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Utah Efforts at Tax Reform Begin to Move Forward

In its October meeting, the Tax Restructuring and Equalization Task Force, after months of public input and weighing options, began taking action on proposals that were placed before it.

The Task Force reviewed five options from various members of the Task Force, with the proposals ranging from a net tax increase proposal of $680 million from Rep. Joel Briscoe to a net decrease of $420 million from Sen. Lincoln Fillmore.

Other proposals included adding a statewide property tax for infrastructure to the creation of a carbon tax. While the five proposals varied differently, we will focus on the Chairs' proposal, which would be a net tax decrease of $75 million.

The Chairs' proposal, which is generally supported by your Taxpayers Association, decreases the income tax, restores the sales tax on food, creates an income tax credit for a grocery tax and social security income, and removes several sales tax exemptions.

This proposal requests that the income tax be lowered by 0.25%, which would bring Utah's income tax rate to 4.7%. While your Taxpayers Association strongly favors a cut to the income and corporate income tax rate, we feel that policymakers have plenty more room for an even larger income tax cut, such as the one proposed in Sen. Fillmore's proposal.

We commend the Legislature for setting aside $75 million in the 2019 Session for a tax cut. According to the latest Governor's Office of Management and Budget revenue summary, based on Tax Commission data shows a $107 million in new net reserves. This is a total of $282 million that could be used for an even larger income tax cut.

Sen. Fillmore calls for a cut to the income tax down to 4.5%, which would bring Utah more in line with neighboring states and others around the country that are starting to mirror and even undercut Utah in tax cuts.

Returning to the Chairs' proposal, it also seeks to restore the sales tax on food, which your Taxpayers Association has been calling for since its passage in 2006(?). The restoration of the sales tax on food creates a stable source of funding for the state, which has been one of the Task Force's guiding principles. In addition, it creates an easier compliance for grocers and other retailers.

Tacked on to this is the enactment of a grocery tax credit for low- to middle-income earners. The tax credit would be a $100 refundable income tax credit per household member, with a phaseout rate of .02% per dollar above the following thresholds: $30,000 for one exemption, increasing by $10,000 per household member.

The grocery tax credit would be $150 per exemption if the claimant has income less than $15,000.

Keep in mind, recipients of SNAP or WIC benefits do not pay any sales tax on unprepared food items. Your Taxpayers Association did some calculations and found that if a family spends $45 a week on groceries, the increased state sales tax would require them to pay an additional $1.39 per week in sales tax for an increase of $72.54 per year (3.1% additional tax from the current 1.75% to 4.85%). Their total state and local sales tax on food paid in a year would be approximately $170.23. A $100 income tax credit per dependent is given, a family of four would actually have $229.76 more in their pocket each year ($400 credit vs $170.23 paid in sales tax).

The Chairs' proposal also more closely ties user fees to the service provided, in this case, transportation. The proposal would remove the sales tax exemption on motor fuel and diesel fuel and would be imposed at the distributor level at the statewide sales tax rate of 4.85%. The Chairs' proposal does keep in mind that the tax would be used to fund transportation until another, more viable options emerges, such as a road usage charge. Your Taxpayers Association strongly supports moving towards user fees when it comes to transportation.

Their proposal also seeks to broaden the sales tax base by levying sales taxes on certain services, including maintenance and repair of real property as well as peer-to-peer ride sharing (Lyft, Uber, etc.), and streaming media. Your Taxpayers Association is grateful that many elements of tax pyramiding have been cut out of the proposal following our input, and encourage the Task Force to look at the elimination of all tax pyramiding when putting together a final proposal.

The Task Force is expected to release a proposed piece of legislation that would contain these changes in early November, and your Taxpayers Association is excited to continue to provide input to the Task Force to refine and ensure tax reform is keeping with Utah's tradition of being a great place to work and live well into the future.

My Corner: Inside Utah's Legislative Process: Strength to Create Prosperity, Weakness Which could Spell Disaster

I have either lobbied or served in the Utah Legislature since April 1, 1977. From my MPA experience I was already aware that the Utah Legislature avoids the costly duplication and unnecessary competition among dueling staffs that exist in so many other states.

The modernized staff support through the Office of Legislative Research and General Counsel, Office of Legislative Fiscal Analyst, and Legislative Auditor General had been established through visionary leaders like Senator Karl Snow.

A significant Constitutional amendment to the legislative calendar had also passed, changing from alternating 60-day General Session one year and 20-day Budget Session the next year to annual 45 calendar day sessions, which is one of the nation's shortest and most efficient. Monthly joint interim meetings brought together House and Senate Standing Committees to vet proposed legislation for the coming General Session also made the short legislative sessions more efficient and productive.

