June 2020 Volume 45 Issue 6

THE UTAH TAXPAYER

A PUBLICATION OF THE UTAH TAXPAYERS ASSOCIATION

Utah Legislature Set To Examine Sales Tax Exemptions, Expanding Uses of Taxes During Interim

The Utah Legislature's work doesn't conclude when its Annual General Session ends. From May through November, the Legislature meets in interim committees to discuss topics that may be examined during the upcoming session.

Many of these topics are guided from the prior year's session at the request of the legislators. These are compiled in an annual study list.

Not all items on the list will be studied. Some topics may not receive a hearing or discussion and there is no guarantee action will take place to draft legislation for the 2021 Session. This is determined by each committee and the committee chairs.

Here are a few of the study issues with which your Taxpayers Association will be engaged throughout the coming months.

Revenue and Taxation Interim Committee

Overview of Sales Tax Exemptions, Tax Pyramiding, Reporting Requirements

The Revenue and Taxation Interim Committee is likely to look at existing sales tax exemptions. There have been several legislators that have expressed concern over what they view as exemptions that may not have a

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positive effect on Utah's economy.

Utah's past legislatures have made a concerted effort for over two decades to remove sales taxes on business inputs, or what is required by a business to make a final product.

Your Taxpayers Association has strongly supported the use of sales tax exemptions in order to avoid tax pyramiding, which has made Utah the number one place to do business for 12 years running, according to ALEC's Rich States Poor States annual ranking.

Back in 2019, there was an effort to completely undermine these exemptions and create tax pyramiding by adding sales taxes onto many services, including those required to conduct business. We remained wholly opposed to any efforts to do this, and fortunately that effort was pulled from consideration.

Your Taxpayers Association believes that sales tax exemptions should be examined to ensure they are having a positive impact on Utah's businesses and overall economy, but it must be done in a responsible way. Requiring in-depth reporting requirements in order to justify tax exemptions only puts additional compliance burdens on business and would be bad policy.

Keep in mind, the Utah State Tax Commission also has authority to audit any of these sales tax exemptions claimed by any business.

Flexibility in Use of Certain Taxes (Local option and Capital Local Levy)

COVID-19 has sent shockwaves across governments, and it is absolutely reflected in this year's study list.

This committee may look at expanding the usage of local option sales taxes and increased flexibility in the Capital Local Levy (which is levied by school districts to pay for buildings).

Late in the 2020 Session, HB 357 (original version), would have allowed school districts to use the capital levy on any "need for the support of the school district". Your Taxpayers Association met with the bill sponsor to address concerns over this legislation, who agreed to discuss the issue further.

We remain opposed to expanding the usage of the capital levy to other purposes other than direct capital improvements.

Methods for Taxing Entities to Extend Personal Property Tax Deadlines

The committee may also investigate ways that taxing entities can extend personal property tax deadlines. With many businesses struggling during the height of COVID-19 restrictions, many were concerned about paying property taxes. Your Taxpayers Association issued a press release calling upon counties to voluntarily extend property tax filing deadlines, with many counties agreeing to help. You can read our release here.

Set Property Tax Rate Floor

Utah's counties are tasked with levying and assessing property taxes. The counties are permitted to levy a Multicounty Assessing and Collecting Levy to help cover the costs of this service. Recently, counties are looking to unify their systems and have been asking for an increase in the levy.

SB 141 in the 2020 session freezes the levy for a period of five years. This discussion during the interim will likely center around creating a floor so as to not have the levy drop below 0.000012.

Purchasing bank loans to increase lending capacity

Included on the study list is an item related to COVID-19, which would allow the state treasurer to purchase Paycheck Protection Program loans from banks and credit unions that have maxed out lending capacity. No one really needs to spell out how bad an idea this is, but we can hope that as businesses begin to recover, this idea will be pulled from the conversation altogether.

Political Subdivisions Interim Committee

Transient Room Tax (TRT)

This study item is in response to counties' expenditure authority in response to COVID-19. Nothing is specifically outlined in the study list document, but it would allow the committee to examine and perhaps take action on giving counties greater flexibility in the use of the TRT.

