

# **Standing Up For Utah's Needs 2015**

**The 2015 Utah Citizens' Counsel  
Assessment of Policy Progress in Utah**



## Table of Contents

<b>A Declaration of Utah Human Rights.....</b>	<b>2</b>
<b>Cover Letter.....</b>	<b>3</b>
<b>Some Key Needs Identified in Our 2015 Assessment.....</b>	<b>4</b>
<b>Committee Reports</b>	
<b>Immigration.....</b>	<b>6</b>
<b>Environmental Health.....</b>	<b>12</b>
<b>Public Education.....</b>	<b>20</b>
<b>Health.....</b>	<b>26</b>
<b>Personal Security.....</b>	<b>37</b>
<b>Social Support Systems.....</b>	<b>42</b>
<b>Participatory Governance.....</b>	<b>47</b>



Dedicated to improving public policy.

## *A Declaration of Utah Human Rights*

### *Preamble*

In recognition that the inherent right of every member of the human family to dignity and respect serves as the foundation of freedom, justice, and tranquility in the state of Utah, as well as the United States of America and the world; and in recognition that this right also frames the shared responsibilities of individuals, organizations, and governments; and inspired by the Declaration of Independence, the Constitution of the United States, and the Universal Declaration of Human Rights, the Utah Citizens' Counsel (UCC) articulates the following statement of rights as the framework for UCC policy positions.

*Article 1:* All Utahns, regardless of race, color, ethnicity, religion, gender and gender identity, language, disability, political preference, age, birth status, military status, or other status, are entitled equally to dignity and respect as human beings and to equitable treatment under the law.

*Article 2:* All Utahns, young and old, have the right to live and thrive in a healthy environment that includes clean air, land, and water, and share in the responsibility to pass that healthy environment on to succeeding generations.

*Article 3:* All Utahns have the right to a public education that ensures literacy, numeracy, critical thinking, character development, and the capability for responsible citizenship to help secure a promising future for Utah in a complex, interdependent, and competitive world.

*Article 4:* All Utahns, regardless of circumstances, have the right to comprehensive, quality health care at reasonable cost that protects Utahns from the burdens of catastrophic illness or injury and the ensuing risk of bankruptcy or poverty.

*Article 5:* All Utahns have the right to security of person, especially freedom from physical harm and psychological abuse, whether experienced within the family or in the community at large.

*Article 6:* All Utahns have the right to the fundamental social support systems that assist in assuring a standard of living adequate for the well-being of both the individual and families, in all their configurations, including timely assistance in case of unemployment, disability, old age, and natural or man-made disasters.

*Article 7:* All Utahns have the right to transparent and ethical governance as well as effective participation in the democratic process.

December 2015

Dear fellow Utahns,

*The Utah Citizens' Counsel's Declaration of Utah Human Rights on the previous page expresses our belief that the strength of our society depends on fundamental fairness and equal opportunity for all those who live in our increasingly diverse State. We are a group of seniors from all political persuasions--Republican, Democrat, Independent, unaffiliated, and somewhere in between. We believe that meeting the challenges that face us requires joint action by government, nonprofits, religious groups, families, and individuals. While valuing our tradition of self-reliance, we realize that only by working together can we successfully address seemingly intractable problems.*

*Last year's annual assessment of Utah's policy progress addressed five of the seven basic human rights in our Declaration. This year's report deals with all seven. The human rights framework shapes our approach to public policy. We aim for accuracy in our presentation of the facts, respect for democratic dialogue, and common understanding of what unites us as Utahns. Recommendations in our seven reports point to the kind of community we want for all Utahns.*

*Readers will notice that many of this year's reports dovetail, reflecting the relationship of one human right to another. For instance, reducing poverty enhances educational opportunity, improves health, and strengthens personal security. In turn, the achievement of good health depends not solely on medical care but on clean air, clean water, and social systems that encourage the adoption of good health habits. Human rights form a chain with many links.*

*We hope that you will want to read our entire 2015 assessment of various policy topics that relate to human rights, but the individual committee reports can also stand alone. We welcome constructive feedback to help us advance our goals and policy preferences.*

*Sincerely,*

*Sheryl Allen  
Robert (Archie) Archuleta  
John Bennion  
Kim Burningham  
Aileen Clyde  
Michael Deily  
Irene Fisher  
Nancy Haanstad  
Dixie Huefner*

*Robert Huefner  
Louise Knauer  
Cheryll May  
Stewart Olsen  
Dee Rowland  
Andrew Schoenberg  
Michael Stapley  
M. Donald Thomas*

*With volunteer staff support from David Carrier, University of Utah*

[www.utahcitizenscounsel.org](http://www.utahcitizenscounsel.org)

## ***Some Key Needs Identified in our 2015 Assessment***

***Equal Dignity and Respect:*** *The need to acknowledge and accept the thousands of unauthorized immigrants in Utah who are already contributing, valuable members of our communities;*

***Environmental Health:*** *The need to plan for adequate water availability and to accelerate progress on cleaning the air, both essential to a sustainable environment;*

***Public Education:*** *The need for greatly expanded preschool education for at-risk 3 and 4-year-olds;*

***Health and Health Care:*** *The need for universal access to health care, and improved measures and procedures to manage cost and quality, areas in which Utah is equipped to lead;*

***Personal Security:*** *The need to reduce domestic violence and the incidence of rape, and to better support the victims of these assaults;*

***Social Support Systems:*** *The need to significantly reduce poverty, especially intergenerational poverty, which profoundly impacts the developing brains of young children;*

***Participatory Government:*** *The need for enhanced participation of the public through the redistricting process, open primaries, and campaign finance reform.*

## **Committee Reports**

# Immigration

*Utah Citizens' Counsel Dignity and Respect for Human Beings Committee*

***Article 1: All Utahns, regardless of race, color, ethnicity, religion, gender and gender identity, language, disability, political preference, age, birth status, military status, or other status, are entitled equally to dignity and respect as human beings and to equitable treatment under the law.***

## **Introduction**

Although Article 1 encompasses many topics, how to deal with undocumented immigrants in the United States has become an inflammatory issue in the looming presidential campaign. Focusing on the status and treatment of immigrants, therefore, seems particularly timely. Undocumented immigrants are at a heightened risk of mistreatment. Their vulnerability is a human rights issue for all Utahns. Thus, part of this report also focuses on recent state legislation.

