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THE UTAH TAXPAYER

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2020 General Session Looking to Make Major Tax Impacts for Families and Businesses

All Utahns are just over a week away from the end of the Legislative Session. Each year, your Taxpayers Association watches for tax legislation and takes positions on bills. This year, we are tracking over 70 bills and are actively working to make sure sound tax policy is enacted at the state and local level.

Here are just a few of the bills we're activated on:

HB 356 - Railroad Amendments (Ferry)

The Utah Taxpayers Association has long stood on the philosophy that eliminating sales taxes on business inputs is sound tax policy. By removing these sales taxes, Utah works to end tax pyramiding. By ending this practice, the consumer will generally pay a lower cost since there aren't layers of taxes built into the final price. Removing tax pyramiding is also good business practice, and strongly affects how a state's economy performs. Utah's legislatures have followed your Taxpayers Association stance on eliminating taxes on business inputs and Utah's families and businesses have benefited.

HB 356 seeks to undo part of the major work that has been done to keep Utah #1 for Best Economic Outlook for 12 years running. The bill looks to remove the sales tax exemption on fuel for locomotives in order to build pedestrian and road travel crossways at railroad tracks.

While this may sound altruistic, raising the costs the railroad needs to pay will ripple throughout Utah's economic system. Increased taxes on railroads can mean greater costs on items shipped into and around the state, whether that be housing materials, fuel, or perhaps even items purchased online.

Your Taxpayers Association remains highly opposed to this bill and are working with legislative leadership and the governor to find a more appropriate solution.

SB 222 - Business Input Sales Tax Amendments (Hemmert)

As we just mentioned, eliminating business inputs creates a strong economic system and benefits all Utahns. SB 222 gets this policy right by creating a sales tax exemption for the production or development of software.

Our economic system has changed dramatically over the past two decades, relying more on digital products and services than ever before. As our economy changes, so must our definition of business inputs. When producing an item, many items of tangible personal property are used to develop software that are then sold to the end consumer. SB 222 would exempt the sales tax on the business tangible personal property used to develop software.

This idea came to your Taxpayers Association from one of our members, and we are strongly advocating for this legislation to pass this year.

SJR 9 - Proposal to Amend Utah Constitution - Use of Income Tax Revenue (McCay)

Utah's tax reform process over 2019 was tumultuous and 8% of voters didn't find the Legislature's solution appropriate and stopped it through a referendum. (Learn more about that proposal and the Association's position here.) Following the repeal of that proposal, Utah still has a spending flexibility problem.

All of Utah's income tax is dedicated toward education funding, and cannot be used for other purposes. The general fund (primarily driven by sales tax revenue) has more demands on it than ever before, as social services costs, such as Medicaid, continue to increase. Utah's demand for transportation also continues to increase, which puts additional strain on the general fund. While Utah's income tax revenue climbs higher with massive surpluses, the general fund does not grow to the same extent.

SJR 9 tries to help alleviate some of the pressure by expanding the constitutional earmark on income tax to also be used for children's health programs and people with disabilities.

This greater flexibility frees up more general fund money to be used on helping those in need and expanding programs to ensure Utah's indigent population is taken care of.

This resolution, as a Constitutional amendment, would require a ⅔ vote of each body of the Legislature and a vote of the people in order to take effect.

Your Taxpayers Association is supportive of this proposal.

SB 69 - Tax Credit for Educator Expenses (Anderegg)

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 nonrefundable income tax credit for up to $500 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.

SB 53 - Calculation of Income Tax Amendments (Fillmore)

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.

The bill restores the dependent exemption which was eliminated in 2017 federal tax reform. The bill would provide $3,113 per dependent to Utah families. Many Utah families saw a significant tax increase in 2018 and moving forward.

If this bill passes, Utah families can expect to see a significant tax decrease.

In addition, 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. This bill decouples Utah from federal tax code on GILTI and ends the unfair discrimination against Utah companis that do business in other countries.