TRT has been used to promote tourism and upkeep tourist attractions, such as trails and parks. Your Taxpayers Association has long argued that those who pay for a service be the ones using it. Expanding TRT to other uses moves away from this philosophy and hides the true cost of government from its taxpayers. TRT ought to be used for its current, limited purpose.

There is another item the committee may consider about increasing flexibility from local tax revenue, but no specifics are given. We are watching carefully.

Extend all CRAs, RDAs, and CDAs for One Year

This is again in response to COVID-19's impact on local tax revenue. CRAs are given a portion of property tax to use to redevelop a defined area. These property taxes come from the city, county, school district, and any special district within the area. CRAs are guaranteed in contract to last a certain period of time, often 20 years.

CRAs can be used for good purposes, such as bringing major, high-paying jobs to an underserved area, but are often used to lure retail to bring in sales taxes to a city.

Extending these CRAs for another year continues to undermine local taxing entities, particularly school districts. Your Taxpayers Association opposes any attempt to automatically break contracts with taxpayers by extending the end dates of these development areas.

Allowing Borrowing for Government Operations

There are very few details in this study item, but a tremendously horrible idea. Borrowing is appropriate when used for a major capital improvement, such as a new building or construction of a major road. But allowing a taxing entity to ask for a loan for ongoing expenses related to maintenance and operation is dangerous and can lead to increased property taxes as the borrowing becomes cyclical.

Public Utilities, Energy, and Technology Committee

Utah's Telecommunications Industry and COVID-19

As many of us are working remotely through the pandemic, this committee would like to receive a status update from Internet Service Providers (ISP) that operate in the state. The committee may also study the compliance of ISPs that have signed the FCC's "Keep Americans Connected" pledge, which waives customer service suspension and termination. Many Utah telecommunication companies have voluntarily provided this service to the customers, and your Taxpayers Association worries that this is a ploy to encourage cities, such as Kaysville, to become their own ISP through a service such as UTOPIA.

As UTOPIA continues to face extended financial trouble, expansion of this service in cities will only cause more headache for their taxpayers.

Performance Audit of the Utah Communications Authority and Statewide 911 Operations

The Utah Communications Authority (UCA) has been rocked with scandal dating back a decade, including poor requests for contracts and directly competing with private industry.

In 2020, an audit was released that found UCA to be improving, but work is still to be done.

The PUET Interim Committee is asked to take a motion and to vote to either draft legislation for the 2021 Session to fix concerns made in the audit or to request more time to develop solutions.

Your Taxpayers Association has been watching the UCA closely to ensure no further waste of taxpayer dollars and felt the audit that was completed to be lackluster and weak. We intend to voice our concerns during these discussions to ensure the Committee is aware of the problems continuing to plague the UCA.

Natural Resources, Agriculture, and Environment Interim Committee

Lake Powell Pipeline Project:

The 2019 Interim committee discussed a legislative audit regarding the repayment feasibility of the Lake Powell Pipeline, which would move water from Lake Powell to Washington County. The committee passed motions to recommend that legislation be drafted to clarify the terms for repayment including state bond interest costs for the Lake Powell Pipeline, how repayment costs can be divided among and within repayment contracts, final repayment time frames for outstanding pipeline reimbursable costs, and whether multiple sources of funding for the Lake Powell Pipeline would be in the best interests of the state.

Your Taxpayers Association has long opposed the Lake Powell Pipeline, questioning the feasibility of whether water districts and water users can pay for the construction, operation, and maintenance. Water districts, particularly in Washington County, rely heavily on the property tax to subsidize the cost of water to its users.

To read the entire study list, click here.

My Corner: Utah Legislature Sets the Pace for Fiscal Responsibility in Rough Economic Times

Utahns are witnessing once again why Utah is the best fiscally managed state in the nation as the Utah Legislature is already working vigorously to balance the current year budget and repeal increases and trim the 2020-21 budget without raising taxes. Currently, the Utah Legislature is grappling to cut around $900 million ongoing and $500 million one-time spending. It’s an understatement to say this is not an easy task.

As I talk with my counterparts in other states it appears their legislatures and governors are whistling past the graveyard, putting off the inevitable, hoping that the COVID-19 recession will not affect their revenues and somehow solve itself.