The Utah Legislature had imposed 12 year term limits on state legislators along with 20 other states. Fortunately, the Utah Legislature repealed the law one year before it was to take effect, as did Idaho's Legislature.

State Supreme Courts struck term limits in four states leaving 15 still with term limit laws. The 15 states left with term limit laws have found political power to not be held by those elected by the people but by career bureaucrats and lobbyists who find it easier to influence perpetually novice legislatures. The institutional memory so essential to sound lawmaking was lost in these states due to term limits.

Informal Legislative Process

While Utah's formal legislative process and staff support has been stable and effective for more than four decades, the informal process has been anything but stable and increasingly less transparent. When I arrived in the Senate in January 1993 the House and Senate Tuesday and Thursday caucuses during the legislative session were open to the public and press and included Democrats and Republicans in the same room hearing the same presentations. This continued until the mid 1990s when a lawsuit was brought against the practice and there has been less dialogue between the parties since.

Despite parties being separated from each other during their caucuses in the mid- 90s each party in each house of the legislature still had their caucuses open to the public except in rare cases when differences could be aired between caucus members without the stifling effect of public decorum. Gradually over the years caucuses became closed to the public and too often when outside expertise could have yielded more informed decisions, legislators have been left to the limited expertise within the body and staff. This practice has become a weakness in Utah's otherwise enviable legislative system. It is dangerous not only because of an assumption that the collective wisdom and knowledge of caucus members is sufficient to decide public policy, but that it produces public distrust in a process expected to be conducted in the open.

The exclusion of the public, the press, and lobbyists from majority caucus meetings — which now include more than ¾ of the members of either house — a veto-proof majority, while not illegal, raises questions of propriety. This exclusion of the public also gives individual caucus members greater influence on positions benefiting their own professions or businesses — too often at the expense of those not in the room.

Lobbyists

While lobbyist is to some a dirty word, my experience has been that they are one of the most important supports of a legislature's ability to make good public policy.

Usually there are very effective lobbyists on each side of controversial issues. After hearing from each and often obtaining data not readily available from other sources, each legislator is better able to make an informed vote or in some cases an amendment which improves the legislation.

A lobbyist's most important asset is trust. If a lobbyist makes the mistake of giving false information or half-truths, he may be rendered ineffective for a very long time.

Hope for Transparency

It's my hope that the majority caucuses will be re-opened to public view and that expertise from outside the caucus members' own expertise will be sought. Perhaps the best example of this was the legislature's consideration of massive tax hike proposals during the budget shortages in the 1980s when legislative consensus was not to be found. Legislative leadership decided to hold a joint convention of both houses, similar to when they convene to hear the Governor's "State of the State" address.

Experts and taxpayer advocates sat in the circle at the front of the house and were given a chance to give their positions to the entire legislature and to be questioned by any member of the legislature.

The lengthy yet productive meeting ensured every legislator had an opportunity to hear the same presentations at the same time and to hear the questions and answers that were given. To my knowledge, this joint convention process has never been used since. I think it ought to be considered whenever the legislature is facing what appear to be insurmountable challenges.

The missing part of the conversation on sales tax on food

Originally published in the Deseret News on October 9, 2019. Written by Association Vice President Rusty Cannon.

Whenever the debate surrounding restoring the sales tax on food reignites, hyperbole and emotion sometimes get in the way of facts and data. We would like to explain a few facts and sets of data that seem to be missing from the conversation.

Since 2008, purchases of unprepared food or groceries have been taxed at a reduced state tax rate of 1.75% instead of the full state rate which is currently at 4.85%. The most common knee jerk-reaction to calls for restoring this tax rate to the same 4.85% that all other purchases are taxed is that it hurts the indigent, it's regressive, and hits hardest those least able to pay. But in reality the current 3.1% exemption actually benefits the wealthy most and restoring the full sales tax, if done right, can actually benefit low-income families more than the current exemption.

The first fact — which is surprising to most — is that the current lower sales tax on food overwhelmingly benefits the wealthy more than the poor. As an example, if a wealthy family spends $150 on groceries for a week's supply, they bank a tax savings of approximately $4.65 (3.1% reduced tax rate of 1.75% versus 4.85%). If a low-income family spends $45 on groceries for the same week, they only bank a tax savings of approximately $1.39 (3.1% reduced tax rate of 1.75% versus 4.85%). So, the wealthy buyer banks a tax break that is 334% higher or over three times as high. The more a family spends on food, the bigger the tax break they get.

