May 2020 Volume 45 Issue 5

THE UTAH TAXPAYER

A PUBLICATION OF THE UTAH TAXPAYERS ASSOCIATION

Utah Legislature Doubles Down on Taxing Business Inputs, Responds to COVID-19 in Series of Special Sessions

Throughout April, the Utah Legislature has met in a pair of special sessions to address the state's response to the recent pandemic, as well as two bills that were vetoed by Governor Herbert after the general session ended.

2020 General Session Vetoed Policies

Instead of holding a veto override session, the Legislature came to an agreement with Governor Herbert on two bills and passed them during the special session.

HB 4002, Rail Fuel Sales Tax Amendments, sponsored by Rep. Joel Ferry, will add sales tax to fuel purchased by rail carriers. This bill is another attempt at putting this terrible policy in place after Governor Herbert vetoed HB 356 in March. Your Taxpayers Association fought against HB 356 (2020 General Session) which would have the same effect as HB 4002 and fought this version tooth and nail. Unfortunately, the Legislature opted to enact this tax increase.

Utah's state sales rate of 4.85% tax will be pyramided and passed down to all of Utah's manufacturing, mining, retail, and other industries that ship goods over the rail lines under HB 4002. It is a step in the wrong direction for Utah, and moves in the opposite direction of what the Legislature has been working towards in eliminating business inputs. Your Taxpayers Association continues beating the drum to eliminate business inputs wherever it exists, and to remove this newly implemented version. HB 332, the Special Needs Opportunity Scholarship legislation (passed during the 2020 General Session) creates a new scholarship which provides funds for education of special needs students, but the bill was

---

SAVE THE DATE! The **Utah Taxes Now Conference** Scheduled for **June 19, 2020**

The Utah Taxpayers Association will be hosting the Utah Taxes Now Conference at the Grand America Hotel on Friday, June 19, 2020, beginning at 8 a.m. We will be following necessary and precautionary health requirements to ensure everyone's safety.

KEYNOTE SPEAKER:

Stephen Moore, Noted Economist and Senior Fellow at the Heritage Foundation.

Sponsorship opportunities are available.

For more information, contact Autumn Skousen at autumn@utahtaxpayers.org. Registration and agenda will begin in the coming weeks. Watch your email for more details.

vetoed by Governor Hebert. HB 4003, at the request of the governor, was modified to keep the scholarship intact, but adds a cap to the annual amount and creates additional transparency to show how much money the scholarship saves school districts money. Your Utah Taxpayers Association supported the original bill and the negotiated version passed in April.

Utah's Response to COVID-19

Following federal action, Utah has also opted to delay the filing of income tax and alters other deadlines, such as filing income tax extensions with the passage of HB 3003.

Utah lawmakers have also voted to allocate billions of dollars in COVID-19 related federal funds. A majority of that funding will shore up the state unemployment insurance fund to help address the additional $600 per week that is given to claimants from the federal CARES Act. The CARES Act also provided an extra 13 weeks of benefits for those that have exhausted them and coverage for the self employed and independent contractors.

The total amount is around $4 billion for fiscal years 2020 and 2021. Similar to what is happening across the nation, Utah is seeing all time record unemployment claims that will put the unemployment insurance fund to the test.

With SB 3007, the Legislature helped shield businesses that want to re-open without fear of being sued by customers that catch the virus, an important step in getting the economy back open in order for those that are currently claiming unemployment insurance or furloughed can return to their jobs. They also passed a bill (HB 3005) that would require the governor to give 24 hours notice to the Legislature before implementing some executive orders during a pandemic.

Your Utah Taxpayers Association remains vigilant and continues to work with policymakers to make sure the measures taken to adjust budgets and get the economy reopened do not include any other tax hikes or other poor tax policy decisions.

To view a brief summary of bills the Legislature considered during the third special session, click here.

My Corner: Tax Increment Financing: Stealing from Utah School Kids?

For decades your Taxpayers Association has worked to protect the tax base of Utah school districts from community reinvestment agencies' (CRA) tax increment financing (TIF) schemes that create winners and losers among competing businesses, all at the expense of Utah school children and taxpayers who have to fill the gap.

