February 2020 Volume 45 Issue 2

THE UTAH TAXPAYER

A PUBLICATION OF THE UTAH TAXPAYERS ASSOCIATION

# 2020 Legislative Session Begins, Tax Issues Still Percolating

With more than 200 bills already numbered during the 2020 General Session, it may be hard to keep track of all the tax-related legislation. Thankfully, your Taxpayers Association tracks all these bills, and many more for you through our 2020 Legislative Watchlist.

Here are the major bills we're working on so far this year:

**Strengthening Truth-in-Taxation through the Property Tax Notice (HB 164)**

Utah is unique in the nation when it comes to property tax laws, specifically Truth-in-Taxation (TNT). TNT requires that entities that look to exceed their certified tax rate (collecting more property tax revenue than the prior year, excluding new growth) advertise the impact of the proposed increase and hold a public hearing to allow their taxpayers to provide input on the proposed tax increase. Utah's property tax system is based on revenue, rather than a static rate, like other states.

Utah's Truth-in-Taxation law is regularly praised by national organizations, and is actively modeled in other states, including Iowa. But since first taking effect in 1986, your Taxpayers Association continues to refine Truth-in-Taxation to provide even more transparency to taxpayers.

HB 164, sponsored by Rep. Jeff Moss, requires additional information be included on the property tax notice, mailed by the counties each year.

Following the passage of HB 293 in the 2018 Session which froze the statewide uniform school tax rate, the Legislature did not put in place a transparent method of showing an increase to the property owner. While taxes for the property owner increased, the change year-over-year was shown as zero on the mailed notice. HB 164 will change this to reflect the true change in taxes for the statewide basic levy.

In addition, the deadline to appeal a property's valuation, information about residential exemption, and the total taxable value of the property will also be required on the property tax notice under HB 164.

Your Taxpayers Association initiated this important legislation.

**Easing Senior Citizens' Tax Burden on Social Security Income (HB 181)**

While the Utah Legislature did pass a bill that would have provided a tax credit for social security income, Utahns that signed the referendum on the tax reform package undermined this effort. However, Rep. Walt Brooks is looking to restore this credit in HB 181. If passed, the measure would eliminate state income taxes on certain social security income.

HB 181 would enact a nonrefundable tax credit for senior citizens receiving social security income up to certain income thresholds. While Utah already has a retirement tax credit, HB 181 would allow the option for filers to choose between the social security and retirement tax credits.

Your Taxpayers Association is supportive of this legislation.

**Boosting Rural Utah's Economic Power and Employment (SB 41)**

Utah's enviable business tax and regulatory climate, which has made Utah one of the best states to raise a family, was created by visionary policymakers. The state has also systematically eliminated tax pyramiding by removing sales taxes from business inputs in nearly all major NAICS code categories.

The Legislature's decision to exempt solar and wind power generation equipment from sales taxes has led to billions of dollars of investment in Utah wind and solar farms, vastly increasing the property tax base of schools and local governments in Beaver and Millard Counties.

Passage of the 1995 manufacturing sales tax exemption ensured the Micron's initial investment of more than $1 billion in Lehi and ultimately led to Utah's Silicon Slopes tech boom. The three-year-life manufacturing exemption in 2018 ensures that manufacturers in northern Utah continue to provide jobs for Utah families. However, the state still imposes punitive sales taxes on oil & gas exploration and production and non-renewable electric generation. Unfortunately, this has had an adverse effect on the eastern part of the state, most prominently the Uintah Basin counties of Duchesne and Uintah.

Fortunately, SB 41, sponsored by Sen. Ron Winterton, which was approved by the Public Utilities, Energy, and Technology Interim Committee, eliminates sales taxes on inputs for oil and gas, electrical generation and pipelines.

Your Taxpayers Association is actively working with the Legislature to pass the bill.

**Returning Money Back to Taxpayers Following Federal Tax Reform (SB 53)**

When federal tax reform was passed in 2017, Utah received a windfall in taxes since it couples with the federal government on several tax policies.

Because of this coupling on the issue called Global Intangible Low Taxed Income (GILTI), some companies have seen a substantial tax increase, which provided significant new funding to the state, without the Legislature making any policy call as to whether it was appropriate or not.

Without decoupling from the federal law, businesses that engage in foreign commerce have seen an increase, creating an uneven playing field. Sen. Lincoln Fillmore is looking to finally decouple from federal law.
So far, 82% of states that levy a corporate income tax have decoupled from GILTI at a federal level. It's Utah's time.

Your Taxpayers Association strongly supports this bill.

