



# THE UTAH TAXPAYER

A PUBLICATION OF THE UTAH TAXPAYERS ASSOCIATION

## New Annual Report Discloses Per Student Charter School Funding

With nearly half of all state funds in Utah’s budget going towards public education, each year your Taxpayers Association scrutinizes all of Utah’s school districts to determine per pupil expenditures.

However, not all of that amount goes towards district schools. Roughly 73,000 students, about 11% of the total student population, enrolls in charter schools. For the first time, your Taxpayers Association reports on the spending of 112 of Utah’s charter schools to make comparisons between how districts spend tax dollars, and how charter schools spend money that is appropriated to them.

For an in-depth dive as to charter school funding, founding, and their history, please check out My Corner, beginning on page 2.

Briefly, charter schools are funded based on the principle that allows state funds to follow the student. If a student opts to attend a charter school, a portion of the money allocated to that student follows him/her, while leaving some remaining funding for the district that the student moved from.

While districts can impose property tax levies on taxpayers within its boundary, a charter school cannot. Therefore, the majority of charter school funding comes from state income tax dollars.

Due to the nature of charter schools, some building costs and facility maintenance are accounted for in areas that may not accurately reflect the budget category within the data.

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

All members of the Utah Taxpayers Association are invited to attend the Association’s Annual Business Meeting, which will be held on Thursday, November 15, 2018 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 RSVP and bring photo ID. Nominations for the Board of Directors will be accepted from the general membership until five days prior to the Annual Meeting. To RVSP, please contact Bren at (801) 972- 8814 or [bren@utahtaxpayers.org](mailto:bren@utahtaxpayers.org).

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## My Corner: First Annual Report on Utah's Charter Schools



Association President  
Howard Stephenson

Each year your Taxpayers Association compares the per pupil spending and analyzes the tax rates, revenues, and other related data of all 41 of Utah's school districts. This data can be found in [the School Spending Report](#), which is released in the summer of each year. While the significant majority of the student population attend traditional district schools, a huge portion of the student population,

roughly 11% of Utah's students, more than 73,000 children, attend charter schools.

Your Taxpayers Association now takes a similar dive into Utah's 112 charter schools for Fiscal Year 2017. Before we look at the hard data, let's first understand what charter schools are, how they're funded, and how they came to be.

### What is a charter school?

Utah's charter schools are tuition-free public schools open to any student whose parent wants a choice other than the neighborhood school. After a thorough application process and approval by the State Charter School Board, the charter school board controls its own curriculum, staffing, organization, and budget.

While there is some perception that charter schools are private, this is inaccurate. A public school (district and charter) is defined as a school that is open to the public, publicly funded, and accountable.

All charter schools must provide the same annual reports and transparency as traditional district schools, including an annual financial audit and monthly budget report.

### How did Utah get charter schools?

In 1998 Rep. Brian Allen and I with the support of Governor Michael O. Leavitt, succeeded in passing HB 145, *Schools for the 21st Century*. Several states had already begun charter schools and there was opposition from the teacher union and education establishment in Utah. That bill authorized four charter schools as a pilot program. By fall 2003, eight charter schools had been authorized and opened.

In 2004, the Legislature passed HB 152, (Dillree, Stephenson, H.) *Charter School Governance*. Rep. Dillree's bill aimed to remove much of the politics over authorizing a charter school by creating a statewide authorizer, the State Charter School Board (SCSB). Since the SCSB's creation, the number of charter schools in Utah has exploded, and the SCSB now authorizes more than 90% of Utah charter schools. The remainder are authorized by school districts and higher education institutions.

Much of the political disagreement over charter schools stems from the fact that charter schools draw students away from existing district schools. This is very beneficial in areas of high student growth; charters have absorbed half of student growth in the state, eliminating the need for billions of dollars in school district general obligation bonds and the tax increases they would have required. But in areas where student numbers are not growing, charters have been viewed as adding insult to injury as local school boards grapple with the high overhead costs associated with declining enrollments. Unlike district schools, charters do not have defined geographic boundaries from which their students are enrolled. Without that boundary, it is impossible for a charter school to impose a property tax, and property taxes provide about 35% of the funding for Utah school districts (the remainder is mostly state income taxes and federal funds).

