdams (46%), Karen Mayne (46%) and Gene Davis (46%). The lowest scoring Republicans are David Hinkins (67%), Kevin Van Tassell (69%) and Peter Knudson (69%). To view the complete scorecard and final legislative watchlist, please visit <http://www.utahtaxpayers.org>.

2011 "Friend of the Taxpayer"

Only 19 Representatives and 9 Senators scored above 90 percent on our annual legislative scorecard. These fiscally responsibly legislators have earned the title, "Friend of the Taxpayer"

House of Representatives

David Clark (100%)	Keith Grover (100%)
Val Peterson (100%)	Brad Wilson (100%)
Carl Wimmer (100%)	Fred Cox (91%)
Julie Fisher (91%)	Gage Froerer (91%)
Chris Herrod (91%)	Ken Ivory (91%)
Todd Kiser (91%)	Mike Morley (91%)
Holly Richardson (91%)	Brad Daw (90%)
Wayne Harper (90%)	Brad Last (90%)
Merlynn Newbold (90%)	Curt Oda (90%)
Bill Wright (90%)	

State Senate

Stuart Adams (92%)	Margaret Dayton (92%)
Jerry Stevenson (92%)	Dan Liljenquist (92%)
Wayne Niederhauser (92%)	Howard Stephenson (92%)
John Valentine (92%)	Chris Buttars (92%)
Mark Madsen (91%)	

Taxpayers Association Successful in 2011 Legislative Session

The 2011 general legislative session has come to a close and your Taxpayers Association was successful in protecting fiscal responsibility, eliminating tax hikes and reforming education.

The accompanying table highlights some of your Taxpayers Association's priority legislation. Of the eleven bills included in the accompanying table, your Taxpayers Association only reported two losses.

In the category of fiscal responsibility, Senator Wayne Niederhauser proposed Senate Joint Resolution 5 (SJR5) to require performance notes on all new state programs, agencies and appropriations. Performance notes will outline the goals of the new government spending and be used by legislators in the future to evaluate the success of the program.



Senator Wayne Niederhauser
Senate Majority Whip

Representative Ken Ivory also proposed legislation to prepare Utah legislators for future spending

decisions. House Bill 138 (HB 138) requires state agencies to indicate what budget cuts would be necessary if Utah lost 5 percent or 25 percent of total federal receipts. Your Taxpayers Association supported both of these bills to increase spending accountability and prepare for future reductions in government spending. Both SJR 5 and HB 138 were signed into law.

In the area of eliminating tax hikes, your Taxpayers Association strongly supported House Bill 226 (HB 226) to eliminate Salt Lake County police fee and the ability of counties to impose an emergency service fee after December 31, 2012. Your Taxpayers Association fiercely opposed Salt Lake County's police fee since its inception and was glad to see the bill signed by the Governor.

Senator Dan Liljenquist proposed legislation to curb the growing costs of Utah's Medicaid program. The program's budget is currently growing at three times the rate of the state budget. His legislation will prevent the need for future tax hikes to pay for Medicaid services. The legislation was passed and signed by the Governor.

Education reform was one of the most prominent issues during the 2011 legislative session. Of the bills included on the Taxpayers Association Legislative Scorecard, an unusually high number are education related.

Representative Keith Grover proposed House Bill 183 (HB 183) to prevent teach union

2011 Legislative Scorecard – Abbreviated 9 Wins- 2 Losses

Bill # Sponsor	Description	Win/Loss
HB138 Ivory	HB138 requires state agencies to indicate what budget cuts would be needed if UT lost 5 or 25 percent of federal receipts. UTA Position: Legislative Action:	
HB 183 Grover	HB 183 prohibits school districts from paying the salary of teacher union representatives UTA Position: Legislative Action:	
HB 226 Harper	HB 226 eliminates the ability of counties to impose an emergency service fee after December 31, 2012. UTA Position: Legislative Action:	
HB 264 Moss	HB 264 would have created open primary elections for members of the State School Board. UTA Position: Legislative Action:	
SB 59 Niederhauser	SB 59 requires all public schools to be graded with a simply A-F letter grade based on student performance. UTA Position: Legislative Action:	
SB 65 Stephenson	SB 65 allows students to access high quality online courses from multiple providers for course credit. UTA Position: Legislative Action:	
SB 97 Urquhart	SB 97 changes the higher education funding model from enrollment to mission based funding. UTA Position: Legislative Action:	
SB 180 Liljenquist	SB 180 is the first step in reforming Utah's Medicaid program by changing provider payment per-service to a package structure. UTA Position: Legislative Action:	
SB 320 Hillyard	SB 320 spends \$5 million of oil and gas severance tax revenue instead of depositing it into the Permanent State Trust Fund. UTA Position: Legislative Action:	
SJR 5 Niederhauser	SJR 5 requires a performance note on all new state programs, agencies and appropriations. UTA Position: Legislative Action:	
SJR 9 Reid	SJR 9 amends the Utah constitution to place control and supervision of public and higher education under the Governor. UTA Position: Legislative Action:	