Federal immigration laws have not been significantly updated in more than twenty years. Family members left behind have long waits to reunite, necessary workers find few channels for legal immigration, and millions of the undocumented live in the shadows, subject to fear and exploitation. Individuals committing abuses against immigrants know that they are unlikely to be held accountable because the undocumented are often reluctant to turn to authorities, fearing the possibility of arrest or deportation.

The number of unauthorized<sup>1</sup> immigrants in the United States has stabilized in recent years after decades of rapid growth. The number peaked in 2007 at 12.2 million when this group was 4% of the U.S. population. Mexicans made up about half of all unauthorized immigrants (52%), though their numbers have been declining.<sup>2</sup> There were 11.3 million unauthorized immigrants in the U.S. in 2014, a number that has essentially remained stable for five years and currently makes up 3.5% of the nation's population. Utah's unauthorized immigrant population numbers are estimated to be 110,000 with unauthorized workers comprising 5.4% of Utah's workforce.<sup>3</sup>

## **Background**

Utah's booming economy was a magnet for undocumented workers during the heavy highway and housing construction in the years leading to the 2002 Olympics. The undocumented population rose as family members joined established workers. Between 2008 and 2012, anti-immigrant bills proliferated in the Utah Legislature, and the subject became divisive. Those calling for deportations cited the cost of education and health care, although undocumented workers paid \$102 million in Utah state and local taxes in 2010; they also paid \$76 million in sales taxes from purchases at stores and businesses in Utah.<sup>4</sup>

**The Utah Compact** (see Appendix 1) laid a foundation for a different conversation about immigrants. With that foundation, policy discussion became somewhat easier. Signed in 2010 by

church, business, foundation, law enforcement, and community leaders, the Compact sought to cool debates that had grown increasingly heated. It also has become a model for other states.

Utah Citizens' Counsel members supported and signed the Utah Compact. UCC also wrote a letter to Governor Gary Herbert on July 22, 2010, requesting an appropriate response to the breach of security regarding a list of purportedly undocumented persons by two employees of the Department of Workforce Services.

### **Utah Legislative Actions**

Acknowledging that unauthorized immigrants were driving without licenses and thus were not able to carry automobile insurance, Utah established a Driving Privilege Card (DPC) in 2005. The DPC is issued to applicants who are (1) unable to establish legal presence in the U.S. and (2) ineligible for a social security number. Modifications were made in 2010 to comply with the federal passage of the Real ID Act. Presently, DPCs have the following conditions in addition to all the steps for citizen drivers:

- The applicant must prove Utah residency.
- A valid DPC will allow driving legally in Utah, but it cannot be used as a proof of identification by a government entity.
- A DPC expires on the holder's birthday in the first year following the issue date.
- A fingerprint card and photograph from a local agency (\$25) are also required.<sup>5</sup>

Utah issued 35,332 DPCs in 2014. The numbers reached 43,000 in 2008 before the recession hit and immigration slowed.<sup>6</sup> Twelve states and the District of Columbia have now enacted laws to allow the undocumented to obtain a type of driver's license.<sup>7</sup>

The Utah Legislature passed HB144, Non-Resident Tuition Waiver, in 2002. Dubbed the Utah Dream Act, this bill allows qualifying students to attend Utah public universities and colleges by paying in-state tuition. Although these students do not have Utah resident status, they can qualify for the tuition waiver. They must provide an affidavit that they attended a Utah high school for three years, graduated or have a GED, and promise to file an application to legalize their immigration status as soon as they are eligible.<sup>8</sup>

Eighteen states allow unauthorized immigrants to attend a public college at the same in-state tuition rate that legal residents and American citizens pay. Only a few, like California, allow these students to apply for financial aid.<sup>9</sup> Even privately funded tuition scholarships for undocumented students could not be processed through Utah public colleges and universities until 2015 legislative action.<sup>10</sup>

### **Detention and Deportation: Recent Federal Executive Branch Action**

Entering or remaining in the U.S. without authorization is a civil violation, not a crime. The Department of Homeland Security (DHS) has broad discretion to apprehend individuals it

suspects of immigration violations. On average, 33,400 individuals are detained on any given day.<sup>11</sup> U.S. Immigration and Customs Enforcement (ICE) operates a detention center at the Utah County Jail in Spanish Fork, Utah, but there is no public information about the number of inmates. In a telephone call to the jail on October 14, 2015, the number of detained persons was reported as 156.<sup>12</sup>

DHS asserts that Congress has directed ICE to fill every detention bed each day for which Congress has appropriated funds. Certain committee report language is interpreted as setting up this daily quota (34,000 for fiscal year 2013). About 50% of ICE detention beds are currently private, creating an incentive for private prison corporations to lobby for the laws and policies that lead to more immigrants being incarcerated.<sup>13</sup> Private prisons are not subject to the same Freedom of Information laws as public prisons. Carefully documented evidence by the National Immigration Law Center reveals a bleak picture of the conditions detained immigrants face.<sup>14</sup>

Deportations are another way of dealing with unauthorized immigrants. President Barack Obama has overseen the removal of more than 2.4 million immigrants since taking office. These expulsions have removed some people who had committed violent crimes, but they also have expelled economic migrants, some of whom have been working in the U.S. for decades. Many families have been split apart. In the two years prior to September 2012, 205,000 parents were deported.<sup>15</sup>

After a decade of rising deportations, fewer have taken place during the past 12 months (fiscal year 2015) than at any time since 2006. The overall total of 236,000 deportations generally does not include Mexicans who were caught at the border and quickly turned away by the U.S. Border Patrol. The figure does include roughly 136,700 convicted criminals who were deported.<sup>16</sup>

On November 20, 2014, President Obama issued an Executive Action on Immigration. It would allow almost half of the unauthorized immigrants in the U.S. to apply for relief from deportation and for work authorization. It would not grant citizenship. The President's action was the most significant protection from deportation since 1986, when Congress passed a law allowing 3.7 million unauthorized immigrants to obtain green cards.<sup>17</sup>