**Providing for Teachers When Purchasing Classroom Expenses (SB 69)**

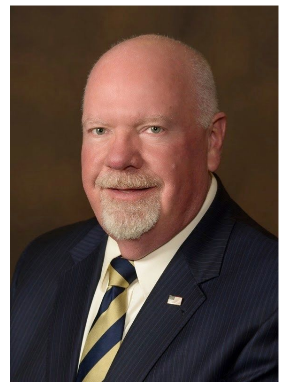
Sen. Jake Anderegg has a proposal to provide even more money for teachers when they purchase classroom expenses from their own pockets, through the form of an income tax credit. While there is already a tax credit on the federal level of $250, many teachers have said this is not enough.

Sen. Anderegg's legislation would allow for a teacher to receive a state income tax credit for up to $1,000 for supplies purchased.

This is a very appropriate use of taxpayer dollars considering that teachers have greater control of the supplies purchased within the classroom, without having to wait for district support. The income tax credit, which is taken from the Education Fund, is being directly used to fund a student's education.
Your Taxpayers Association is supportive of this legislation.

This is not all the Taxpayers Association is working on this legislative session. To see the full list and our positions, click here or visit utahtaxpayers.org.

# My Corner: If a Republic is Better than a Democracy, Why Did 152,000 Utah Voters Say the Legislature Got Tax Reform Wrong?



In what can fairly be described as a perfect storm, petitioners gathered more than 144,000 signatures on a referendum petition to repeal SB 2001 which was passed in a December 12, 2019 Special Session of the Utah Legislature. The bill was almost perfect by economic, budgetary, and even social justice standards, but because it was so widely misunderstood, it was easy to stir up opposition.

On its face the bill seemed to restore regressivity to the sales tax by repealing the 3% rate reduction on food that had been put in place more than a decade earlier. That is apparently what the signers of the petition believed. However, had they read it, they would have known the bill was carefully crafted to ensure that low and moderate income families would actually have hundreds of dollars more in their family budgets through tax credits to more than offset the food sales tax. For those complaining that the poor can't wait for a once a year offset or the poor aren't smart enough to file to claim the credit, the Tax Commission and Representative Steve Waldrip were working on methods to give these families monthly direct deposits or debit cards to automatically deliver these credits.

Among the many petition signers and advocates with whom I spoke, not a single one knew or believed when I told them that SB 2001 delivered a net tax cut of more than $160 million. When coupled with the fact that about $40 million would be collected from visitors, the tax cut to Utahn's was upward of $200 million, the largest tax cut in Utah history.

Rep Steve Waldrip developed a one page explanation, which he used at town meetings in his district. He said once he walked through the fact sheet and attendees understood what the bill actually did, they realized the legislature had been thoughtful about tax reform.

The Legislature's last major tax reform was in 2007 during the Huntsman administration, but the process actually started much earlier with the first legislation relating to the food sales tax reduction passing in 2006. Then, following passage of the major bill in 2007, the income tax component was fine-tuned in 2008. In those days, the Legislature had created a tax reform task force which painstakingly took the time over many months to put together a package which had excruciatingly detailed data and research to back it up. Lawmakers studied “hurricane charts” which showed exactly how every Utah income tax filer of the previous tax year would be affected by the income tax changes.

By contrast, the December 12, 2019 special session tax reform bill was not available for review until December 11, and was changed significantly the next day before opening the special session, adding benefits for intergenerational poverty families and persons on social security. SB 2001 was far more intricate than the 2007 tax reform because it sought to remedy the structural imbalances and fiscal instability produced by the earlier reforms, and exponential growth in income tax revenues resulting in large part from the nearly total elimination of tax pyramiding through the removal of sales taxes on business inputs over the last two decades.

**Correcting Fiscal Instability**

It is ironic that the state with the most robust economy in the nation and the best economic outlook going forward also faces challenges because of silos around revenue sources, preventing fiscal flexibility to ensure, during economic downturns, stable funding of essential services like education, transportation, and public safety.

The gas tax would have moved the funding of highways away from the general fund sales tax and more toward a user fee, helping to ensure that Utah stays ahead of traffic congestion and gridlock which affects so many other urban areas across the nation.

The food sales tax would have meaningfully stabilized the sales tax by getting the middle class, the wealthy and tourists who benefited most from the 3% reduction to resume paying the tax. The food sales tax would directly benefit low-income people during an economic downturn by protecting funding for social services programs.