The wisdom of the Utah Legislature in recent annual sessions becomes even more clear in hindsight. We now see the wisdom of why the legislature avoided spending recent record revenue growth to expand ongoing spending programs in spite of complaints from the spending lobby.

Instead, the legislature used a significant share of those skyrocketing revenues as a 'working rainy day fund' using cash to pay $602.4 million for prison construction, higher education and UDOT buildings and another $292.2 million in cash for transportation expansion in America's fastest growing state in the nation. All of these construction projects in any other state would ordinarily and justifiably have been funded through bonding. Now, with COVID revenue shortfalls, that cash can be pulled back to ensure funding of essential services while the state bonds for roads and prison completion at annual rates as low as 1.16%.

The legislature is wisely planning to cancel construction of four college campus buildings and a UDOT building that were part of the $602 million building plan. This will limit the size of the bonding package and ensure continuation of Utah's enviable Triple A bond rating.

The Legislative Fiscal Analyst has a web resource for policymakers and citizens to understand the fiscal health of the state. It is well for every taxpayer to be familiar with the contents of this resource. The site has four tabs: Obligations, which include 9 tabs showing Bonded Debt, Unfunded Liabilities, and other obligations; Reserves, which include 11 categories of Rainy Day Funds, Working Rainy Day Funds, Restricted Reserves and Constitutionally protected Trust Funds; Expenditures, which include all State Spending Budgets; and Revenues, which show all Budgetary Revenue Sources.

Utah Legislature's Budget Cutting Underway

Each Appropriations Subcommittee met recently to make budget cutting proposals to the Executive Appropriations Committee which will meet before an expected June 19 special session of the legislature. Subcommittees were charged with proposing three different priorities for budget cuts: 2%, 5%, and 10%. Each subcommittee considered proposals from the Legislative Fiscal Analyst, and the departments of state government for which the committee was responsible.

Your Taxpayers Association has been following the budget cutting process in various subcommittees. We were impressed how the departments and subcommittees took their responsibilities seriously. One disappointment however, was the common practice of preserving the status quo rather than using the exercise to reinvent government service delivery. While many businesses are cutting far more than 10%, record bankruptcies are being filed, and private sector pay cuts and unemployment is at record levels, government jobs and pay are generally being protected.

I closely followed the Public Education Appropriations Sub-committee process. I was surprised that the Utah State Board of Education (USBE) and the School Boards and Superintendents Associations (USBA/USSA) proposals focused too much on cutting the most effective newer programs and preserving many of the low performing longstanding programs.

While Utah schools were more prepared for distance learning during the closure of schools from the COVID crisis because of the degree to which we had already implemented a Statewide Digital Teaching and Learning Masterplan, the requirement for home-based public education exposed serious deficiencies in many schools. The most serious deficiency in providing online instruction is the fact that too many students from low income families had no internet connection or computer access. These students have been essentially left out of schooling during the shutdown. Fortunately, this inequity did not result in Utah following the example of other states where schools were denying online learning for everyone because some students were unable to connect. However, in the budget re-prioritization process, little has been recommended to reach these students in their homes. The Utah Education and Tele-health Network (UETN) is currently making plans to use CARES Act funds to enable low income students to be served during closures.

In spite of the tremendous demand for expanding online learning and digital teaching and learning software, both the USBE and USBA/USSA failed to recommend increases in these programs but instead recommended massive cuts! Senator Ann Millner questioned the USBE's proposed cuts in the highly effective and nationally acclaimed UPSTART kindergarten readiness program when its success in preparing kids for kindergarten suggests it should actually be increased.

Representative Frances Gibson questioned why the USBE would be preserving status quo programs while failing to support computer based teaching and learning. Nearly a decade ago he and Speaker Becky Lockhart called for one-to-one devices for all students and in hindsight it is clear the state would be better off today had we moved in that direction.

During the first Public Education Appropriations Subcommittee meeting to consider budget cutting, Representative Robert Spendlove noted the list of cuts from the USBE didn't seem to have any clearly defined principles or criteria for its proposals, to which the spokesperson said they only had a week to make the cuts.