Your Taxpayers Association strongly supports this bill.

SB 150 - Transportation Governance and Funding Amendments (Harper)

Utah's transportation system is subsidized by the general fund to the tune of hundreds of millions of dollars a year. This is due to the diminishing power of the gas tax, which has begun to flatten as vehicles become more efficient and the state's population continues to grow.

Your Taxpayers Association believes that a road usage charge (RUC) is the solution. RUC, essentially, has a driver pay for the miles they use. Eventually, the RUC would replace the gas tax as the primary funding solution for Utah's transportation system.

SB 150 requires that UDOT submit a written proposal in 2021 to implement the RUC. We are supportive of this legislation.

To view our entire Watchlist, click here.

My Corner: Just When You Thought It Couldn't Get Any Worse

The 2018 Utah Legislature was praised by various national business advocacy groups for eliminating the three-year life sales tax on manufacturing and mining machinery, equipment and replacement parts. The legislature was also recognized for finally passing the single sales factor for apportionment of multi-state business profits. Legislators seemed to be convinced that taxing business inputs was economically counter to capital investment in the tools of production providing more and better jobs in the Beehive State.

But Then It All Changed

The 2019 Legislature ended disastrously as the Utah House of Representatives attempted to ram HB 441, clearly the worst Utah tax bill of the century, through the legislature with only ten days left in the session. Surprisingly supported by the Salt Lake Chamber, the bill would have imposed millions of dollars in business taxes, among other things. When our Association and businesses across the state weighed in with a united voice against the tax package, the governor, together with leadership in both houses held a hastily called press conference announcing that the bill was dead. It was also announced that a year long task force would be formed to get public input on a better tax reform package.

Listening tours were held across the state. Unfortunately, there was no tax reform proposal to which the public could react during the listening tours. Following numerous constructive meetings of the task following the listening tour, the Governor called a December 2019 special session of the legislature to deal with tax reform. A proposal was prepared which actually contained only a few flaws, but wasn't available to the public until the day before the special session and significant new items were added the very day of the special session. While the Senate got a two-thirds majority support of the bill, the House fell seven votes short, making the measure subject to veto or public referendum. Even though the bill was a net tax cut of $160 million, the two things most citizens understood was the restoration of the full sales tax on food and a hefty motor fuel tax hike. As everyone knows, the referendum challenge was successful and the legislature, rather than putting its budget in limbo until the November election, repealed the bill in the first week of the 2020 legislature.

Many of us thought the House of Representatives had learned from the multiple tax policy fiascos in 2019 and would surely return to the wisdom shown in the 2018 session.

Not so.

Things Actually Got Worse

In the current 2020 legislative session a House bill repealing the existing exemption on diesel fuel used by a railroad and imposing a new 4.85% pyramiding sales tax on business was given a committee hearing 12 days prior to the end of the session. But this time, unlike HB 441 which heaped new taxes on inputs of most businesses, the ill-advised HB 356 singled out only the railroad industry for new taxes. HB 356 (Ferry) flies in the face of your Taxpayers Association's successful efforts for the past 35 years to eliminate sales taxes on business inputs. The legislature's actions in removing these barriers have led to record capital investment and job growth.

In an unusual move, Speaker Brad Wilson assigned himself and Majority Whip Mike Schultz to the House Revenue and Taxation Committee the day before it considered HB 356.

HB 356 passed unanimously out of committee and passed unanimously from the floor of the House. When asked why they voted without hesitation for a bill which knew went contrary to sound economic principles here are some of the responses: That's not a hill I'm willing to die on. I don't have a dog in that fight. Union Pacific hasn't been a good corporate citizen. I didn't want to be on the wrong side of the speaker. I didn't want to jeopardize my bills.

