



# THE UTAH TAXPAYER

A PUBLICATION OF THE UTAH TAXPAYERS ASSOCIATION

## State General Fund Revenues Down Due to Sales, Severance Tax

Updated state revenue collections were announced during the Legislature’s Executive Appropriations Committee meeting in late October. Your Utah Taxpayers Association attended the hearing and crunched the numbers for you here.

Overall, the state ended Fiscal Year 2015 with a \$96.2 million revenue surplus combined in the General and Education funds.

The Education Fund ended FY 2015 with a revenue surplus, with \$119.2 above what was anticipated. The growth in the Education Fund was almost entirely driven by the individual income and corporate franchise taxes. For personal income tax revenue collections, it was a 9.3% increase over the previous fiscal year.

Meanwhile, the General Fund closed FY 2015 with a deficit of \$23 million. The Office of the Legislative Fiscal Analyst, which provides the data, attributed the deficit to a drop in sales and severance tax collections. Legislative analysts partially attribute the drop in sales tax revenue to purchases made online, which are not automatically taxed by the state.

The revenue discrepancy in the largest of the state’s funds is explained by how each of the accounts are funded.

Utah’s education system is funded almost entirely through personal income and franchise taxes. In fact, 42% of all state revenues, which totals \$14.2 billion, is directed towards education, both public and higher systems.

The General Fund, meanwhile, receives tax money from sales tax, severance tax,

*Continued on page 3...*

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State General Revenues Down Due to Sales, Severance Tax

Page 1



My Corner: State School Board Nominating Process in Question

Page 2



Multiple Tax-Related Questions on this Year’s Ballot

Page 3



Upcoming Truth in Taxation Hearings

Page 4



Tax Review Commission Nears Decision on Earmarks

Page 5



Charitable Donations Affected by Local Tax Policy

Page 6



Your Association Accomplishments in October

Page 7

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### Notice of Utah Taxpayers Association’s Annual Meeting

All members of the Utah Taxpayers Association are invited to attend the Association’s Annual Meeting, which will be held on Friday, November 20, 2015 at 2:00 PM. The meeting will be at the offices of Holland & Hart, 222 South Main Street, Suite 2200, Salt Lake City, Utah. Due to building security, please bring photo ID. Nominations for the Board of Directors will be accepted from the general membership until five days prior to the Annual Meeting.



Association President  
Howard Stephenson

## My Corner: Governor Herbert Leaves State School Board Nominating Process in Question

About this time every odd numbered year, there is a lot of attention focused on identifying and recruiting high-caliber candidates for the State Board of Education. Not this year. No one is sure what process candidates for the State

Board of Education need to follow to get onto the ballot, which makes it virtually impossible to invite a candidate to run for the office.

The statute governing this process hasn't changed in more than a decade, and it has served Utah well. Today's State Board of Education members are perhaps the most collegial and collaborative we have seen in decades. The turf battles we used to see regularly are gone. The current State Board sees concerns and opportunities that for decades went unexamined. Nevertheless, from sources inside Governor Herbert's office, he does not intend to initiate the existing statutory process for putting candidates for the State Board of Education onto the ballot next fall.

The process begins with the governor appointing a 12-member "recruiting and nominating committee." State law requires the Governor to appoint this committee by November 1. Balanced with representatives from business and education, this committee recruits candidates to run in each of the State Board districts up for election. After candidates file for their respective offices, the recruiting and nominating committee confers in an open meeting and forwards the names of three candidates per district to the Governor, who selects two candidates per district to appear on the final ballot.

Over the past decade this process has yielded far more candidates than I have seen in any Utah political races. In the 16 years before the Legislature adopted this process, an average of 1.1 candidates filed for each State Board district up for election. In other words, rare was the contested State Board race. Since then, that average has almost doubled each election cycle. In 2014 more than 70 candidates filed to run for just seven seats.

Despite these stunning increases in electoral

participation, some candidates who did not make it onto the final 2014 ballot were upset and sued. Eventually Judge Clark Waddoups issued an opinion arguing that the process for winnowing State Board of Education candidates was inappropriate, and put three of the winnowed candidates onto the 2014 General Election ballot.

Judge Waddoups also put a "stay" on his opinion, meaning the ruling would not take effect until he and the parties to the lawsuit could identify an appropriate remedy. Since Judge Waddoups allowed the aggrieved candidates onto the ballot, the parties to the case never pursued their cases further, and Judge Waddoups' opinion never took effect. In other words, the statute challenged by the plaintiffs remains the law of the land.

Governor Herbert's office told some of my legislative colleagues that, in deference to Judge Waddoups' opinion, the governor is not going to appoint a recruiting and nominating committee. Apparently, his current plans are to ignore his statutory obligation to appoint a recruiting and nominating committee. Regardless of whether he is unwilling to winnow the candidates down to two, I'm disappointed that he is not even willing to ensure that the recruitment process continues.