Recent changes in statute allow charters to become "neighborhood schools" by giving preference in the enrollment lottery to students who live near the school in high growth areas. This increases the efficiency of Utah's district and charter schools while encouraging them to coordinate the location of new schools.

In the early years of Utah charter schools, per pupil funding was significantly less than district schools. The Legislature has wrestled with how to equitably fund charter schools. The Legislature created a "local replacement fund" (LRF) whose exact formula has varied significantly over the years. The Legislature has gone back and forth on how much of that LRF should come from state funds and

how much should come from property taxes imposed by the school district. At one point legislation required districts to write checks for a portion of the local property taxes which had been generated to educate all the children in the district, including those leaving to a charter school. This check-writing obligation exacerbated the natural friction between charters and district schools.

Following more than a decade of wrangling, school districts, charter schools, legislators and the State Board of Education formed a task force on charter school funding. From those discussions and negotiations emerged the 2016 bill, SB 38 (Stephenson, H., Eliason) School Funding Amendments. Among other things, SB 38 created a formula-driven statewide charter school levy which appears on every property tax notice.

This levy provided needed transparency about where charter school revenues come from. SB 38 also modified the LRF formula to include a number of funding sources the Legislature had previously excluded. When SB 38 passed, representatives of school districts and charter schools were generally comfortable that charter and district funding was equitable.

### How are charter schools founded?

Charter schools are governed by the State Charter School Board (SCSB). The SCSB is made up of members appointed directly by the governor. By law, they are allowed to:

- Authorize and promote the establishment of charter schools,
- Annually review and evaluate the performance of schools,
- Monitor charter schools for compliance with laws and regulations, and

- Make recommendations of laws, rules, and funding.

An application to establish a charter school may be submitted by any persons or a nonprofit entity.

Following approval by the SCSB, charter schools have their own governing boards that operate the school. The Utah State Board of Education and SCSB have oversight responsibility for charter schools and annually review the progress of every charter school.

### Greater expectations for charter schools in the future

Charter schools provide greater choices for parents regarding how and where their children attend school. In most cases they require a greater commitment on the part of parents to get their children to and from the school.

Recent legislative changes to statutes governing charter schools have provided for greater varieties of charter schools including single gender schools, schools specifically designed to reach at-risk students and military charter schools.

While I have been pleased with the academic success of many charter schools, I have been disappointed that on average they do no better on statewide assessments than district schools. Some believe it is because charters tend to attract students who are struggling. There is evidence, for example that district school counselors encourage failing students and those with credit deficits to attend charter schools. We are working to learn more about how to ensure both charter and district schools perform better.

To read the Charter Spending Report, [click here](#).

## New Annual Report Discloses Per Student Charter School Funding (continued)

The National Center for Education Statistics, which forms the basis for the Utah uniform chart of accounts, permits LEAs to account for property acquisition and lease of real property in the general fund.

While districts and some charter schools have accounted for capital expenses in the capital outlay fund, other charter schools have accounted for it in the general fund. As such, some charter schools O&M expenses as the

source data reports them may exceed expected norms of other LEAs.

In addition, some charter schools are not included in the data provided on the report. Six charter schools are not included in our calculation due to either being in the process of opening or closing during the 2016-2017 school year.

District schools spent \$869 more per pupil on direct instructional expense than charters in FY2017. Charters spent \$3,683 per pupil on instructional expenses, which are costs directly related in the education of students. This would include teacher salaries and classroom expenses.

Charters spent, on average, \$800 less on general fund expenses, and more than \$1,200 less than districts, when facilities and school lunch programs are factored in.

However, due to some accounting methods by charter administrators, lease payments for facilities and other construction and building maintenance are accounted for in the O&M category. This could lead to the skewing of some charters in this category. Generally, any O&M per pupil expenses over \$1,000 would be due to this accounting method.

For example, Hawthorne Academy spent \$8,886 in O&M, while the average is \$774. This massive discrepancy is due to that charter accounting for facility construction in this category.