Why a Sales Tax on Railroad Fuel is Pyramiding

Unlike the construction and maintenance of highways which are funded through a combination of user fees, motor fuel taxes and general fund revenues and the materials which go into the road are not subject to sales taxes, the "road system" used by trains is paid for by the railroad and built with materials on which sales taxes are collected. Proponents of the tax argued that other off highway use of motor fuels such as excavators are required to pay excise taxes on their fuels and this is an equity issue. If that is true, the remedy is not to add a pyramiding tax to railroads, but to remove the pyramiding tax from diesel fuel used by heavy equipment on construction projects.

The Utah Legislature has been supporting a new economic growth project called the Inland Port which will increase rail freight traffic many times over current traffic. This doesn't exactly send the best message that we want the Inland Port. In any event, this tax will ultimately drive up the costs of rail transportation and be paid for by customers of rail freight systems.

Your Taxpayers Association Is at Least Partly to Blame

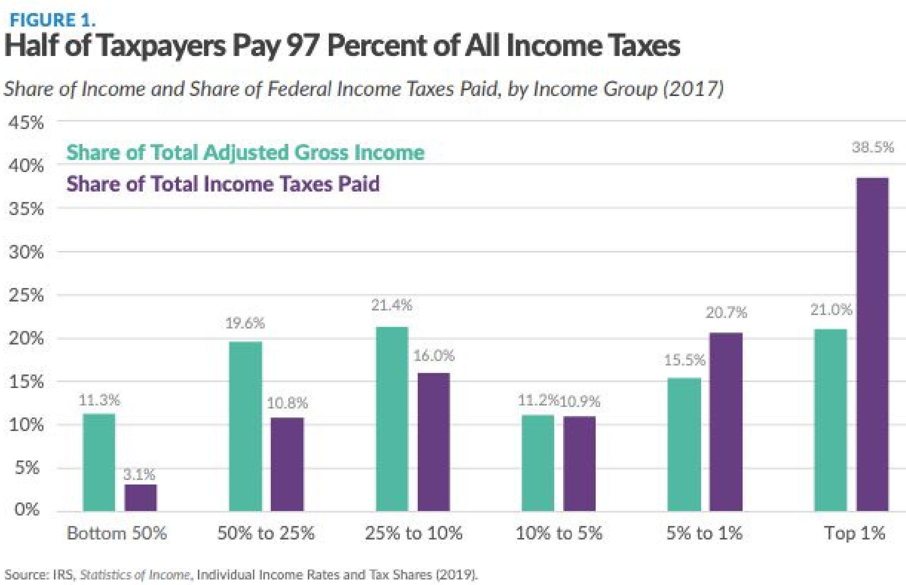
Over the 35 years of success with tax reforms, your Taxpayers Association carefully educated policymakers about the economic principles that supported removing sales taxes on business inputs in addition to other important tax issues such as reducing income tax rates, the single sales factor for multistate businesses and protecting Utah's truth-in-taxation property tax limitation law. We thought legislators' clear understanding of economic principles produced the great tax cuts of 2018 and that same understanding would have prevented the tax reform disasters which have followed.

We were wrong to assume policymakers widely understood those principles. Your Taxpayers Association should have done the careful one-on-one interface with 104 legislators during the tax reform cycle in 2019 instead of only meeting with the Task Force members. We should have assured that every legislator had a full understanding of why Dr. Art Laffer's Rich States Poor States economic analysis gave Utah the number one best economic outlook for 12 years running. I fear that recent Legislative action may cause our ranking to fall, and more importantly, impede the prosperity of Utah families.

Cannon's Canon: The Truth on Income Taxes

Whenever the subject of income taxes comes to the forefront in debates on taxation, there is always a lot of gnashing of teeth and strong opinions about who pays the most and who pays hardly any. One can hear tales of the middle class (who knows what the definition of that is) getting squeezed, or the poor paying too much, or Warren Buffet saying he pays less than the garbageman down the street (he is one of only a few people on the entire planet that can live off of capital gains, yet he hoists that story to the public year after year).

Also, in the heat of campaign season for the Democratic Presidential primary, Senator Bernie Sanders loves to throw fuel on the fire by demonizing businesses and billionaires for not paying enough in taxes (while enjoying a net worth himself of over several million dollars thanks to free market capitalism).