The Executive Action is on hold because of a Texas lawsuit joined by 25 other states, including Utah, to stop the move. Utah Attorney General Sean Reyes asserts that President Obama's unilateral action bypassed Congress, exceeding his executive authority and failing to comply with statutory requirements. "We did not join this lawsuit to address immigration policy. Whether you agree or disagree with some, all or none of the President's proposal is not the point. The process of how President Obama overstepped his legal authority is what is being challenged," said Attorney General Reyes.<sup>18</sup>

Advocates and advocacy organizations across the country filed an amicus or "friend of the court" brief to make sure the court takes other important factors into account. Under the President's Executive Order, "[u]p to 4.7 million could qualify for either the Deferred Action for Parents of Americans (DAPA) or the Deferred Action for Childhood Arrivals (DACA) programs, which economists agree would improve our nation's economy. When the nation's workers have good

work authorization, they can earn higher wages and therefore have more money to spend in local economies.”<sup>19</sup>

Tax rolls should also grow. "Estimates vary, but experts agree that even modestly successful enrollment in the DAPA or DACA programs would add more than \$2 billion in taxes over the next two years.”<sup>20</sup> Allowing immigrant workers to apply for work authorization helps level the playing field for everyone. Employers who play by the rules will no longer be undercut by bad-apple employers who exploit immigrant workers.

On November 9, the U.S. Court of Appeals for the Fifth Circuit decided to keep the injunction in place that has prevented the program from taking effect. The Obama administration announced the following day that it plans to appeal to the Supreme Court with the hope that the Court will accept the case and will rule in favor of the Executive Action before the end of the President's term.<sup>21</sup> “Civil rights groups are confident that the sound legal, economic, and societal reasons for protecting the President’s announced Executive Action will allow these important programs to begin to fix part of our deeply dysfunctional immigration system.”<sup>22</sup>

### **Commendations**

- Utah’s **pioneer legislation to allow unauthorized immigrants to drive legally.**
- The so-called “**Utah Dream Act,**” which permitted qualified, undocumented students to pay in-state tuition at public universities and colleges, potentially benefitting Utah with more highly educated residents and future increased tax revenue.
- The Utah Legislature’s **2015 passage of Senate Bill 253--Exceptions for Privately Funded Scholarships.** The bill allows an individual who is a graduate of a Utah high school to receive a privately funded scholarship without verifying lawful presence.
- The **absence of any anti-immigrant laws** in the last three legislative sessions, perhaps an acknowledgement that immigration is essentially a federal issue.

### **Recommendations**

- The **Utah Attorney General should withdraw from the DAPA lawsuit,** which has prevented implementation of the President’s Executive Action on Immigration. UCC believes that the argument against the President’s action is largely political.
- **Utah’s congressional delegation should support federal action on comprehensive immigration reform.**
- UCC urges continuing **dissemination of the Utah Compact** to broaden its support and help reduce human rights abuses in Utah.

## Appendix 1

### THE UTAH COMPACT

*A declaration of five principles to guide Utah's immigration discussion*

**FEDERAL SOLUTIONS** Immigration is a federal policy issue between the U.S. government and other countries--not Utah and other countries. We urge Utah's congressional delegation, and others, to lead efforts to strengthen federal laws and protect our national borders. We urge state leaders to adopt reasonable policies addressing immigrants in Utah.

**LAW ENFORCEMENT** We respect the rule of law and support law enforcement's professional judgment and discretion. Local law enforcement resources should focus on criminal activities, not civil violations of federal code.

**FAMILIES** Strong families are the foundation of successful communities. We oppose policies that unnecessarily separate families. We champion policies that support families and improve the health, education and well-being of all Utah children.

**ECONOMY** Utah is best served by a free-market philosophy that maximizes individual freedom and opportunity. We acknowledge the economic role immigrants play as workers and taxpayers. Utah's immigration policies must reaffirm our global reputation as a welcoming and business-friendly state.

**A FREE SOCIETY** Immigrants are integrated into communities across Utah. We must adopt a humane approach to this reality, reflecting our unique culture, history and spirit of inclusion. The way we treat immigrants will say more about us as a free society and less about our immigrant neighbors. Utah should always be a place that welcomes people of goodwill.

---

## Notes

<sup>1</sup> "Unauthorized" is the term preferred and used by the U.S. Census Bureau. It is essentially synonymous with the better known term "undocumented" but avoids any confusion resulting from the fact that some immigrants who are not authorized to be in this country have documents but they are false documents. Personal conversation with Doris Meissner, former director of the Immigration and Naturalization Service, October 23, 2015.

<sup>2</sup> "Five Facts about Illegal Immigration in the U.S.," *Pew Research Center*, accessed October 18, 2015, <http://www.pewresearch.org/fact-tank/2015/07/24/5-facts-about-illegal-immigration-in-the-u-s/>.

<sup>3</sup> "Unauthorized Immigrant Population: National and State Trends, 2010," *Pew Research Center*, accessed October 18, 2015, [www.pewresearch.org/2011/02/01/unauthorized-immigrant-population-national-and-state-trends-2010/](http://www.pewresearch.org/2011/02/01/unauthorized-immigrant-population-national-and-state-trends-2010/).

<sup>4</sup> "Undocumented Immigrants' State and Local Tax Contributions," *Institute on Taxation and Economic Policy*, accessed October 18, 2015, <http://www.itep.org/pdf/undocumentedtaxes.pdf>.

<sup>5</sup> "Driving Privilege Card (DPC)," *Utah Department of Public Safety*, accessed October 18, 2015, <http://dld.utah.gov/licensingid-cards/driving-privilege-card-dpc>.

<sup>6</sup> Lee Davidson, "Utah Hits a 6-year Low for Immigrant Driving Privilege Cards," *Salt Lake Tribune*, January 10, 2015, accessed October 19, 2015, <http://www.sltrib.com/news/2035769-155/utah-hits-6-year-low-for-immigrant>.

<sup>7</sup> "States Offering Driver's Licenses to Immigrants," *National Council of State Legislatures*, accessed October 18, 2015, <http://www.ncsl.org/research/immigration/states-offering-driver-s-licenses-to-immigrants.aspx>.