TIFs became common across the U.S. more than half a century ago to eliminate blight and brown fields, which could have never been cleaned up because of low or negative market values. This blight was an economic cancer, lowering the value of surrounding properties and the general community. The legitimate purpose of TIFs was to use the property taxes generated from the incremental difference in value of the property between its negative value and value after improvements to pay off the costs of the cleanup.

However, the tool for eliminating blight slowly became a tool to grant financial favors for the development of pristine properties which needed no subsidies. At its worst point, cities were using TIF to win the location of large retail establishments such as shopping malls, big box stores, and auto malls. Cities learned that their budgets could be advantaged from the massive increase of sales tax revenues, but TIF for retail developments haven't created a single new retail job or result in increased sales of a single new car or gallon of milk. TIF used for retail simply redistributed where those sales took place. Despite the strong efforts of the League of Cities and Towns and the TIF lobbyists, your Taxpayers Association was gradually able to convince legislators to rein in the use of TIF for retail, convincing them that retail needs no subsidy. School district and other property taxes of other taxing entities should not be available for cities to grow their retail sales tax base.

Still, TIF abuses continued, leaving schools, counties, and special taxing districts with no voice in giving up their increment to the city council, which sits as the redevelopment agency board. So your Taxpayers Association with the help of strong legislative sponsors, worked for legislation to give a voice to the taxing entities whose increment was taken without their consent via a public vote in order to participate in a TIF.

The most shocking result of this was that *almost universally*, local school boards voted to *affirmatively* give their tax increment from the development for twenty years or more.That results in nearly two generations of K-12 students passing through the school district without the benefit of the property taxes generated by the project.

Tooele School Board Abandons Kids, Teachers & Taxpayers

One of the most egregious and unnecessary abuses of TIF was approved by the school board of one of the most underfunded school districts in the state: Tooele School District.

Josh Romney, president and founder of the Romney Group, asked the school district to consider a tax incentive financing package that would take 80% of the future increase in property tax revenues for the next twenty years from a proposed 1,300-acre proposed Lakeview Business Park in Grantsville City. While the 80/20 split proposal would allow the school district to keep $36.6 million in property tax over the 20 year project, the Romney Group would keep $146.3 million.

Your Taxpayers Association advised the school board to seek an expert third party analysis to help them understand the tremendous advantage they were giving the developers over anything any other school district could possibly give for the size of the project. The school board refused to even consider our recommendation in part because the Romney Group was threatening to pull the project if the district took the time to study the proposal. Like a used car salesman the group was making a "today only" offer. The Association told the school board that the proposal to give the developer $146.3 million is *twice* what the Romney Group could receive if they built the same value business park in Salt Lake City's northwest quadrant.

It's not that difficult for anyone to understand. Here's how the math works: The most recent property tax rate in Salt Lake School District is .003732. The most recent property tax rate imposed by Tooele School District is .007904. That means if the Romney Group were to build the same value project in Salt Lake's Northwestern Quadrant, it would take more than 40 years to receive the same benefit from Salt Lake District that they would receive in 20 years in Tooele. If the project were proposed in the Snyderville Basin of Park City School District with a tax rate of .002763 the Romney Group would need to take the 80% tax increment for 57 years. It would be unthinkable for Salt Lake and Park City school boards to approve such a proposal and therefore it should have been unthinkable for the Tooele School Board.

Tooele School District is one of the poorest school districts in the state. Its low property tax base per student requires a much higher tax rate to produce anything that approaches the revenue generated by a much lower rate in other school districts (the legislature is slowly addressing these types of inequities). The district's general fund spending in the 2018-19 was just $8,347 per student compared to Salt Lake at $12,293 and Park City at $15,750. For Tooele to give up twice the amount that Salt Lake City District could possibly give over the same twenty years is asking too much, we told the board.

According to your Utah Taxpayers Association's 2020 School Spending Report, Tooele School District's $261,690 assessed value per student ranks as second lowest value per student in the state following South Sanpete. At the other end of the scale sits Park City School District with $3.3 million in assessed value per student and Salt Lake School District with $1.2 million in assessed value per student. (We should recognize the Tooele School Board for their great work this year in convincing the Utah School Boards Association to take a neutral stance and not oppose on SB104 (Fillmore) which enabled passage of legislation expanding property tax equalization funding for poor school districts.)