Charter schools often will rent out existing structure and convert them into schools, which explains how many charters spend no money in facility construction. As mentioned before, many charters do charge leasing payments under the O&M category, but others do opt to build a brand new facility. For example, Soldier Hollow Charter School spent \$14,206 per student on new

construction, where the charter average is \$654. Traditional school districts spent \$1,288 on construction by comparison.

Charter schools also spent more on administrative costs than districts by more than \$200, for a per pupil average of \$986, compared to \$752 for districts. However, administrator salaries are in line with the districts, averaging 179% of the average teacher salary.

Teacher salaries at charter schools tend to be lower than a district, with the FY17 average being \$41,023. Districts pay more than \$8,000 than that total on average. Teacher salaries at charter schools range from \$30,686 (Franklin Discovery) to \$56,202 (Weber State University Charter School).

Charters also tend to have a higher student to teacher ratio. Charters have an average of 22.1 students per teacher, whereas districts average 19.8.

Charter schools, by nature, operate differently than district schools. While some focus on certain subjects (such as arts or technology), other experiment in varied teaching methods, while others operate entirely online. However, our Charter Spending Report does give a snapshot as to what each charter is spending, and compares that to a district average.

To read the report, [click here](#).

## Commissioner Pero to Retire from State Tax Commission

Utah State Tax Commissioner Robert P. Pero has announced that he is retiring from the State Tax Commission at the end of October. Pero has served on the tax commission since 2013. He was appointed by Gov. Gary Herbert. Previous to his time on the commission he served as the Carbon County Clerk/Auditor, an elected position he had held since 1994. Prior to his public service, Pero worked in the private sector as a comptroller in the mining and defense industries.

Pero will be relocating to his home in Spring Glen, Carbon County.

The process to replace Pero has already begun. Currently, the Governor's office is reviewing applicants and it is expected that the governor will announce a new tax commissioner in the coming weeks.

Pero has been the only Democrat serving on the commission. The state constitution prohibits a

governor from appointing more than two members from a political party to the commission, but it does not require an even split. Due to the constitutional limitation on political parties appointed to the Commission, it is expected that Pero will be replaced by a Democrat. There are two Republicans on the



Utah State Tax  
Commissioner Robert Pero

commission, Commission Chair John Valentine and Commissioner Michael Cragun. Commissioner Rebecca Rockwell is a registered Independent.

Each commissioner serves a 4-year-term and then is either reappointed or replaced, a decision that is made by the governor. The Senate will then need to consent to the governor's choice.

# November Ballot Will Ask Multiple Tax Questions – Your Taxpayers Association’s Position on Ballot Issues

This November, Utahns have the opportunity to weigh in on issues that will affect their taxes. The questions being asked have the potential to impact all three of Utah’s major taxes (sales, property and income taxes) depending on how voters react to the questions. The questions include tax increases and property tax exemptions.

The following is a rundown on the questions that will be on the ballot statewide. Positions on each tax-related questions were set by the Association’s Board of Directors. The positions were set as they were measured against the Association’s criteria for evaluating tax proposals which can be viewed by [clicking here](#).

## **Constitutional Amendment A**

### **Association position: Support**

Ballot Question: Shall the Utah Constitution be amended to modify the period of time that a person in the military needs to serve out of state under an order to federal active duty in order to qualify for a property tax exemption for the military person’s residence, allowing the military person to qualify if the period of service is at least 200 days in a continuous 365-day period?

Analysis: Constitutional Amendment A amends an existing provision of the Utah Constitution that allows for a property tax exemption for the home of a person serving in the military but has been assigned out-of-state for an extended amount of time.

Currently, the home or residence of an individual who serves out-of-state in the military can benefit from this exemption if the individual is living outside of the state for at least 200 days in a calendar year or 200 consecutive days. Constitutional Amendment A would change the exemption from the calendar year practice to a 365-day period. The example given by the state is if a person serves 199 days in one calendar year outside the state then takes a break but then serves another 199 days in the next calendar year, current law would not allow the exemption. If Constitutional A is approved by voters, then the military member would qualify for the exemption as long as the time served happens in a 365-day period. If approved, the change to the exemption would occur on January 1, 2019. The fiscal impact of the change is expected to save a military person, with a

residence valued at \$250,000 with a 1.35% property tax rate, about \$1,856 per year.