<sup>8</sup> "HB 144-Non-Resident Tuition Waiver," *University of Utah Office of Admissions*, accessed October 18, 2015, <http://admissions.utah.edu/apply/residency/hb144.php>.

<sup>9</sup> "Basic Facts about In-State Tuition for Undocumented Immigrant Students," *National Immigration Law Center*, accessed October 18, 2015, <http://www.nilc.org/basic-facts-instate.html>.

<sup>10</sup> "Exceptions for Privately-Funded Scholarships," *Senate Bill 253, 2015 Utah State Legislature*, accessed October 18, 2015, <http://le.utah.gov/~2015/bills/static/SB0253.html>.

<sup>11</sup> "The Math of Immigration Detention," *National Immigration Forum*, accessed October 18, 2015, <http://immigrationforum.org/blog/themathofimmigrationdetention/>.

<sup>12</sup> Telephone conversation between Dee Rowland and anonymous employee of Utah County Jail, October 16, 2015 (notes in Rowland's possession).

<sup>13</sup> "DWN's Policy Priorities," *Detention Watch Network*, accessed October 18, 2015, <http://www.detentionwatchnetwork.org/policypriorities>.

<sup>14</sup> "The Math of Immigration Detention."

<sup>15</sup> "The Great Expulsion," *The Economist*, February 8, 2014, accessed October 6, 2015,

[www.economist.com/news/briefing/21595892-barack-obama-has-presided-over-one-largest-peace-time-outflows-people-americas](http://www.economist.com/news/briefing/21595892-barack-obama-has-presided-over-one-largest-peace-time-outflows-people-americas).

<sup>16</sup> Ibid.

<sup>17</sup> "Five Facts About Illegal Immigration."

<sup>18</sup> "Utah Joins States Suing over Obama Action on Immigration," *KSL*, accessed October 18, 2015, <http://www.ksl.com/?nid=148&sid=32606445>.

<sup>19</sup> "Amicus Filed in Executive Action Case," *National Immigration Law Center*, accessed October 18, 2015, <http://www.nilc.org/whywefiled.html>. The Executive Order instituted the DAPA program, which would allow undocumented immigrant parents to request deferred deportation action and obtain employment authorization if the parent has lived in the U.S. since Jan. 1, 2010, and has a U.S. citizen child or lawful permanent resident child born on or before Nov. 20, 2014. The Executive Order also extended by one year the existing two-year DACA permits that allow certain undocumented immigrant youths to stay in the U.S. and temporarily avoid deportation.

<sup>20</sup> Ibid.

<sup>21</sup> "Obama to Seek Supreme Court Ruling on Immigration Action," *National Immigration Law Center*, accessed November 14, 2015, <http://www.nilc.org>. According to the National Immigration Law Center, federal courts have recognized the President's power to grant deferred action for at least 40 years, under various previous presidents. It is a grant of authority from Congress to the executive branch to administer and enforce the immigration laws. See <https://www.nilc.org/execaauthorityimm.html>

<sup>22</sup> "Amicus Filed in Executive Action Case."

## **Environmental Health**

*Utah Citizens' Counsel Environmental Health Committee*

***Article 2. All Utahns, young and old, have the right to live and thrive in a healthy environment that includes clean air, land, and water, and share in the responsibility to pass that healthy environment on to succeeding generations.***

### **Introduction**

This year's report focuses on two issues: air quality and water availability. We discuss progress that has been made during the past year to improve air quality and what problems still remain. The second issue, the future of water availability, is a rapidly approaching problem that most Utah citizens are not fully aware of. In both cases, it is important to recognize the overlap in what the government and Utah residents need to do to confront these problems.

### **Context: Air Quality**

Last year's UCC report made several recommendations to reduce automobile emissions. The recommendation on "user fees" based on miles driven and fuel economy was not adopted. Nor was the recommendation to increase rebates and tax refunds to \$2500 on electric and fuel-efficient vehicles, although the tax credit for electric vehicles was increased from \$605 to \$1500 and for hybrid plug-in vehicles from \$605 to \$1000. These rebates are valid for vehicles purchased in 2015. HB 15 (2015) extended the expiration date for the rebate to the end of 2016.

Last year, we recommended expansion of alternative fueling infrastructure. Happily, public libraries, schools, parks, and various private entities have now established electric plug-in stations for electric vehicles. Natural gas refueling stations have also increased. Utah currently has 179 electric and alternative fueling stations. Most of them are concentrated on the Wasatch Front and along the I-15 corridor.<sup>1</sup>

Last year's report also strongly recommended expanding public transportation. The Utah Transit Authority has continued to improve bus and rail service. The expansion of the TRAX system and Front Runner has helped to increase ridership from 24 million in 1999 to 45 million in 2014.<sup>2</sup> In contrast, bus ridership has stayed flat during the last 15 years.<sup>3</sup>

### **Commendations: Air Quality**

- **The Governor's initiatives over the last year to encourage adoption of Tier 3 fuels and the corresponding catalytic converter technology in vehicles.**
- **The Utah Legislature's positive steps to improve air quality in the State.<sup>4</sup>**
- **The Department of Environmental Quality's activity in identifying sources of pollution and issuing regulations to reduce emissions harmful to health.<sup>5</sup>**

- **The DEQ’s numerous State Implementation Plans (SIPs) for reducing air pollutants.** An example is the SIP for Salt Lake City to reduce PM<sub>2.5</sub> particles,<sup>6</sup> which details efforts to meet EPA standards for PM<sub>2.5</sub> during non-attainment winter inversions.
- **The Summit County Council’s extension of its ban on the installation of wood-burning stoves and appliances** in new homes and remodels in Snyderville Basin.<sup>7</sup>
- **The efforts of nongovernmental organizations to guide policy and increase public awareness of the health effects of air pollution in Utah.** These groups include Heal Utah, Moms for Clean Air, Utah Physicians for a Healthy Environment, Envision Utah, and Breathe Utah.