However, regarding the Romney Group TIF proposal, in spite of the evidence produced by your Taxpayers Association, the motion to approve the give-away passed 5 to 2. **Yea: Kathy Taylor, Scott Bryan, Maresa Manzione, Melissa Rich, Alan Mouritsen, Nay: Julia Holt, Camille Knudson.** The Romney Group is laughing all the way to the bank. Because of its extraordinarily high tax rate and cheap land prices, the school board will continue to be an easy target for similar TIF proposals.

Legislation Needed to Limit TIF Take in High Tax Rate School Districts

Rep. Merrill Nelsen

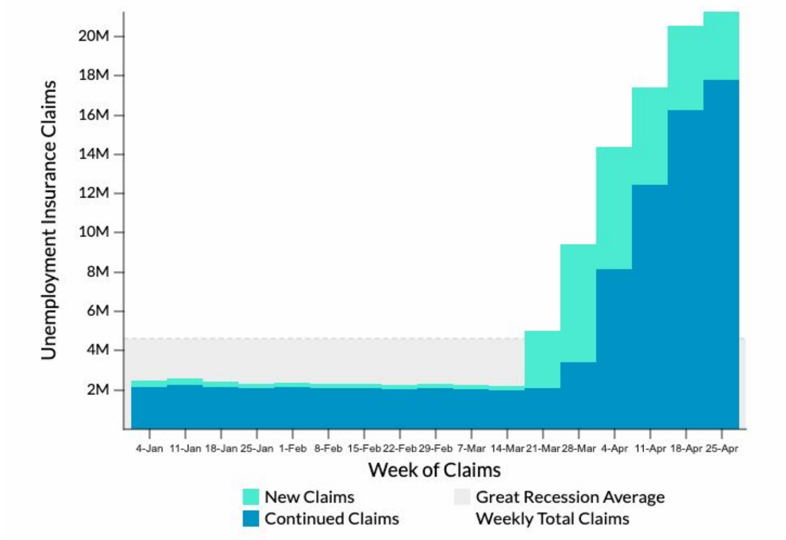
Your Taxpayers Association is working with Representative Merrill Nelson who represents much of Tooele School District to draft legislation limiting the amount of tax increment that can be taken from high tax rate school districts. The legislation could, for example limit school tax increments to the statewide average school property tax levy. In the case of Tooele School District, this would have reduced the amount taken by the Romney Groupfrom $146.3 million to $98.5 million while more than doubling the district's $36.6 million take to $84.4 million.

Tooele Bond Election May Be At Risk

Tooele School District is one of the fastest growing districts in the nation and despite school overcrowding, voters who already pay the second highest school tax rate in the state voted last November to reject a $190 million bond proposal for new schools. The board is looking at options of a school bond for 2020 as well. Given the school board's decision to give the Romney Group $146 million, it's unclear whether taxpayers will be willing to approve the much needed bond.

Cannon's Canon: Updated Unemployment Claims - Alarm Bells In Some States, Utah Looking OK So Far Thanks To Work Done For Decades