I'm disappointed because without a recruiting and nominating committee, no one knows how a candidate for State Board of Education gets onto the ballot. The statutory process requires the recruiting and nominating committee, but Governor Herbert has apparently decided he's just going to ignore the law.

What happens next? Do State Board candidates need to follow the SB 54 process? Do party delegates winnow the number of State Board candidates? Will all candidates who file for a State Board seat appear on next November's ballot? I don't know, and neither does anyone else, because Governor Herbert has decided not to follow what statutory direction is currently in place.

If Governor Herbert doesn't like the existing process, he should have been working these past months with the Legislature to change the statute through a special session. The law today is the same as it was when he appointed a recruiting and

nominating committee for the 2010 and 2012 elections. And until the Legislature amends the statute, he has an obligation to implement the laws of the State of Utah, including appointing a

recruiting and nominating committee for members of the State Board of Education. I hope he will do so. ♦

## State General Fund Revenues Down Due to Sales, Severance Tax

(continued from page 1) and other miscellaneous revenue sources, such as administrative fees, and taxes on cigarettes and beer.

In a given fiscal year, not all of the surplus the state received is at the Legislature's disposal. Some money from any surplus must, by statute, be placed into the so-called rainy day funds. There are several of these reserve accounts, but we'll focus on the General and Education rainy day funds.

First, here's some context to understand how these reserves are funded. During the 2015 Legislative Session, [House Bill 333](#), sponsored by Rep. Dean Sanpei increased the limits for these reservoirs.

Let's begin with the General Fund Budget Reserve Account.

Previously, if the transfer of 25% of surplus to the rainy day fund would cause the balance in the account to exceed 8%, that amount would be deposited. Essentially, there was a cap of 8% as a percentage of growth in the rainy day fund.

For the education rainy day fund, that amount was 9%.

But, thanks to HB 333, those percentage caps are increased to 9% for the General Fund Budget Reserve Account, and 11% for the Education Fund Budget Reserve Account.

With these new percentages in mind, here's what these new revenue numbers mean to the state's coffers.

Since tax monies that are typically appropriated to the General Fund were below projections as stated before, no new deposits were made in the General Fund Budget Reserve Account. It currently has a balance of \$141 million.

As for the Education Reserve Account, \$59 million of the \$119.2 million revenue surplus was transferred into that fund, increasing its balance to nearly \$350 million.

During their presentation, legislative fiscal analysts also forecasted preliminary revenue projections for FY 2016, which could be similar numbers for the current fiscal year. ♦

## A Brief Recap of Multiple Tax-Related Questions on this Year's Ballot

Annually, your Taxpayers Association actively researches major tax-related issues on the November ballot. This year is no different.

We've been traveling, collecting data, and discussing ideas on how to protect taxpayer money with school districts, cities, and counties across the state and have compiled the following list for your review.

Take a look at these brief recaps of some of the issues we're following. A more comprehensive description of these issues are available in October's issue of *The Utah Taxpayer*.

During their presentation, legislative fiscal analysts also forecasted preliminary revenue

projections for FY 2016. They estimate to see similar numbers for the current fiscal year.

- *Davis School District* - Taxpayers are being asked to approve \$298 million bond to help accommodate enrollment growth, including a new high school, proposed for Farmington. \$52 million of this bond would also be used on infrastructure in its facilities. ***Your Utah Taxpayers Association has reviewed the bond and takes a neutral position on this proposal.***
- *Spanish Fork City* - City officials in Spanish Fork are asking taxpayers for more than

\$39 million to construct a "Life Center". This proposed Life Center would include a large recreation center, a new library, and senior center, all under one roof. There are several unknowns about the project, including whether the current library will be demolished or renovated. **Your Taxpayers Association is opposed to this proposal and encourages voters to reject the bond.**

- **Springville City** - Continuing with southern Utah County cities looking to taxpayers to build a \$12 million aquatic center, despite the city already operating a pool. The city is looking to build a multi-use pool, a leisure pool, splash pad, and indoor facility for other recreational activities. **Your Taxpayers Association is opposed to this proposal and encourages voters to reject the bond.**
- **Wasatch School District** - The \$62 million bond being proposed seeks to build a new elementary school, a middle school, and completely rebuild a swimming pool to be used by both the school district and the community. The proposed pool would cost \$10.5 million of the total bond. **Your Utah Taxpayers Association has reviewed the bond and takes a neutral position on this proposal.**
- **Park City School District** - This bond, proposed at \$56 million, is anticipated to be used to expand Park City High, as well as build a new school to accommodate growth in the district, among others. In addition, \$12 million of the generated funds would go to "upgrade athletic facilities". Over the past week, the Summit County Attorney's Office has confirmed they are investigating tactics of the district allegedly using district resources and students' classroom time to promote the bond. **Your Taxpayers**