In response to Representative Spendlove's request, here are the principles I believe should govern cuts in Public Education Budget:

Criteria for Prioritizing Budgets

FUND EFFECTIVENESS, NOT BASE BUDGETS (Reject the union requirement of "last hired, first fired," keeping instead the most effective employees regardless of longevity)

- Base budgets should receive no protection over spending on programs in the regular budget which have greater outcomes.
- Protect and even increase spending for programs which the data show have the greatest outcomes for students.
- Reject protection of the Weighted Pupil Unit (WPU). While the private sector workforce is hemorrhaging under COVID's economic effects, government workers should not be immune from reductions in force or modest pay cuts. A 5% cut in the WPU would produce more than $150 million to save programs which have proven effectiveness and enable teachers to provide effective online learning.

FUND EQUITY, INSTEAD OF CREATING WINNERS AND LOSERS

- Protect spending for tools to reach students remotely, expand spending for reaching students who are prevented from participating in remote learning during school shutdowns because they do not have internet or computer access.
- Fund enrollment growth in all schools to prevent the fastest growing districts from bearing a disproportionate impact from the COVID economic downturn.
- Ensure all students have an equal opportunity to participate in the Statewide Online Education Program. Currently, students attending school district high schools can participate in the online courses *without funding limitations*. Even though the law ensures private and homeschool students the same opportunity to participate in online classes, USBE has recommended cutting the funding for these students. Online opportunities should be equally available to all high school students whether public, private or home schooled.

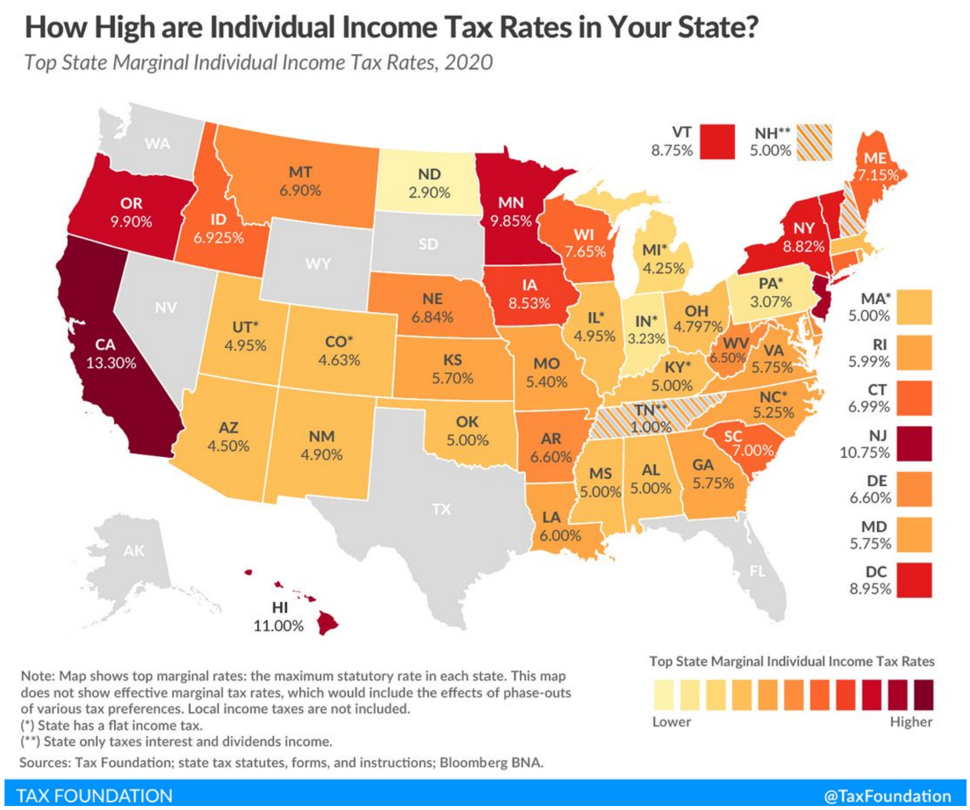
Cannon's Canon:
Individual Income Tax Rates Across the Nation - Utah Needs To Be More Competitive

It is time the Utah legislature takes a serious look at Utah's individual income tax rate and examine how it compares to the rest of the nation. Individual income tax is a large part of state government revenue, generating an average of 37% of total state tax collections nationwide, according to the Washington, D.C. based Tax Foundation.