## **Constitutional Amendment B**

### **Association position: Support**

Ballot Question: Shall the Utah Constitution be amended to authorize the creation of a property tax exemption for real property, such as land or buildings, that the state or a local government entity leases from a private owner?

Analysis: Constitutional Amendment B will change Utah’s constitution to allow for a property tax exemption when a governmental entity (state, county, city, school district etc.) leases property or land from having to pay property taxes on the land. In some cases, state and local governments lease the property they use. One example would be prior to constructing its own city hall, the city offices of Cottonwood Heights used to be leased in an office building. Under Constitutional Amendment B, if Cottonwood Heights leased the whole office building, the city would not have to pay property taxes via the lease. In turn, the owner of the property would also be exempt from property taxes if the government entity is leasing the whole building.

This change to the state constitution will align leases to what happens when a governmental entity owns a property. The government does not pay property taxes as that would only increase the amount taxpayers need to pay the government to cover the cost of the property tax. This will decrease the amount of taxpayer money needed by government to pay for leased real property.

This fiscal impact of this change will result in a \$1.8 million decrease entities pay in property taxes.

## **Non-binding Opinion Question #1**

### **Association position: Neutral**

Ballot Question: To provide additional funding for public education and local roads, should the state increase the state motor and special fuel tax rates by an equivalent of 10 cents per gallon?

Analysis: This is a poll question placed on the ballot by the Legislature. If the poll exceeds 50% it is

expected (but not guaranteed) that state lawmakers will increase the gas tax by 10 cents per gallon in the 2019 General Session. Keep in mind, the Legislature is not bound by the results of this opinion question.

If the gas tax is increased, the additional revenue from the gas tax will not go towards education. Rather the new money will replace general fund dollars that the state has been subsidizing to pay for road construction. These freed up general fund dollars will then be used towards education.

Your Taxpayers Association has always supported increasing the dependency on users to pay for road construction and maintenance in Utah. An increase to the gas tax does increase the burden on the users of the roads, but the gas tax cannot be depended upon as reliably in the long term. As vehicles become more efficient and additional alternative fuel vehicles make their way onto the roads, the gas tax will become a less efficient way to collect from road users.

Additional funding to education can be beneficial for the state but only if the money is distributed to targeted areas that have a proven track record of increasing student outcomes and teacher performance. Adding more money to the system in a non-specified way will result in a more expensive way of creating the same results our education system is already producing. It also increases the disparity between the rich, high property valued school districts in the state, like Park City School District, and the poorer school districts, like Tooele County School District.

A 10 cent gas tax increase is estimated to raise \$120-\$140 million for the state.

### Proposition Number 3

#### Association position: Oppose

Ballot Question: Shall a law be enacted to:

- Expand the state Medicaid health coverage program to include coverage, based on income, for previously ineligible low-income adults;
- Maintain the following as they existed on January 1, 2017:
  - Eligibility standards, benefits, and patient costs for Medicaid and the Children's Health Insurance Program (CHIP); and

- The payment rate for healthcare providers under Medicaid and CHIP; and
- Use the tax increase described below to pay for Medicaid and CHIP?

**This initiative seeks to increase the current state sales tax rate by 0.15%, resulting in a 3.191% increase in the current tax rate.**

Analysis: If voters approve of this initiative the state sales tax rate will increase from 4.7% to 4.85% and direct the revenue that comes from the increase in the rate be used to pay for Medicaid expansion in the state. The state estimates the change in the rate will result in \$84 million in increased revenue.

The proposition would expand the state's Medicaid program so that adults under 65 years of age with incomes below 138% of the federal poverty level could receive Medicaid coverage. If passed the law would also be changed to preserve the existing scope of the state's Medicaid and CHIP programs.

In the 2018 legislative session, state lawmakers passed legislation to expand Medicaid in the state but with limitations on the expansion so the state can control costs of the program. The legislation does need a federal waiver to be implemented. Proposition 3 does not have any controls in place to put a fence around the costs the state may incur by expanding Medicaid.