### **Recommendations: Air Quality for the Transportation Sector**

- **UCC urges rapid adoption of Tier 3 fuels and better catalytic converters.** The State should pressure the refineries to implement Tier 3 production within three years.<sup>8</sup>
- **We recommend maximum vehicle speeds no higher than 60 mph in urban areas and 70 mph in rural areas. Speed limits should be strictly enforced both on freeways and on local streets.** Speed limit reductions have multiple benefits for air quality, public health, and consumer costs. See details in Appendix 1.
- **The Legislature should support the Utah Air Quality Board’s rule that will prevent the sale or installation of residential hot water heaters that do not qualify as ultra-low nitrogen oxide emitters after November 1, 2017.**<sup>9</sup>
- The Federal Government has proposed that corporate vehicle fleet average be 55 MPG by 2025. **We recommend that Utah adopt the same goal.**<sup>10</sup>
- **State Government and the media should mobilize to inform the public of the cost of fossil fuel consumption.** Car advertisements should disclose the MPG, the cost of driving 15,000 miles per year, and the amount of pollutants emitted, including the tons of CO<sub>2</sub>.

### **Recommendations: Air Quality for the Building Sector**

- **We urge that policy makers and the public study the analyses and proposals in the book *Reinventing Fire* by Amory B. Lovins.**<sup>11</sup>
- **Utah’s Uniform Building Commission (UBC) should review the International Energy Conservation Code (IECC) of building construction and recommend its adoption to the Utah Legislature.**<sup>12</sup>
- **We urge increased state incentives for installation of renewable energy sources.**<sup>13</sup>

- **Surcharges for residential solar (PV) installations should not be allowed until such installations generate a significant (15% to 20%) percentage of the power in an electric grid.** PV generation in Utah is less than 1 percent of the total electric energy.<sup>14</sup>
- **Utah state government should support the Clean Power Plan, an effort of the federal government and most of the global community to reduce the emissions of heat trapping gases, particularly CO<sub>2</sub> and methane.**<sup>15</sup>

### **Context: Water Availability**

Utah is rapidly approaching a crisis in water availability. State projections suggest that statewide demand for water will surpass the currently developed supply in about 25 years.<sup>16</sup> These projections lead to widespread concern that water availability will eventually limit population growth and economic development. However, our review of the available information suggests that the near-term threat is not to Utah's growing population but to specific industries, recreation, and, most important, to essential ecosystems and wildlife. Rivers and wetlands provide habitat for 80% of Utah's wildlife species. If we continue on our current path, the greatest impact will be to essential riparian and wetland habitats and the wildlife they support.

As demand for water increases with population growth, reduced snowpack and increased evaporation are expected to decrease the supply. Because of human caused climate change, long-range forecasts suggest that Utah's climate will continue to warm at rates above the global average.<sup>17</sup> These changes appear to already be underway. Temperatures in Utah between 1997 and 2007 were more than 2° F higher than the recorded 100-year average. As temperatures rise and evaporation increases, demand for water to irrigate crops, lawns, and gardens will also climb, as will demand for evaporative cooling of buildings. At the same time, forecasts suggest that Utah's population will double to approximately six million by the year 2060.<sup>18</sup> A recent modeling by hydrologists at the Utah Division of Water Resources indicates that our water consumption has reduced the level of the Great Salt Lake by approximately 12 feet since the pioneers arrived.<sup>19</sup> Given that the average depth of the lake is now only 14 feet,<sup>20</sup> this study suggests that the Lake would be almost twice as deep as it is today if humans were not here consuming the water or redirecting it into reservoirs. Thus, to preserve Utah's rivers and wetlands in the face of climate change and population growth, we must make critical changes in water allocation policy and provide real incentives for conservation.

The Office of the Legislative Auditor General has recently questioned the Utah Division of Water Resources' projections<sup>21</sup> that Utah's statewide demand for water will surpass the currently developed supply in about 25 years.<sup>22</sup> The Auditor General found that the Division's projections for the future were flawed because (1) they were based on unreliable local water use data and (2) the potential of modest and practical conservation policies was not considered. This audit has led critics to question whether the Division is opposed to water conservation in order to protect revenues for water sellers and has inflated estimates of future water needs to scare the public into spending billions of dollars on water projects such as the proposed Lake Powell Pipeline and the proposed Bear River Development (estimated cost of both projects is \$2.5 billion<sup>23</sup>).

Although agriculture accounts for only 2% of Utah's economic output, it is responsible for 82% of the water used in the state.<sup>24</sup> Much of this agricultural use is a direct consequence of the antiquated Doctrine of Prior Appropriation, which requires farmers to use their water or forfeit

their right to it.<sup>25</sup> This law made sense when it was adopted in the 19<sup>th</sup> century with the goal to encourage and facilitate agriculture growth. The “use it or lose it” policy, however, makes no sense at a time when important ecosystems are threatened.

Domestic indoor use accounts for only 4% of the water used in Utah.<sup>26</sup> Nevertheless, this municipal use is what is driving calls for new water projects. Throughout the state, property taxes from homes and businesses are used to lower the price of water, giving Utahns an economic incentive to waste rather than conserve municipal water. Using property tax to subsidize water is unique to Utah among western states and gives us some of the cheapest water rates in the country. As a consequence, our per capita domestic water use is the highest in the country,<sup>27</sup> 8.6% higher than Nevada’s, which has the second highest rate.

### **Commendations: Water Availability**

- The continuing **efforts of the Utah Rivers Council and Friends of Great Salt Lake** to educate and inform citizens about water issues facing our state.
- The **Auditor General’s report** raising serious concerns about the validity of the DWR’s projections for future water use.
- **KUED’s excellent TV documentary**, *Utah’s Uncertain Water Future*, which addressed Utah’s future water needs.

### **Recommendations: Water Availability**

- **Utah state government should combat climate change.**<sup>28</sup> To do so, the State should institute a carbon tax and significantly expand incentives for solar and wind energy.
- **To encourage municipal conservation, the price of water must reflect its actual cost.** Subsidizing water supply with property taxes should be phased out.<sup>29</sup>
- **State and municipal governments need to invest in agricultural irrigation infrastructure.**<sup>30</sup> Funds now allocated for water projects such as the Bear River Development Project, and funds raised through municipal taxes, should be used to update current agricultural irrigation systems to save water to preserve riparian and wetland habitats as well as supply future urban development.
- **The State should change its laws so that Utah’s rivers and lakes have a legal right to exist.**<sup>31</sup> Specifically, water rights holders need to be able to conserve water without forfeiting their right and without others being able to use the conserved water.
- **Given the environmental, economic, and recreational importance of the Great Salt Lake, the State should adopt a minimum acceptable elevation for the lake level**, with mandatory conservation policies kicking-in if the level nears the critical lower elevation.