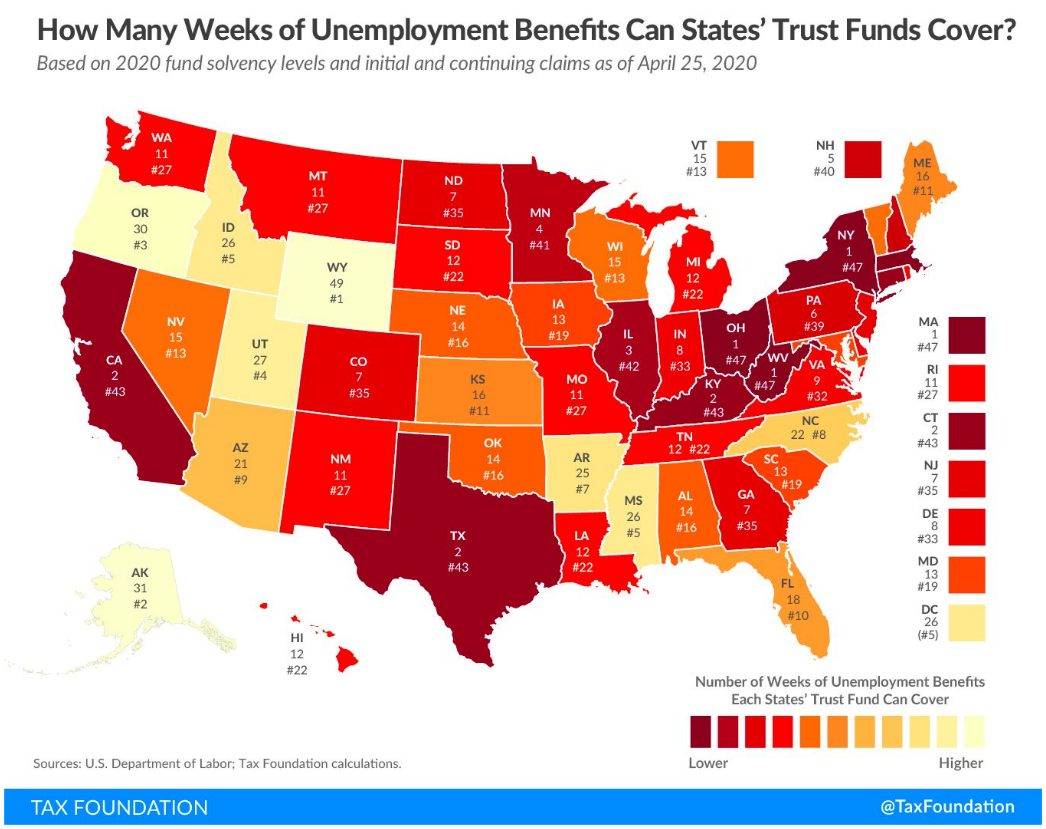
This past week, another 3.4 million Americans filed new unemployment claims. While that is the third week in a row of declining new unemployment claims (new claims peaked at over 6.2 million the week of April 5th), it is still among the highest levels in US history by a wide margin. The cumulative numbers are now stacking up to an astronomical level. The two important data points are “new” unemployment claims and “continuing” unemployment claims. Those two metrics now stand at over 21.2 million.



The Tax Foundation in Washington D.C. published this updated chart after this week's data was reported.

What is most alarming about this chart is the Great Recession average in the gray area down around the 5 million mark. We are now sitting at a level which is more than four times that. This begs the question of how the various states’ unemployment compensation trust funds are weathering the storm.

Unfortunately, there are now some states that have only enough in their trust funds to last a few more weeks. Illinois has three weeks left, while California, Connecticut, Kentucky and Texas have two weeks left. Four states - Massachusetts, New York, Ohio and West Virginia now have only one week left before running dry. This updated map from the Tax Foundation shows how all the various states sit at this point.



Thankfully, Utah is in a good spot sitting at the fourth best position in the nation with 27 weeks remaining in our trust fund if continuing claims were to remain at the current level.

One might ask what happens next when these other poorly managed states run dry? According to the US Treasury Department, these states can apply for federal loans. California, Illinois and Connecticut have already been approved for loans and it is reported that New York has filed as well. States must repay these loans with interest starting in 2021 and if they still have outstanding balances after two years employers in these states will face higher unemployment insurance taxes to compensate for those amounts until they are paid off. Since Utah is in a good position, our employers can hopefully avoid that happening since our trust fund balance is strong and should be sufficient to meet the needs of our state without any loans from the federal government.

One of the reasons for Utah's enviable position now can be attributed to work done by your Taxpayers Association and the legislature almost four decades ago. A three-factor formula for calculating the unemployment insurance tax rate that employers pay. These employers pay into the trust fund which eliminated the industrial classification rate for an employer experience rate based on the actual claims by former employees of each individual employer. The second factor of the rate ensures viability of Utah's unemployment insurance fund reserves. The third factor is a social rate to cover claims of former employees of employers who have gone out of business. The social rate is expected to increase costs for all employers as the pandemic increases bankruptcies. The formula for calculating those benefits can be found here.