**Association is opposed to this proposal and encourages voters to reject the bond.**

- **Tooele School District** - Officials have proposed a \$49 million bond with funds, if approved, going to build two new elementary schools, as well as increase capacity at a junior high school. \$5 million of the \$49 million would go to other capital projects, including upgrades in technology at two high schools.
- **Duchesne School District** - District officials in Duchesne are asking voters to approve a \$39 million bond to replace Union High School in Roosevelt, as well as finish the renovations at Duchesne High. The renovations at Duchesne High would be the final step in the three-phased approach.
- **RAM/RAMP Taxes** - Several cities along the Wasatch Front, including Layton, Centerville, Lehi, and Provo are asking voters to approve a 1/10 of a cent tax to fund recreation, parks, and arts programs in the respective cities. Your Taxpayers Association wrote an opinion article in the Daily Herald urging voters to reject these taxes.

You can find out more by reading October's edition of The Utah Taxpayer. Remember to go and vote! ♦

#### **More Information on Any of These Issues**

Your Utah Taxpayers Association will continue to monitor these issues throughout the campaign and up to Election Day, when we begin the process again.

#### **Contact Us For More Information**

If you have any questions about a tax issue on your ballot, we encourage you to contact us at (801) 972-8814 for more information.

## Counties and Special Service Districts Statewide Hold Truth in Taxation Hearings Starting in November

As the end of the year nears, so does the next round of Truth-in-Taxation hearings. This has not always been the case.

[Senate Bill 61](#) from the 2014 Legislative Session, sponsored by Sen. Deidre Henderson and Rep. Dan McCay, now requires calendar year taxing entities

asking taxpayers for more money to hold their Truth-in-Taxation meetings in November or December, rather than after the fact.

Your Taxpayers Association fought for this piece of legislation, arguing that it increases transparency and better represents taxpayers.

Prior to SB 61's passage, calendar year taxing entities, such as Salt Lake County, would budget for a property tax increase the fall of one year, then hold Truth-in-Taxation meetings the following August. Since the hearings were being held more than seven months into the budget cycle, it was unlikely that these entities would alter their budgets and make do without a property tax hike, considering much of the money had already been spent.

This new system provides taxpayers greater influence on those government subdivisions

seeking to raise taxes, as they now have to hear from their constituents prior to the budget beginning instead of well into the budget year when more excuses can be made as to why the entity needed additional taxpayer dollars.

You can [check out the deadlines](#) for governmental entities proposing tax increases for yourself.

Your Taxpayers Association will be active over the next month reviewing calendar year taxing entities' budgets, monitoring any proposed property tax increases, and attending the Truth-in-Taxation hearings.

The following list contains the entities that are proposing a property tax increase for 2016. As more subdivisions propose tax increases in their budgets, we'll update this list on our website. In our December newsletter, the Association will provide specific analysis of the proposed tax hikes. ♦

Entity	Proposed Budget Increase	TnT Hearing Date	TnT Hearing Time
BOX ELDER MOSQUITO ABATEMENT DISTRICT	\$305,767	11/3/15	7:00 pm
BEAR RIVER WATER CONSERVANCY DISTRICT	\$381,401	12/16/15	7:00 PM
CACHE COUNTY	\$659,000	11/10/15	6:00 PM
RICHMOND CEMETERY MAINTENANCE DISTRICT	\$35,557	11/19/15	7:00 PM
MUNICIPAL TYPE SERVICE FUND	\$500,302	11/10/15	6:00 PM
CEDARVIEW-MONTWELL SPECIAL SERVICE DISTRICT	\$125,000	12/3/15	5:30 PM
SALT LAKE COUNTY	\$9,400,000	12/8/15	6:00 PM
SALT LAKE CITY MOSQUITO ABATEMENT DISTRICT	\$1,002,703	12/17/15	6:00 PM
SEVIER COUNTY	\$2,400,000	12/8/15	7:00 PM
WAYNE COUNTY	\$80,000	12/15/14	6:00 PM

## Utah Tax Review Commission Nears Decision on Sales Tax Earmarks

Utah's Tax Review Commission (TRC) spent its October meeting crafting criteria for when earmarks are appropriate to use with the money

collected from Utah's sales and use tax. The Commission first looked to other states to see if any standards have been established but was

unable to come up with any set standard on how to evaluate the process of automatically sending money to a program before lawmakers have had the chance to set budget priorities.

The Committee also considered criteria for earmarks proposed by Sen. Jim Dabakis, but the recommendations were viewed as too lenient and were dramatically altered. Sens. Deidre Henderson and Lyle Hillyard both observed that the Dabakis proposal provided a pathway for more earmarks to be made in the state budget instead of fewer.