While the food sales tax and new gas tax stirred up opposition to SB 2001, the so-called public education advocates climbed on the bandwagon in order to overturn over $600 million of income tax cuts contained in the bill. Ironically, the UEA Teachers Union and its ally, the State PTA leadership (not local school PTAs) endorsed the referendum which would have actually stabilized state budgets during economic downturns, ensuring that the next recession would minimally affect public education funding.

As your Taxpayers Association analysis has noted, in the economic downturn following 9/11, revenues from the sales tax (which included the full sales tax on food) and property tax were relatively stable compared to income taxes. On the other hand, in the Great Recession following the 2008 housing bubble , the food sales tax had been reduced by 3% which caused it to be as volatile as the income tax. If the food sales tax had been completely removed, the sales tax would have dropped even more than the income tax, putting an even greater strain on funding for social services and other necessary government spending.

SB 2001 was a great effort to put Utah’s tax structure on a firm path for economic growth and family prosperity. Unfortunately, the process, which began with a terribly flawed bill in the 2019 general session and continued with a “listening tour” which had no concrete proposal to which citizens could react, was not properly driven. It was a seeming miracle that the awkward process could actually arrive at a sound proposal.

In 2007, the tax reform package was less complicated, but there were detractors who didn’t trust what the Legislature had done. Some claimed it was a hidden tax increase or that it would benefit the rich and corporations. A year later at the 2008 Legislative Session, citizens had seen the bill’s effects and were pleased.

However, with SB 2001, there was not a year for cooling off and to experience the effects of the reforms. Also in 2007, there was not a wide field of candidates lining up to run for governor as in 2019. All of the 2020 candidates who had filed at that time saw the grassroots referendum process as a chance to show they were "with the people." During the referendum process I showed some of the candidates for governor who endorsed the referendum, unmistakable evidence that the repeal of SB 2001 would eliminate a net $160 million tax cut and severely destabilize state revenues during the next economic downturn which would require draconian spending cuts to essential services. I asked each candidate how they would deal with such a budgetary crisis. One of them answered, "I would turn to the people and ask them what they want me to do." Another said, "I don't have an answer right now, I'm still putting together my position papers."

In spite of a flawed process, the Legislature sought to solve significant and serious problems. Unfortunately, the Legislature will likely be reluctant for a long time to address the very real structural imbalances and instability plaguing state and local budgets which SB 2001 would have corrected.

## States Continue to Look to Utah as They Reform Their Tax Structure

While Utah contemplates next steps to address reforming Utah's aging tax structure in order to keep Utah in its #1 spot as the best place in the country to live and do business in, other states are on the move in trying to solve similar problems.

Iowa is one of these states. Over the past few years, Iowa has begun the process of reforming its property tax system. Iowans have, like many other states' taxpayers, looked to control perpetual property tax increases. Unlike Utah, other states have property tax laws which allow for automatic increases which are not done in a way that is transparent to the taxpayer.

Iowa is working to fix this, and passed a new law which took effect in 2019. This new law requires county and city (school districts were not included) governments to hold a public hearing if the proposed budget increases more than two percent above the previous year, and a supermajority vote for the increase to be enacted. This new two percent "soft cap" is meant to control the growth of property taxes and require local governments to provide more transparency within the local budget process.

Utah, on the other hand, requires entities go through the Truth-in-Taxation process, if an entity is seeking to exceed its certified tax rate, which keeps governments from automatically collecting more property tax revenue than they received the prior year (excluding new growth). Iowa taxpayers and organization are rallying behind Utah's law and demanding state government continue to model their property tax law after Utah's.

But that's not all Iowa is doing.The Republican Governor of Iowa, Kim Reynolds, has proposed building on reforms that were passed in 2018 that rebalances tax collections between income and consumption in a way that is somewhat similar to what Utah's Legislature just passed in December. Her proposal includes the following, among others:

- Increases the state sales tax rate one full percentage point from 6% to 7%.
- Cuts the individual income tax rate by about 10% in 2021, with further cuts in 2023 bringing the rate down from about 8.5% to 6.5% and then 5.5%. It also reduces the number of brackets from nine to four.
- Additional measures such as:
    - repealing the state water excise tax,

- exempting diapers and feminine hygiene products from sales tax,
- reducing the statewide mental health property tax levy and instead have more mental health spending funded by the state directly,
- and expanding access to the Early Child Development and Child and Dependent Care tax credits by doubling the eligibility limit from $45,000 to $90,000.

These changes, if enacted, would improve Iowa's competitive position on tax policy by quite a large margin. According to the Tax Foundation in Washington D.C., Iowa's rank on income tax policy would jump from 42nd in the nation to 20th and it's overall rank would improve from 42nd to 37th in the nation.