Second, recipients of SNAP or WIC benefits do not pay any sales tax on these food purchases. So, any increase in the sales tax rate would not affect those purchases. For the working poor who don't qualify for SNAP or WIC, a grocery tax credit can be given to more than offset the added sales tax paid. For example, if a family spends $45 a week on groceries, the increased state sales tax would require them to pay an additional $1.39 per week in sales tax for an increase of $72.54 per year (3.1% additional tax from the current 1.75% to 4.85%). Their total state and local sales tax on food paid in a year would be approximately $170.23. If, like in Idaho, a $100 income tax credit per dependent is given, a family of four would actually have $229.76 more in their pocket each year ($400 credit vs $170.23 paid in sales tax).

Restoring the full sales tax on food coupled with a much larger tax credit significantly reduces the tax burden on lower-income families. Finally, in keeping with the principle of having a fair tax structure, the sales tax on food is one of the only direct taxes that everyone pays.

Are Utahns Tired of School Districts Building "Taj Mahals"?

Each year, your Utah Taxpayers Association reviews all of the various bond proposals floated by taxing entities around the state.

While we generally try to meet with school districts to reduce overall bonding costs through the encouragement of cost-cutting construction methods, in 2019 it seems Utah taxpayers do not have an appetite for passing hundred million dollar bonds for new school district construction.

The six school district bonds your Taxpayers Association reviewed, only two passed, according to preliminary election results. These two, Kane County and Carbon School districts, proposed relatively small bonds.

Kane County School District proposed a $23 million bond to construct a new elementary school. A whopping 70% of voters approved this. Carbon School District asked voters for $36 million in order to upgrade several schools and add an addition to Carbon High School. This passed by a much narrower margin of 53% to 46%.

Bonds in Provo ($245 million), Tooele ($190 million), Wasatch ($150 million), and South Summit ($87 million) all were rejected by voters.

Does this mean taxpayers are getting tired of constant rebuilds, remodels, and excessive school district spending on facilities? In fact, in 2018, Utah school districts spent nearly $1.2 billion on new construction and renovation projects.

We are informed that Idaho law requires a ⅔ supermajority for school bond proposals. This appears to be the reason school design extravagance is less common in the Gem State than it is here.

In recent years, some new Utah schools have rung the register with prices as high as $110 million, and that price continues to climb as school districts build grandiose structures that far exceed the necessity for educating our children.

Corner Canyon High School in the Canyons School District is a perfect example of excess in building costs. In 2010, the Canyons School District Board authorized a bond of $250 million, primarily for the construction of a new high school, Corner Canyon. The Board stated that the high cost will ensure that the high school will be prepared for students for decades to come. The Board of Education even alloted for a 13-ton dome to be part of the construction of the building.

The bond passed 50.68% to 49.32%.

Fast forward just five years after construction finished, and the Board asked taxpayers for even more money for Corner Canyon. In 2017, the Canyons School Board stated they needed an additional $10 million for an expansion in Corner Canyon, the high school with a dome.

While some school districts such as Washington in Utah's Dixie are doing the right thing, using low-cost construction methods while working to maintain a building that can educate students for years to come, others are following the Canyons School District model. It seems taxpayers are sick and tired of it.

Here's a brief synopsis of general obligation bonds on the ballot, and how the preliminary results are shaking out:

- Tooele School District- $190 million proposal to construct a new high school, junior high and elementary school as well as security upgrades. **For: 41.7%. Against: 58.3%.**
- South Summit School District- $87 million proposal to construct a new high school. The old high school will remain in use for the junior high. The School Board has committed to follow the most cost-effective construction methods in order to avoid unnecessary costs. **For: 47.5%. Against: 52.5%.**
- Provo School District- $245 million proposal to repair about 90% of Timpview High School that is suffering from some shifting and movement under the school, and rebuild Dixon, Wasatch and

Westridge Elementary Schools, as well as security upgrades for 10 schools. **For: 36.9%. Against: 63.1%.**

- <u>Wasatch School District</u>- $150 million proposal to construct a new high school and elementary school. **For: 42.9%. Against: 57.1%.**
- <u>Kane School District-</u> $23 million proposal to construct a new elementary school. **For: 70.7%. Against: 29.3%.**
- <u>Carbon School District-</u> $36 million proposal to upgrade several schools and add an addition to Carbon High School. **For: 53.4%. Against: 46.6%.**
- <u>Santaquin City-</u> $12 million proposal to construct a recreation and aquatics center. The Utah Taxpayers Association has always been opposed to government seeking to compete with private taxpaying business at the expense of taxpayers. **Against: 74.5%. For: 25.5%.**

Utah Drops in Business Climate Index Ranking

Every year the Tax Foundation in Washington DC releases its "State Business Tax Climate Index" that ranks states in a unique way. It seeks to compare state tax systems by not only looking at how much states collect in tax revenue, but more importantly *how* they are collecting that revenue and provide a road map for improvement.