representatives from being paid with education tax dollars. Senator Steve Urquhart proposed Senate Bill 97 (SB 97) to change the higher education funding model from enrollment based to mission based, thereby aligning higher education funding with job opportunities and market demand. Senator Wayne Niederhauser proposed Senate Bill 59 (SB 59) requiring all public schools to be graded with a simple A-F letter grade based on student performance. All three bills passed the legislature and were signed by the Governor.

To view the complete watchlist, detailing Association positions and results for all 2011 tax and spending bills, visit www.utahtaxpayers.org.



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Can you Hear Me Now? Utah 12th Highest Taxes On Cell Phones

The Tax Foundation's recent report on wireless taxes finds Utah near the front of the pack in taxes and fees. Utah imposes the 12th highest taxes and fees on cell phone users in the nation. When compared to neighboring states, Utah imposes the highest in the intermountain west. The average Utah cell phone user pays 17.21% in taxes and fees, compared to the national average of 16.26%. Of the 17.21% in taxes and fees, over 12% is imposed at the state and local level. In comparison, most other goods and services in Utah are taxed at the average combined state and local rate of 6.62%.

This growing, targeted, tax on cell phones is largely due to increases in cell phone use and decreases in landlines. A recent Pew Research Center study reported that 25% of U.S. households have replaced landlines with cell phones. Among the 25-49 age demographic 49% of houses are cell phone only users. As a result, landline revenue has decreased, leading government to redirect landline taxes to wireless services.

However, instead of just "redirecting" taxes and fees, wireless services have seen steady tax increases. The federal tax rate for wireless service has increased from 2% in 2003 to over 5% today. State and local governments have seen wireless taxes and fees as revenue opportunities. Chicago raised their wireless 911 fee by one dollar to prepare for increased emergency services for the 2016 Olympic games, but failed to remove the fee increase after losing the bid. In California, 22 cities imposed new taxes on cell phone users in a six-year period.

In Utah's 2011 legislative session, SB209 Telecommunications Amendments lowered the fee on landlines that provide

telecommunication devices for the hearing and speech impaired from .25 cents to .20 cents per landline, but expanded it to all mobile users, resulting in a tax hike for cell phone users.

Association Hires New Executive Assistant

After a year and a half as Executive Assistant with the Utah Taxpayers Association, Tyler Pace has moved on to pursue other opportunities. Tyler was a valuable asset to the Taxpayers Association, working to maintain a high level of administrative organization. His contributions to the Taxpayers Association are appreciated.

Chase Everton is the new Executive Assistant for the Association. Chase recently graduated from the University of Utah with a degree in Political Science. Over the past two years he worked on Utah's Capitol Hill as a legislative assistant where he witnessed the successful work of the Taxpayers Association lobby team. Most recently, he assisted State Senator Howard Stephenson during the 2011 legislative session.



Chase Everton

In his spare time, Chase can be found on the golf course, ski slopes or furiously updating his Twitter status with the latest Utah political news. Chase's passion for social media, technology and current events will be a valuable addition to the Taxpayers Association's communication strategies.

"The Taxpayers Association is more than just an advocate for lower taxes," Chase said. "It is a resource for taxpayers, legislators and policy makers at all levels of government, providing the latest data and analysis to encourage fiscal responsibility and government efficiency. I look forward to joining their efforts."

Congress Considers Cell Phone Taxes

The Wireless Tax Fairness Act of 2011 would put a five-year moratorium on cell phone taxes and fees at the state and local level. The legislation was proposed in March and is co-sponsored by 179 members of Congress including Congressmen Jason Chaffetz and Jim Matheson.