Governor Reynolds' proposal would move Iowa to a more stable tax structure by shifting to more consumption based taxes and lowering the tax burden on growth and investment. It would also take a large step in the direction of a more simple, more neutral and more pro-growth tax code. It will be interesting to watch the reaction to the proposal from taxpayers and policymakers in Iowa as the proposal moves forward.

This shows Iowa, and many other states, are watching Utah carefully and enacting policies to compete with our state. Utah needs to continue to be forward thinking in our approach to tax policy to ensure Utah remains the #1 state in which to live and do business.

## Utah Spends Nearly $10,000 Per Student on Average, According to Latest School Spending Report

According to your Taxpayers Association's School Spending Report, Utah spends an average of $9,932 per student annually. The annual School Spending Report looks at spending from all 41 school districts and combined charter school expenditures.

The report finds that Utah's district schools spent $9,795 per student, with 14 school districts spending less than the statewide district average. 26 school districts spent more than $10,000 per student in FY 2019, with two districts (Garfield and Daggett) spending more than $20,000.

Utah's 112 charter schools spent $1,178 more than the 41 districts, at $10,973 per student, however, a big chunk of the spending is in administration. Looking at administrative expenses, Utah district schools spent $850 per student, whereas charters spent $1,215 annually per student, a difference of $365.

Utah's districts also vary widely with the property tax rates (increments) they impose on their taxpayers. Some school districts, like Park City, levy 52% of the statewide average, while South Sanpete levies 150% above the statewide average. However, Park City and several other districts benefit hugely from their property tax base. Park City, for example, has very high property tax values with many properties not exempt from the primary residential exemption. Therefore, they generate much more revenue from higher-valued property. This allows them to have much lower tax rates than South Sanpete or Tooele, for example.

Additionally, Park City School District has an assessed valuation per student of $3,261,364. Compare that with South Sanpete at $207,204, which only has 1,500 fewer students than Park City.

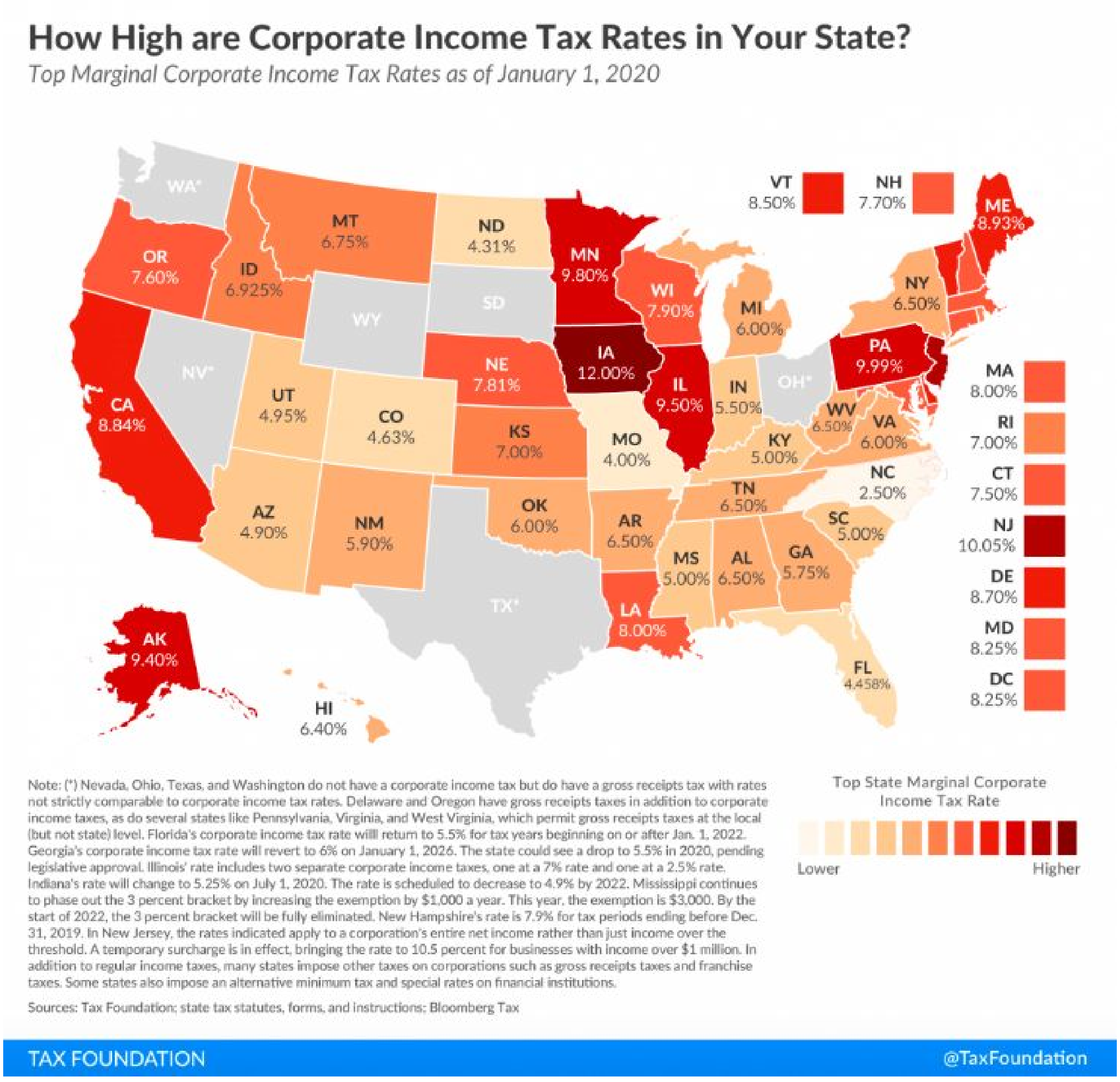
To see how your school district fares, click here or visit utahtaxpayers.org.