Henderson, Hillyard and Tax Commission Chair John Valentine, who is also a member of the TRC, then recommended to the committee that the Commission draft a statement that strongly encourages the legislature to avoid earmarking. The trio also suggested the following items be included after that statement to give lawmakers direction for earmarks in the future.

1. *Is the government activity funded by the earmark of such importance that revenue certainty and budget predictability outweigh all other considerations?*
2. *Give all earmarks an expiration date*
3. *When an earmark is set to expire, the funds the earmark uses should be sequestered and not used in the state budget until the legislature has made a decision on*

*the merits of the earmark*

4. *All bills containing earmarks should be considered by the Revenue and Taxation Standing Committees*

Some of these recommendations would require both the House and Senate to change their current rules, such as requiring all earmark bills be assigned to the Revenue and Taxation Committees as opposed to being assigned to a committee by the Rules Committee. But the change would dramatically improve the budgeting process and add oversight to funds that are automatically spent in the state budget before legislators even see it.

Your Taxpayers Association praises the TRC for its wisdom in proposing these criteria. These new items will untie lawmakers' hands in crafting a state budget and give policy makers the ability to react to the needs of the citizens without having the limits that an earmark creates in the budgeting process.

The TRC is scheduled to meet one more time this year on November 5 to finalize the earmark recommendations. The TRC's chair, Curtis Trader, is scheduled to present the Commission's recommendations to the Interim Revenue and Taxation Committee's November meeting. ♦

## Charitable Giving by Individuals Affected as Officials Raise, Lower Taxes

Utahns are known for their high rate of volunteerism. In fact, Utah has been [ranked number one](#) in the country for its citizens volunteering in their community with 45.3% participating in 2013. That amounts to 154.9 million hours and \$3.5 billion of service contributed! But it's not just volunteering where Utahns excel.

[A recent report](#) from the American Legislative Exchange Council (ALEC) shows that Utah is also number one in charitable donations as a percent of gross income using data collected from the IRS.

Both of these rankings are great news for Utah. But, how does this relate to *your* tax bill and how our local officials set policy? As it turns out, plenty.

The study found that non-profits in highly tax-competitive states, like Utah, tend to find greater success in their respective purpose, whereas higher-taxed, less-competitive states tend to have

fewer successful non-profits.

Let's dive in the details to see how this works.

Utahns, overall, gave 4.9% of their adjusted gross income to charitable organizations, higher than any other state in the nation, from 1997-2012, which is the most recent data.

While there are other factors influence an individual's choice about donating to charity, there are broad policy choices that can encourage higher rates of growth in charitable giving.

To summarize the entire report, the researchers at ALEC found that for each one percent increase in a person's income tax burden as a percent of gross income, there is a 0.35% decrease in charitable giving per dollar of income.

If we broaden the lens to include all taxes levied against a person, the results are even more dramatic. For every 1% increase in a person's total tax burden, charitable donations drop by 1.16% per

dollar of gross income.

This effect is three-fold. First, taxes reduce an individual's income, leaving less income to donate to charity in a given year. Second, taxes reduce potential income growth that could have resulted in subsequent charitable giving. Third, taxes pay for public services and citizens may decide that they are already paying their share of social spending through taxes and decline to contribute to charity, thus "crowding out" charitable donations. While it is clear that tax reductions do not necessarily translate into loss of government services - there are many ways that governments can spend tax revenues more efficiently – it is certainly relevant that when taxes are reduced, charitable organizations are likely to offset reductions in public benefits.

The news isn't all bad, though. The study finds

the opposite is true. For every 1% decrease in a person's overall tax burden, roughly the same amount of the adjusted gross income is given to charitable causes.

It's important to understand the how state policies affect all aspects of our lives, so that a robust discussion over public policy can follow new proposals or legislation.

If we as Utahns, want to continue our streak of better preparing our non-profit organizations to help alleviate some of society's woes, we need to make sure all our elected officials understand the direct impact they have on influencing charitable donations when they decide to raise taxes at any level.

You can check out the full 24-page report for yourself, by clicking [here](#). ♦

### **Association Accomplishments During October:**

- ❖ Wrote and Published Opinion article urging voters to turn down proposed RAP tax in multiple Utah cities
- ❖ Provided remarks in the Revenue and Taxation Interim Committee regarding a change in how severance tax is calculated, as well as taxing intangibles in reference to the corporate franchise tax
- ❖ Attended the Salt Lake County Council hearing and Mayor McAdams' budget proposal
- ❖ Reviewed new revenue numbers at the October meeting of the Executive Appropriations Committee
- ❖ Attended the annual Holland & Hart Tax Conference
- ❖ Attended the Utah Charter School Funding Task Force's October meeting

#### **In the News:**

- ❖ Op-Ed on the Provo RAP Tax
  - [Daily Herald](#)
- ❖ Spoke against property tax hikes
  - [Salt Lake Tribune](#)