Recently, the Tax Foundation in Washington D.C. published a detailed report on the subject on the federal side of things that provides some interesting sunlight into what the actual facts are when it comes to federal income taxes. The report takes data from the IRS based on individual income taxes that were paid in 2017.

One often hears the claim that the wealthy do not pay their fair share of income taxes. However, looking at the 2017 data from the IRS, one finds that the bottom 50% of taxpayers (those with Adjusted Gross Income of less than $41,740) paid roughly 3% of all federal income taxes in 2017. Consequently, the top 50% of taxpayers (those with Adjusted Gross Income of more than $41,740) paid 97% of all federal income tax in 2017.

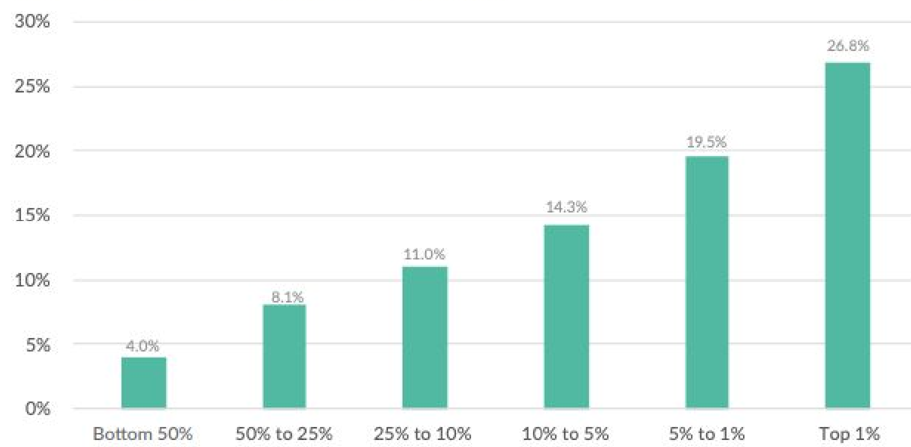
Moving up the income spectrum, the share of the amount of taxes paid continues to increase. Those in the top 5% of income brackets paid over 58% of the total federal income taxes to the tune of $928 billion. For those that might have missed a few days of math class that is just short of $1 trillion dollars. If one contrasts that with the $49.8 billion that the bottom 50% pay, the top 5% are paying almost twenty times ($928 billion vs $49.8 billion) more in taxes than the bottom 50% in total dollars paid.

Aside from the argument of whether this is fair or not, the data makes a few things clear. First, the vast majority of tax revenue that the government relies upon to fund its operations and programs comes from high income individuals. Second, if politicians want to keep the funding in place to pay for all of their bright ideas, they need to think twice before demonizing free market capitalism, businesses and the wealthy. As history and piles and piles of data show, capital and those that produce income for themselves and others tend to flee cities, counties, states and even nations that chase them away with escalating tax rates and punitives tax policies.

FIGURE 2.

High-Income Taxpayers Pay the Highest Average Income Tax Rate

Average Federal Income Tax Rate, by Income Group (2017)



Source: IRS, *Statistics of Income*, Individual Income Rates and Tax Shares (2019).

One of the other complaints that many level at those in higher income brackets is that they pay lower tax *rates* than everyone else. The graph below illustrates why this is a false statement. Once the various tax deductions, exemptions and credits that most taxpayers have, the ACTUAL tax rate (typically called the effective tax rate) they pay is far below what is commonly understood. Once your income rises to a certain level, policymakers penalize success and “phase out” or take away those deductions, exemptions and credits. Consequently all of that higher income is taxed at the full marginal rates.

As the chart above shows, taxpayers in the bottom 50% of income pay an average ACTUAL income tax rate of 4.0% after factoring all of the deductions, exemptions and credits. The top 1% pay an ACTUAL tax rate of 26.8%, which is six times higher than those in the bottom 50%. One can see how it applies to their own situation by looking at their recent tax returns and seeing their “effective rate”. It is typically much lower than most people think.