# Utah's Corporate Tax Rate Stays Competitive in FY 2019

Corporate income taxes are levied in 44 states. Though often thought of as a major tax revenue source for states, corporate income taxes actually only account for an average of 4.73% of state tax collections and 2.27% of state overall revenue.

In addition, the corporate income tax is extremely volatile and cannot be counted as a stable source of revenue for any state government, especially one like Utah that places an earmark around all corporate income tax revenue. The corporate income tax, like the individual income tax, must be used for public and higher education spending. In Fiscal Year 2019, Utah collected $520 million in corporate income tax off the 4.95% rate, compared to the more than $4.3 billion collected in individual income tax.

Of the 44 states that levy a corporate income tax, 31 of them have a “single” rate, including Utah. This means that there are no graduated tax brackets for corporations. This is the right policy, since the size of a corporation has no bearing on the income of the owners. Small companies can have owners with very high incomes and large



corporations can have owners with low incomes. A single rate system minimizes the incentive for companies to engage in expensive and wasteful tax planning to mitigate the damage of higher marginal rates.

Every year, the Tax Foundation in Washington D.C. produces a map of where all of the states stand on their corporate income tax rates. It provides a great visual summary of where Utah stands not only in the western region but also nationally.

Iowa levies the highest top corporate tax rate at 12%. Iowa, from reforms passed in 2018, will be lowering their top corporate tax rate to 9.8% but will not be enacted until 2022, so we can expect the state to be at the top of the list for another few years. Iowa is followed by New Jersey (10.5%), Pennsylvania (9.99%), and Minnesota (9.8 %). Two other states, Alaska and Illinois, levy rates of 9% or higher.

On the other end of the spectrum, North Carolina's flat rate of 2.5% is the lowest in the country, followed by rates in Missouri (4%) and North Dakota (4.31%). Seven other states impose top rates at or below 5%: Florida (4.458%), Colorado (4.63%), Arizona (4.9%), Utah (4.95%), and Kentucky, Mississippi, and South Carolina (5%).

Utah is in a competitive position with its corporate income tax rate, however there are a number of states with lower rates and a large number of states that are not much higher and moving lower. One of Utah's closest competitors in the annual "Rich States, Poor States" ranking of best economic outlook among the states, North Carolina, now sits with the lowest corporate income tax rate in the nation at 2.5%.

## Association Accomplishments During January:

- Held the 2020 Legislative Outlook Conference
- Presented in legislative committee hearings during the 2020 General Session
- Spoke with the Governor, House Speaker, and Senate President about upcoming tax issues for the 2020 Session
- Presented arguments for tax reform at the Sandy Senior Center

### In the News

- Legislative Outlook Conference
  - Gas Tax Will Eventually Be Replaced By Fees and Tolls: Salt Lake Tribune
  - Herbert Praises Tax Reform : KCPW
- State Tax Reform
  - Utah Legislature, Governor Announce Plan to Repeal Tax Reform Law: Salt Lake Tribune
- 2020 Utah Legislative Session
  - 2020 Opening Day Radio Show Utah Public Radio