The 10 best states in this year's *Index* are:

1. Wyoming
2. South Dakota
3. Alaska
4. Florida
5. Montana
6. New Hampshire
7. Nevada
8. Oregon
9. Utah
10. Indiana

The absence of a major tax is a common factor among many of the top 10 states. Property taxes and unemployment insurance taxes are levied in every state, but there are several states that do without one or more of the major taxes: the corporate income tax, the individual income tax, or the sales tax. Wyoming, Nevada, and South Dakota have no corporate or individual income tax (though Nevada imposes business gross receipts taxes); Alaska has no individual income or state-level sales tax; Florida has no individual income tax; and New Hampshire, Montana, and Oregon have no sales tax.

There are only two states in the top ten which impose all three major taxes. Indiana and Utah levy all of the major tax types, but do so with lower rates on broader bases.

Breaking down Utah's various ranks for each tax (income, property, sales and unemployment) the strongest point for Utah is our property tax rank of #5 due to our Truth in Taxation law, which your Taxpayers Association was instrumental in passing in 1985. Our overall rank is pulled down a bit by lower rankings in other areas like #22 in Sales Tax, #10 in Individual Income Tax and #15 in Unemployment Insurance Tax.

Utah's ranking slid from #8 to #9 this past year due to voters approving a .15% rate increase in the sales tax to fund Medicaid expansion. It will be interesting to see if Utah can regain the #8 spot next year since the current holder of that spot, Oregon has approved a very onerous gross receipts tax that will surely hurt its ranking.

Utah Taxpayers Association Presents Tax Issues in Front of Nationwide Panel in Washington, D.C.

Every year, your Utah Taxpayers Association staff members attend a couple of annual meetings that bring together sister taxpayer associations from states across the country along with tax professionals, CPAs, legal professionals and policymakers. In October, Howard Stephenson and Rusty Cannon attended the National Taxpayers Conference gaining valuable insights into tax policy, upcoming legislation and future plans for every region of the country.

The National Taxpayers Conference is an annual gathering of sister organizations like ours from states across the country. We update everyone on the current tax issues being discussed and proposed in our various states and nationally and share best practices and ideas.

It's clear that every state faces similar issues on taxation, however, the demographics and economics of each state differ significantly. Utah is unique in that we have a robust and growing economy. We could have it much worse by being tied to dying industries, or suffering from a declining population and experiencing negative net migration as residents leave as is happening in other states. We are very fortunate to have the relatively young, diverse and educated workforce and policymakers that have governed the state in a conservative way with good tax policy and the best business environment in the country.

After hearing the report from our sister organization in California, we are confident that the Golden State will continue to be the "gift that keeps on giving" for Utah. Policymakers continue to propose and pass higher taxes, more restrictions on business and are even proposing a business killing classification system in property taxes that will ramp up the demonization of the very businesses that provide jobs for California families.

Rusty Cannon presented at the annual meeting for COST (Council on State Taxation), which was celebrating its 50th anniversary as an organization that promotes good tax policy around the country. Cannon gave an update during the Western States section on current tax legislation and future policy goals in Utah. The current tax reform efforts in Utah were a hot topic as tax professionals from around the country are watching how it unfolds. He also discussed upcoming efforts to have Utah join the vast majority of other states in decoupling from federal tax law on GILTI (Global Intangible Low Taxed Income). That would save taxpayers upwards of $12 million per year. Business and industry representatives as well as CPAs and attorneys from all over the country spent several days discussing state tax policy and provided insight on how various states are navigating the waters.

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 22, 2019 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.

Association Accomplishments During October:

- Attended Revenue and Taxation Interim meetings at the Capitol
- Spoke at the Tax Reform Task Committee Meeting at the Capitol
- Presented at a St. George Chamber of Commerce Breakfast Meeting
- Attended the National Tax Conference in Washington, D.C.
- Presented in front of nationwide counterparts at the National Council Of State Taxation Conference in Washington, D.C.

In the News

- Property Tax Increases Across the State
  - Property Taxes Went Up in These Utah Cities and Towns: Salt Lake Tribune
- A Look at the Taxpayer Money Used to Attract Filmmakers
  - Taxpayer Money Attracts Filmmakers to Utah: KUTV
- Latest Tax Proposal Promising but Still Needs Revisions
  - New State Tax Plan Proposal: Salt Lake Tribune
- Utah Tax Reform Task Force Moves Forward with Reform Proposal
  - Utah Tax Task Force Advances Proposal: KSL