# Appendix 1

## Rationale for Reduced Speed Limits

**Rationale 1.** Increased gas consumption at higher speeds is well documented by numerous studies and is based on well-known engineering and physics principles.<sup>32</sup> At speeds higher than 50 mph, the force required to overcome air resistance predominates and is related to the speed squared. The formula for the force is given by  $F = C_d d A \times V^2$  where  $C_d$  is the coefficient of drag,  $d$  is the density of air,  $A$  is the frontal area of the vehicle, and  $V$  is the net velocity of the air impacting the front of the vehicle. The energy required to overcome this air resistance is obtained by multiplying the force,  $F$ , by the distance traveled. That is basic Newtonian physics. This energy has to come from the fuel burned in the car engine. When speed is increased from 50 to 70 mph, the energy to overcome wind resistance does not increase by the linear ratio of 7/5 but by the square of this ratio or 49/25 or nearly a factor of 2. These theoretical facts are confirmed by actual testing. In 2013, the Oak Ridge National Laboratory<sup>33</sup> tested the MPG for 74 vehicles from small sedans to SUVs and trucks. The average decrease in MPG was 12%, 14% and 15% for each increment of 10 miles from 50 to 80 mph. The net decrease in fuel efficiency as speed increased from 50 mph to 80 mph was 41%. Note also that if we decreased the urban speed limit on freeways from 70 to 60, the average increase in gas mileage would be 14%. This would significantly reduce monetary and pollution costs.

**Rationale 2.** Since the 2001 terrorist attack in New York City, approximately 500,000 Americans have been killed and another 35 million (10% of the US population) have been injured by our current car-centered transportation system.<sup>34</sup> According to the Rocky Mountain Insurance Information Association (RMIIA), the National Highway Traffic Safety Administration reported that U.S. motor vehicle crashes in 2010 cost “almost 1 trillion dollars in loss of productivity and loss of life.”<sup>35</sup>

Speed has a significant effect on the amount of damage and injury occurring during an accident. The kinetic energy, which is proportional to  $\frac{1}{2}$  mass times velocity squared ( $E = \frac{1}{2} M V^2$ ) must equal the product of the force times the stopping distance ( $E = F \times D$ ) of the vehicle. In a crash, the energy absorbed by impact and hence the damage to car and occupants increases as the square of the velocity. The mass  $M$  can refer to the car or the person’s body and head. The good news is that, over the last 20 years, fatalities and injuries have decreased significantly because of air bags and increased seat belt use. Other technology with the potential of reducing the accident rates is being developed, including driverless cars, sensors of side and frontal obstacles that warn about lane changes, and automatic braking to avoid collisions. The goal should be to reduce the death, injury, and property damage by 50% in the next five years, as well as the cost of auto insurance.

---

## Notes

<sup>1</sup> U.S. Department of Energy, Alternative Fuels Data Center, "Locate Stations," accessed October 30, 2015, <http://www.afdc.energy.gov/fuels/locator/stations/>. The federal website also provides a downloadable spreadsheet of the location, hours of operation, and type of fuel of each station.

<sup>2</sup> Utah Transit Authority (UTA), "UTA Ridership Nearly Doubles in 15 Years," accessed September 12, 2015, <http://www.rideuta.com/news/2015/02/ridership/>

<sup>3</sup> UTA, "UTA Network Study: Executive Summary," Figure ES-3, accessed November 5, 2015, [http://www.rideuta.com/uploads/NetworkStudy\\_Exec\\_Summary.pdf](http://www.rideuta.com/uploads/NetworkStudy_Exec_Summary.pdf).

<sup>4</sup> Utah State Legislature, "Bill Tracking Service," accessed November 8, 2015,

<http://le.utah.gov/asp/billtrack/track.asp?addbill=HB0015&latest=true&agensort=true>. HB 15 with HB 95 appropriated \$1.2 million to extend the tax credit for fuel-efficient vehicles. An attempt by the Building Industry to delay building code reviews to six years, rather than the current three years, was voted down (HB 285). HB 110 authorizes the Division of Motor Vehicles to rescind registration of a vehicle that fails to meet emission standards. Also, HB 17 allows judicial discretion of fines up to \$750 for repeated violations of emission standards.

<sup>5</sup> Utah Department of Environmental Quality, "Utah Division of Air Quality 2014 Final Report," accessed September 13, 2015, [http://www.airquality.utah.gov/docs/2015/02Feb/2014DAQAnnualReport\\_FINAL.pdf](http://www.airquality.utah.gov/docs/2015/02Feb/2014DAQAnnualReport_FINAL.pdf)

<sup>6</sup> Utah Air Quality Board, "Utah State Implementation Plan Control Measures for Area and Point Sources, Fine Particulate Matter, PM<sub>2.5</sub> SIP for the Salt Lake City, UT Nonattainment Area Section IX. Part A.21," accessed October 18, 2015,

[http://www.deq.utah.gov/Laws\\_Rules/daq/sip/docs/2014/12Dec/SIP%20IX.A.21\\_SLC\\_FINAL\\_Adopted%2012-3-14.pdf](http://www.deq.utah.gov/Laws_Rules/daq/sip/docs/2014/12Dec/SIP%20IX.A.21_SLC_FINAL_Adopted%2012-3-14.pdf).

<sup>7</sup> Summit County, Utah, "Ordinance No. 847," accessed November 8, 2015,

[http://sterlingcodifiers.com/codebook/index.php?book\\_id=522&section\\_id=929212](http://sterlingcodifiers.com/codebook/index.php?book_id=522&section_id=929212). The ban also covers open burning of trash, treated wood, and plastic. Existing buildings that use wood-burning appliances as a sole source of heat are exempt.