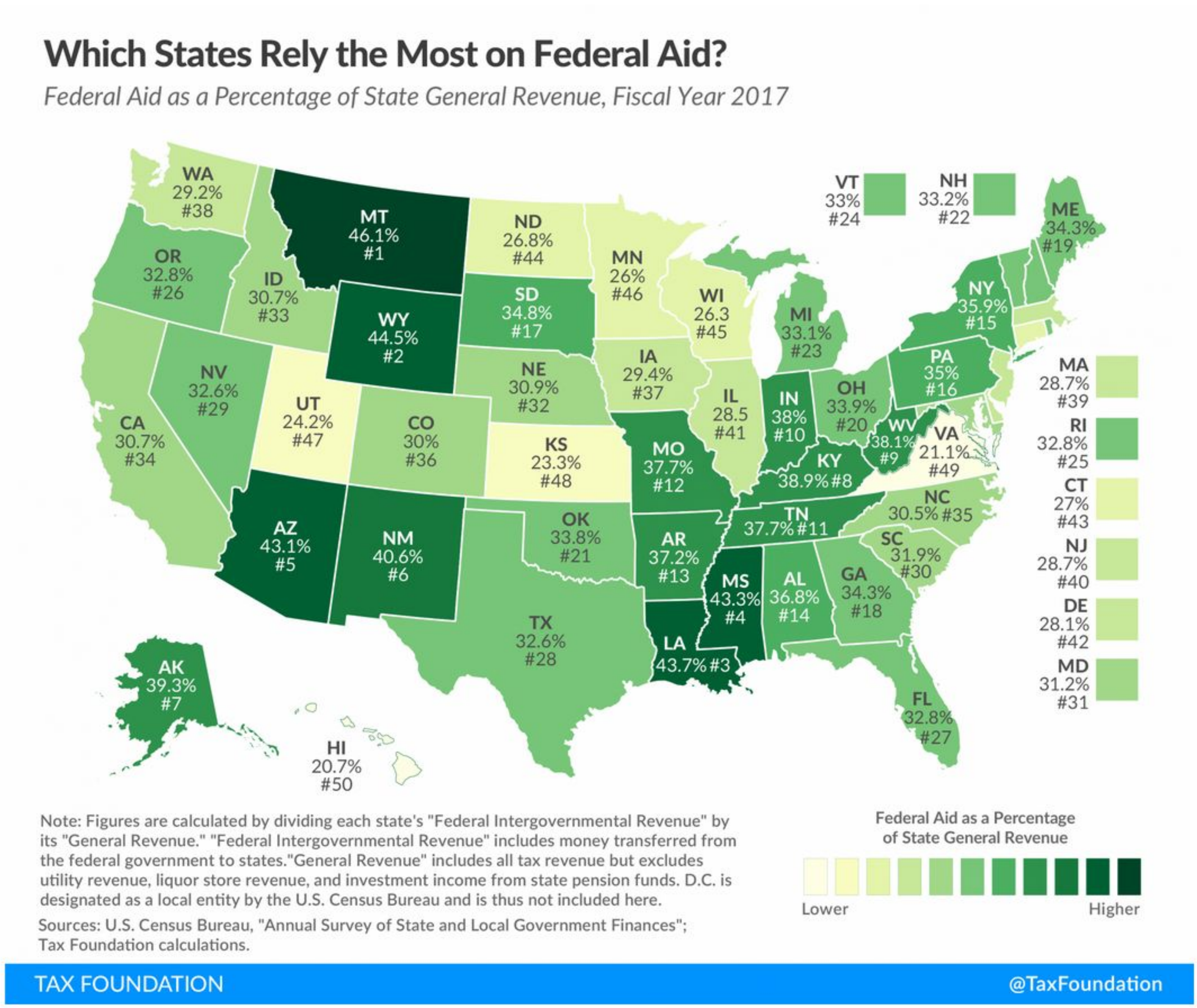
There is an indisputable fact when it comes to the results on imposing high and punitive income taxes: it drives away population, jobs, businesses and economic prosperity. These effects can be seen as clear as day in the net migration statistics among the fifty states. For many years now, population, jobs and capital have been fleeing high tax states like California, New York and New Jersey. California’s top marginal tax rate on income now sits at a whopping 13.3%, while New York’s is 8.82% and New Jersey’s is 8.97%. According to the US Census Bureau, from 2006 to 2015, the state of New Jersey saw over 525,000 people leave the state, while California lost more than 1.1 million residents and New York lost more than 1.3 million.