Essentially, companies that had a good record of low claims by former employees over the previous four years pay a lower amount into the trust fund. Previous to that, employers had to pay into the system based on how their entire industry handled layoffs. Since that change was made it has encouraged good behavior by companies with greater accountability and less socialization of the cost of benefits.

When combined with the relatively higher ethical standards of Utah's workforce, timely payments into the system by Utah's employers and a business friendly environment that has encouraged growth and investment in Utah companies and jobs, Utah is now seeing the dividends of those good policies with a healthy balance in the unemployment trust fund during this pandemic.

Utah Taxpayers Association Releases Report Featuring Spending of Utah's 112 Charter Schools

With 31% 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. More than 75,000 students, about 11% of the total student population, attend public charter schools. 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.

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, 25% of the local property taxes allocated to that student follows him/her, while leaving 75% remaining in the district in which the student resides. While a district 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 school funding, some building costs, lunch programs, and facility maintenance may be accounted for in areas that do not accurately reflect the budget category within the data.

The National Center for Education Statistics, which forms the basis for the Utah uniform chart of accounts, permits Local Education Agencies (LEAs) to account for property acquisition and leases 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 school operations and maintenance expenses, as the source data reports them, may exceed expected norms of other LEAs.

District schools spent an average of $687 more per pupil on direct instructional expense than charters in FY2019. Charters spent an average of $4,257 per pupil on instructional expenses, which are costs directly related in the education of students. This would include teacher salaries and classroom expenses.
Charter schools spent, on average, roughly $800 less on traditional general fund expenses, and more than $1,500 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 other categories, but still from the general funding. This could lead to the skewing of some charter schools in this category.

Additionally, any O&M per pupil expenses over $1,000 would be due to this accounting method. For example, City Academy spent $3,423 per pupil in O&M, whereas the average is $610. This massive discrepancy is due to that charter school accounting for facility construction in this category. Charter schools often will rent out existing structures and convert them into schools, which explains how many charters spend no money on 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.

Charter schools also spent more on administrative costs than districts by $348, for a per pupil average of $1,200, compared to $852 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 school, with the FY19 average being $44,291. District schools pay more by nearly $1,000 than that total on average.

Our Charter Spending Report does give a snapshot as to what each charter is spending money on, and compares that to a district average. To read the report, click here.

Press Box: The Utah Taxpayers Association Calls On All Utah Counties to Waive Penalties and Interest On Personal Property Tax Returns Until August 15, 2020

The Utah Taxpayers Association is urging all county governments to follow the example of Weber County and waive all penalties and interest on personal property tax returns that are due on May 15, 2020.

Many Utah businesses that have been hit the hardest by the COVD-19 pandemic are also the ones that quite often have to file and pay a personal property tax return. Restaurants, hotels, retailers, manufacturers and others with machinery and equipment essential to operations are struggling financially and the payment due on May 15, 2020 could not be coming at a worse time. Waiving penalties and interest until August 15, 2020 gives needed time and relief to these critical small to medium sized businesses that provide a majority of jobs in Utah.

This solution does not reduce revenue to local governments since the tax would still need to be paid, however taxpayers would be protected from harmful penalties and interest for an extra three months. This will also protect businesses at risk due to the COVID-19 pandemic as they hope to open up more fully in the coming few months. Several other tax deadlines have already been extended to provide relief and this mirrors that effort.

We urge all county assessors to help and protect taxpayers, like Weber County has done. This is the right thing to do and could provide critical breathing room to Utah businesses and taxpayers alongside other measures being taken by the federal government as well as the state of Utah during this crisis.

Association Accomplishments During April:

- Met with key stakeholders to extend property tax deadlines due to Covid-19
- Lobbied legislators to keep sales taxes off fuel for rail carriers during the 3rd and 4th Special Sessions
- Recommended candidates with favorable tax policy ideas to local delegates
- Secured speakers for the 2020 *Taxes Now* Conference
- Started planning the *Teed Off on Taxes* Golf Tournament

In the News

- Legislative Special Sessions
  - Railroad Fuel Tax Originally Vetoed: Standard Examiner