<sup>8</sup> Environmental Protection Agency, "Tier 3 Vehicle Emission and Fuel Standards Program," accessed November 8, 2015, <http://www3.epa.gov/otaq/tier3.htm>. The rationale for adoption of Tier 3 standards is that these fuels eliminate sulfur and other elements from the fuel that "poison" or reduce the efficiency of catalytic converters and thereby increase the emission of harmful air pollutants such as nitrous oxides and carbon monoxide. DEQ needs to ensure that the removed sulfur compounds are not released from the refineries to pollute the air, water, or soil.

<sup>9</sup> Governor's Office of Energy Development, "Utah Will Require Sale, Installation of Low-Emission Water Heaters in 2017," accessed November 8, 2015, <http://energy.utah.gov/utah-will-require-sale-installation-of-low-emission-water-heaters-in-2017/>. Modeling by the Division of Air Quality suggests that this change will reduce area-source emissions of nitrogen oxide by 35% by 2024. This represents a significant step in the right direction for Utah because nitrogen oxide is one of the main chemicals that produce wintertime PM<sub>2.5</sub> pollution.

<sup>10</sup> The White House, Office of the Press Secretary, "Obama Administration Finalizes Historic 54.5 MPG Fuel Efficiency Standards," accessed November 5, 2015, <https://www.whitehouse.gov/the-press-office/2012/08/28/obama-administration-finalizes-historic-545-mpg-fuel-efficiency-standard>. Purchase of electric and hybrid vehicles should be encouraged with more incentives. Incentives could be financed by imposing a "gas guzzler fee" on vehicles that get gas mileage below 25 MPG. State, city, and county governments need to lead the way by purchasing zero emission vehicles.

<sup>11</sup> Amory B. Lovins, *Reinventing Fire: bold business solutions for the new energy era*, (White River Junction, VT, Chelsea Green Publishing, 2011). Chapter 3, "Buildings: Design for Better Living," details how retrofitting older buildings and designing new buildings for residences and business can greatly reduce the use of electricity and fossil fuels, pollution, and costs. On page 82, Lovins illustrates that buildings in the U.S. are responsible for approximately 42% of primary energy use. A reduction of up to 50% in energy needed for our buildings is possible by 2050 if business, residential consumers, and Utah government adopt the suggested behaviors and policies. P. 119, Fig 3-14.

<sup>12</sup> The United States Department of Energy, "Residential Code Change Proposals for the 2015 IECC," accessed November 8, 2015, <https://www.energycodes.gov/residential-code-change-proposals-2015-iecc>. The latest code increases attic insulation, improves window efficiency values, and requires 75% high-efficiency lighting in new construction.

<sup>13</sup> Governor's Office of Energy Development, "State Incentives," accessed November 9, 2015, <http://energy.utah.gov/funding-incentives/financing-for-infrastructure/>. The current Utah Investment Tax Credit is

---

worth 25% of eligible system cost or \$2,000, whichever is less, for residential installations, and 10% of eligible system cost or \$50,000, whichever is less, for commercial installations. Eligible technologies include solar photovoltaic, solar thermal, wind, geothermal, hydro, and biomass.

<sup>14</sup> U.S. Energy Information Administration, "State Energy Production Estimates 1960-2013," accessed October 18, 2015, [http://www.eia.gov/state/seds/sep\\_prod/SEDS\\_Production\\_Report.pdf](http://www.eia.gov/state/seds/sep_prod/SEDS_Production_Report.pdf).  
<http://www.eia.gov/totalenergy/data/annual/index.cfm#renewable>.

<sup>15</sup> Environmental Protection Agency, "Clean Power Plan," accessed November 8, 2015, <http://www2.epa.gov/cleanpowerplan>. This plan proposes reducing CO<sub>2</sub> emissions by 32% by 2030. The government is also looking at reducing other greenhouse gas emissions including methane, nitrous oxides, and fluorinated gases. The Plan allows each State to choose the pathways of achieving the proposed goal. Given the likely impact of climate change on Utah's economy and water availability, Utah government and its citizens should join in this nationwide effort to reduce fossil fuel (coal, gas, and oil) consumption and move the economy to a sustainable renewable energy future.

<sup>16</sup> Office of the Legislative Auditor General, "A Performance Audit of Projections of Utah's Water Needs" (2015), accessed October 19, 2015, [http://le.utah.gov/audit/15\\_01rpt.pdf](http://le.utah.gov/audit/15_01rpt.pdf).

<sup>17</sup> Jim Steenburgh *et al.*, "Climate Change and Utah: The Scientific Consensus," A report by Governor Jon Huntsman's Blue Ribbon Advisory Council on Climate Change (2007), accessed October 15, 2015, <http://content.lib.utah.edu/cdm/ref/collection/wwu/id/25>. See also Mountain Accord, System Group Recommendation, "Existing Conditions and Future Trendlines of the Environmental System," accessed October 24, 2015, [http://mountainaccord.com/wp-content/uploads/2015/06/MA\\_Env\\_Existing\\_Conditions\\_Future\\_Trends\\_FINAL.pdf](http://mountainaccord.com/wp-content/uploads/2015/06/MA_Env_Existing_Conditions_Future_Trends_FINAL.pdf). Increased temperatures will lengthen the growing season, produce more heat waves, and reduce snowfall in the early and late winter, particularly in lower and mid-elevations, thus decreasing snowpack; it will also increase agricultural and residential irrigation, which will increase evaporation and change aquatic life, as lakes and rivers warm.

<sup>18</sup> Office of Legislative Research and General Counsel, "Population and Demographic Trends in Utah" (2015), accessed October 19, 2015, <http://le.utah.gov/interim/2015/pdf/00002536.pdf>.

<sup>19</sup> Craig Miller, Utah Department of Natural Resources, Division of Water Resources. Personal communication with author. This estimate comes from Dr. Miller's Great Salt Lake Elevation Model.

<sup>20</sup> University of Utah Genetics Science Learning Center, "Physical Characteristics of Great Salt Lake" (2015), accessed October 19, 2015, [http://learn.genetics.utah.edu/content/gsl/physical\\_char/](http://learn.genetics.utah.edu/content/gsl/physical_char/).

<sup>21</sup> Utah Division of Water Resources, "Statewide Water Infrastructure Plan," (2013), accessed October 19, 2015, <http://prepare60.com/Content/SWIP.pdf>.

<sup>22</sup> "A Performance Audit of Projections of Utah's Water Needs," i.