Thankfully, policymakers in Utah have consistently worked towards lowering the income tax rate in Utah. That has been one of the major factors in setting Utah at the top of the heap for economic growth for more than a decade. The Utah Taxpayers Association will continue to fight for the best tax policy to keep Utah there.

Utah Ranks Fourth Lowest in Federal Aid, Still Receives 24% of Statewide Budget from Federal Government

All states rely on federal aid to fund everything from social services to education.

According to a new study from the Washington, D.C. based Tax Foundation, in fiscal year (FY) 2017 the states for which federal aid made up the smallest share of state general revenue were Hawaii (20.7 percent), Virginia (21.1%), Kansas (23.3%), Utah (24.2%), and Minnesota (26%). The states where federal aid made up the largest share of general revenue were Montana (46.1%), Wyoming (44.5%), Louisiana (43.7%), Mississippi (43.3%), and Arizona (43.1%). The Tax Foundation notes that states that rely heavily on federal grants-in-aid tend to have sizable low-income populations and relatively lower tax revenues.



Utah, ranks #47 on the list with only 24.2% of its total budget coming from federal funds. Utah and many other western states, not only receive federal funds, but are unique in that huge areas of land are owned by the federal government. These states impose a payment in lieu of taxes (PILT) in order to fund state and local governments.

In FY 2019, Utah received $4,385,430,500 in federal funds out of a total state $16.7 billion budget. That's roughly 26.2% of Utah's total budget coming from federal funds.

Much of that federal revenue is being spent in Utah's social services budget. $3,583,930,200 comes into the social services budget,which includes federally-mandated and statewide expansion of Medicaid. The social services total budget is $5.3 billion.

Public education also receives a large chunk of federal funding. The public education budget, in FY 2019, received $520,495,100 from federal funding.

While the state receives federal funding for education, local districts also receive a portion of federal funding. Utah's 41 school districts average about 7% of their funding from the federal government, with a majority of that going to nutritional programs. San Juan District is far above that average, receiving 31% of their total budget from the federal government. Park City, on the other hand, only receives 2%.

Revenue Distribution

Fund	Local		State	Federal	Total
	Property[3]	Other			
Operations[1]	21%	9%	65%	6%	100%
Capital[2]	71%	18%	9%	3%	100%
Debt	89%	11%	0%	1%	100%
Nutrition	0%	27%	18%	55%	100%
Non K-12 & Other	14%	13%	60%	13%	100%
Total	28%	10%	55%	7%	**100%**

This chart, taken from the Utah Taxpayers Association's 2020 School Spending Report, shows revenue distribution within public education funds.

To read the full Tax Foundation report, [click here].

Association Accomplishments During February:

- Negotiated with members of legislative leadership on tax issues during the 2020 Session
- Spoke with the Governor's office regarding tax legislation
- Trained gubernatorial candidates on tax policy in preparation for 2020 election
- Took a well-deserved day off on Presidents' Day
- Spoke and presented on dozens of bills in legislative committees

In the News

- Latest on Tax Bills
  - HB77: Changes Could be Coming to how the Weighted Pupil Unit Affects Property Tax: Deseret News
  - HB187: Introduces Tax Credits for Employers who Offer Child Care: Deseret News