Your Taxpayers Association supports the state's efforts to expand Medicaid but in a budget and taxpayer-friendly way.

Proposition 3 would expand the Affordable Care Act (a.k.a. Obamacare) in Utah without any fences to control spending or the burden placed on the state to provide health care for those enrolled in the program.

This change could prove to be detrimental to the long-term health of the state budget. We urge voters to reject this proposal to allow the Legislature time to provide health care to those in need in a cost-efficient manner.

## Utah Scores in Top-10 Ranking in the Latest Business Climate Report from Tax Foundation

The Beehive State is once again one of the top states for business, according to the latest Business Tax Climate report released by the Tax Foundation.

According to the Washington D.C. based group, Utah has the eighth best tax climate for business in the country and the top climate among states that levy all of the major taxes: property, sales and income. The seven states ahead of Utah do not levy one of those major taxes, and therefore have a higher score than Utah.

The Tax Foundation's rankings examine the tax structure of the state, not necessarily the dollars collected in taxes. The rankings illustrate how policymakers in Utah have done a remarkable job in creating a tax structure that is broad based while working to keep rates low. It also shows the vision of lawmakers to allow the market, not burdensome laws or regulation, to dictate success.

This year, Utah continued its trend of being a business-friendly state as a number of business tax cuts were passed. The state altered the corporate income tax by allowing for single sales factor apportionment to be expanded to all Utah companies and also eliminated the three-year economic life sales tax penalty on business inputs for manufacturers and mines. Changes like these played a role in maintaining Utah's high ranking as a number of states continue to look for ways to catch up to Utah and its business-friendly environment.

The report examined Utah's tax structure ranking it against all other 50 states. The taxes the report reviewed were the corporate income tax, individual income tax, sales tax, property tax and unemployment insurance tax. Utah ranked 5th best for corporate taxes, 10th for individual income taxes, 16th in sales taxes, 3rd for property tax and 16th in unemployment insurance taxes. The higher the ranking, the better the Foundation views a state's tax climate.

When compared to neighboring states, Utah is second highest. Wyoming was ranked number 1 overall in the tax climate index. Wyoming does not levy an individual income tax which improves its score in the index. Nevada is the next closest ranking at number 9 overall. It is followed by Colorado (18), Idaho (21), New Mexico (25) and Arizona (27).

Overall, the top five states in the index are Wyoming, Alaska, South Dakota, Florida and Montana. The worst scoring state on the index is New Jersey, followed by California, New York, Connecticut and then the District of Columbia.

A number of national trends in relation to state taxes were identified by the Tax Foundation in this latest report. The Foundation found that states are starting to respond to federal tax reform by adjusting their tax code to meet the needs of the state. Federal tax reform broadened the tax base for most states. States are now grappling with either lowering their rates to make the base change revenue neutral or by capturing the new revenue from the base expansion, increasing government spending.

Other trends currently taking place include states reacting to the Supreme Court case dealing with out-of-state online purchases and the sales tax levied on those purchases as well as additional states eliminating their "death tax". It was also noted that states are continuing to trend away from depending on the corporate income tax as the tax tends to be unreliable and extremely volatile.

The full index can be viewed at:

[www.statetaxindex.org](http://www.statetaxindex.org).

### Association Accomplishments During September:

- ❖ Met with Saratoga Springs to discuss water fees
- ❖ Continued discussions with UDOT concerning the road usage charge
- ❖ Interviewed legislative candidates for the general election
- ❖ Fact-checked the McAdam's campaign on tax rate claims

### In the News

- ❖ Iron County School District to Ask for \$92 Million Bond
  - [Taxpayers Association Supports Iron County School Bond](#) St. George News
- ❖ Ads for 4<sup>th</sup> District Congressional Candidates Criticized as Race Heats Up
  - [Love, McAdams Both Facing Criticism in Campaign Ads](#) KUTV
- ❖ Other State Tax News
  - [State Lawmakers Need to Do More to Collect Unpaid Taxes](#) KSL
  - [Utah's Truth In Taxation is Getting Attention in Other States](#) Caffeinated Thoughts