Forty three states levy an individual income tax, with nine states, including Utah having a single rate. Top marginal tax rates vary from the highest rate in California at 13.3% (yet another reason Californians are fleeing to states like Utah) and the lowest rate being in North Dakota at 2.9%.

Since moving to a single flat rate of 5% for all levels of income more than a decade ago, Utah has seen the benefits of that wise tax policy as income tax collections have ballooned from $2.5 billion in 2007 to over $4.4 billion in fiscal year 2019.

The income tax rate, however, has essentially remained the same at 5.0% until recently being lowered to 4.95% in 2018. The recent tax reform bill passed in December of 2019 lowered the rate to 4.66% generating a $348 million dollar cut, however the rate remains at 4.95% since the bill was repealed.



Utah is unique through a Constitutional requirement that both individual and corporate income taxes be used for education purposes. No other state dedicates its income tax in such a way.

During the 2020 Legislative Session the Utah Legislature passed SJR 9 that will place a question on November's ballot to amend the Utah Constitution to allow income tax dollars to also be used for services for children and those with disabilities. If voters pass it, Utah will have a much easier time meeting its budget needs without additional sales taxes or other unpopular ideas.

Your Taxpayers Association strongly supported SJR 9 during the 2020 Session and encourage Utahns to vote for the amendment in November.

It is interesting to note that Utah has a higher rate than all of its neighboring states with the exception of Idaho, which has a fairly high rate of 6.95%. Two states that border Utah have a rate of zero (Nevada and Wyoming) while Arizona sits at 4.50%.

In 2019, Arizona took meaningful steps to cut the state income tax burden for taxpayers by giving back a $155 million dollar tax hike the state received due to changes in the federal tax code in 2017 (a step that the Utah Legislature made through SB 2001 which was repealed by the legislature when a referendum to repeal the bill qualified for the ballot) by formulating a new state child tax credit. In addition, Arizona provided a new, higher standard deduction and reduced their tax rate in each income bracket and reduced the number of brackets from five to four. Overall, their bill (HB 2757) reduced taxes on their taxpayers by an average of 27% with the largest benefit going to low income individuals.

It is interesting to note that even some states with very different political leanings than Utah have rates at or below Utah's. Massachusetts, for example, has been lowering its income rate with revenue triggers over the last decade and now sits right where Utah is at with a 5% flat rate.

In addition to that, while Utah has held the #1 position for twelve years in a row in the annual ALEC "Rich States, Poor States" rankings for best economic outlook, the states that are nipping at Utah's heels now have rates at our level or well below it. North Carolina is now at 5.25% and Indiana now sits at a flat rate of 3.23%. Leading the charge for best inflow of capital growing tax bases are two of the states with individual income tax rates of zero- Florida and Texas.

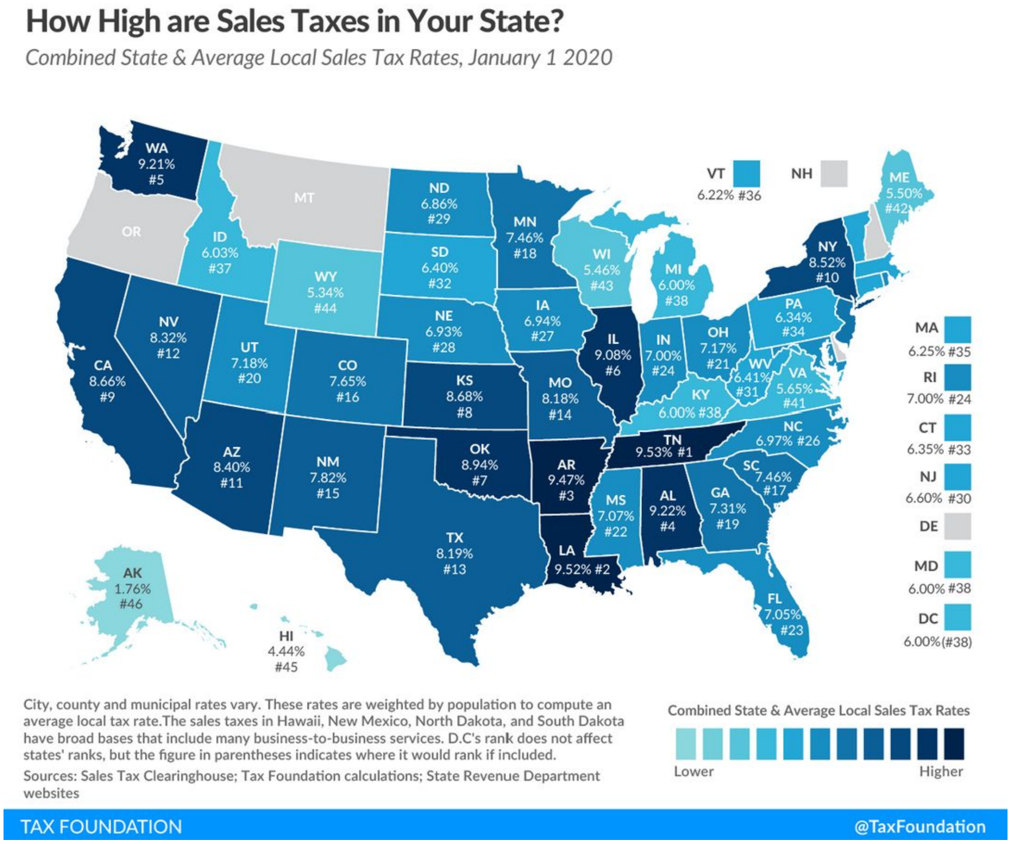
While Utah has enjoyed the fruits of having a single flat income tax rate with over a decade of strong job growth (pre-pandemic) and robust growth in its tax collections, the Beehive State needs to lower income tax rates in order to remain competitive and attractive to businesses and individuals. That will ensure we continue to have the jobs we need for our families and the tax revenues we need to support the programs so many depend on.

Utah's Recent Sales Tax Reform Efforts and Sales Taxes Across the Nation

With the recent debate surrounding the 2019 tax reform bill (SB 2001) in Utah and the sales tax on food, we thought it would be a good idea to examine various sales tax rates across the nation and see how Utah compares. This analysis, taken in part from the Washington D.C. based Tax Foundation, uses the state sales tax rate and adds an average of the local sales tax rates in each state, since each state has varying levels of local rates. In some cases, the local rates exceed the state rates.

As a reminder, Utah has a state sales tax rate of 4.85%. The rate was recently raised from 4.70% to 4.85% when voters passed a ballot initiative for Medicaid expansion, as it contained an increase in the rate to fund some of the cost of expansion. Local option sales tax rates vary across the state from county to county and city to city. This is due to all of the various local option sales taxes that the cities and counties have stacked onto a virtual Christmas tree of ornaments to fund all kinds of programs like transportation and infrastructure, arts and parks. Some counties and municipalities have been more restrained than others in imposing these legislatively authorized sales tax options and so the total state and local rate may be as low as 6.35% total in Beaver county and as high as 7.75% in Salt Lake City.

As we know from the recent debate on the sales tax on food (unprepared groceries), the state rate is 1.75% on food, plus the local tax of 1.25% for a total of 3%.



Utah is in the middle of the pack, ranked at #20 highest with a combined average rate of 7.18%. The highest combined rank is paid by folks in Tennessee at 9.53% while the lowest is paid in Alaska at only 1.76% on average. Four states have no sales tax: Oregon, Montana, Delaware and New Hampshire.

Sales tax is a more stable revenue source than income tax and is seen as a fair way of taxing consumption, versus the more economically damaging income tax that takes money out of the pockets of taxpayers right away.

Association Accomplishments During May:

- Planned for the 2020 Taxes Now Conference
- Urged U.S. senators to support S. 800 - The College Transparency Act
- Interviewed candidates in preparation for June primary race