<sup>23</sup> *Ibid.*

<sup>24</sup> Office of Legislative Research and General Counsel, "How Utah Water Works. An Overview of Sources, Uses, Funding, and Pricing," (2012), accessed October 19, 2015, <http://le.utah.gov/interim/2012/pdf/00002706.pdf>.

<sup>25</sup> Utah Division of Water Rights, "Water Right Information" (2011), accessed October 19, 2015, <http://www.waterrights.utah.gov/wrinfo/>.

<sup>26</sup> "How Utah Water Works", 4, Figure 3.

<sup>27</sup> Molly A Maupin, et al., "Estimated Use of Water in the United States in 2010," United States Geological Survey (2014), accessed October 19, 2015, <http://pubs.usgs.gov/circ/1405/pdf/circ1405.pdf>.

<sup>28</sup> Obviously, the citizens of Utah cannot reverse climate change acting on our own. However, given the economic impact to agriculture, the ski industry, and essential riparian and wetland habitats, it is in the State's best interest to adopt a leadership role rather than continue to be an example of the problem.

<sup>29</sup> Phasing out property tax subsidies of water supply would immediately reduce our water use by making large landowners pay for their full share of water, instead of forcing low-income populations to pay a tax on their homes. It would also send a message to water users not to water sidewalks or water while it is raining.

<sup>30</sup> Many farm water delivery systems--canals and ditches--were constructed over 100 years ago. As such, many of these systems are inefficient, using dirt canals that leak immense amounts of water into the ground. Converting these systems to pipes and sprinklers would save huge amounts of water.

<sup>31</sup> "Water Right Information." Utah law makes it "illegal" for a water-right holder to use his/her water by leaving it in the source river or stream. If a farmer saves water and puts that savings into the river, another farmer can divert that water because Utah law says water left in rivers is not a "beneficial use" of water rights. Thus, we need to amend our in-stream flow laws to mirror laws in other states, such as Montana, that allow conservation.

---

<sup>32</sup> John T. Benedict, "Automotive Engineering," section 11-p 4, in Eugene A. Avallone and Theodore Baumeister, III., eds. *Mark's Standard Handbook for Mechanical Engineers, 10<sup>th</sup> ed.* (Mc Graw-Hill, 1978).

<sup>33</sup> John F. Thomas, B. H. West, and S. P. Huff, "ORNL Researchers Quantify the Effect of Increasing Speed on Fuel Economy," Fuels, Engines and Emissions Research Center, Oak Ridge National Laboratory, January 18, 2013.

<sup>34</sup> U.S. Department of Transportation, "Traffic Safety Facts," accessed October 18, 2015, <http://www-nrd.nhtsa.dot.gov/Pubs/812139.pdf>.

<sup>35</sup> Rocky Mountain Insurance Information Association, "Cost of Auto Crashes and Statistics," accessed October 30, 2015, [http://www.rmiia.org/auto/traffic\\_safety/Cost\\_of\\_crashes.asp](http://www.rmiia.org/auto/traffic_safety/Cost_of_crashes.asp).

## Public Education

### *Utah Citizens' Counsel Education Committee*

***Article 3. All Utahns have the right to a public education that ensures literacy, numeracy, critical thinking, character development, and the capability for responsible citizenship to help secure a promising future for Utah in a complex, interdependent, and competitive world.***

### **Introduction**

Last year's assessment focused on Utah's reduced commitment over the past 20 years to funding public education and consequent reduced student achievement measured against peer states. We urged the Legislature to reverse its deliberate cuts in income tax rates that have hurt public education and to increase appropriations, especially for at-risk students and preschool education.

The 2015 Legislature took modest steps to increase support for public education and target specific areas of need. It increased the value of the weighted pupil unit by 4% and passed a bill to help equalize state property tax revenues between richer and poorer school districts. It added a few one-time grants: for instance, for improved school counseling, K-3 reading interventions, and online preschool programs (Upstart). Nonetheless, earlier cuts in income and property taxes that did not keep up with enrollment growth continue to reduce public education dollars by hundreds of millions per year, with concomitant lower national achievement rankings.<sup>1</sup> We expect to return to education finance and achievement measures in future years.

This year we are focusing on our previous recommendation for expanded high-quality preschool education for children from low-income families, English language learners, and others at risk. Our focus emerges from recognition that much of the U.S. opportunity gap is attributable to what happens in children's lives before they reach school age. Commenting on research findings, distinguished Harvard social scientist Robert Putnam, in his 2015 book on the current status of U.S. children, stated: "The [opportunity/achievement] gap is already large by the time children enter kindergarten," adding later that it does not change appreciably as children progress through school.<sup>2</sup> In other words, the odds of success or failure have already been established.

### **Context: The Case for Preschool Education**

Providing at-risk children with opportunities to become kindergarten ready is one of the most important ways that Utah can prepare its children to succeed in school and life. To UCC, giving at-risk preschoolers an equal opportunity to learn is an important human right. Poverty and other at-risk environments damage educational opportunity. Children from such backgrounds are less likely to have enriched language interactions with parents, books and computers in the home, vacations, or other developmental activities outside of school. With such disadvantages, and with parents generally having fewer years of schooling and holding multiple low income jobs, these children enter school far behind their middle-class peers.

The UCC Social Support Systems Committee, in this year's report, documents the critical role of the first three years of brain development and the loss of cognitive ability that can accrue from poverty and environmental deprivations. Building on the importance of these early years, we

share the convincing evidence for the effectiveness of high-quality early childhood education for three- and four- year-olds. Preschool programs should support families, not in any way act as substitutes for parents. This said, many parents find supplemental support valuable as they contend with major challenges that impede the development of their children.<sup>3</sup>

Research shows that, with high-quality early education, children (1) substantially increase their vocabulary and capacity to learn as measured by intelligence tests; (2) significantly improve their academic achievement, once they enter school; and (3) learn appropriate social skills and behavior patterns that contribute to greater success in school and life.<sup>4</sup> Such early education also benefits society: (1) fewer children need special education; (2) personal and social problems are reduced; (3) fewer children drop out of school, are unemployed as adults, or poor; and (4) many more such children become contributing members of society.<sup>5</sup> Large-scale studies provide benefit-cost estimates ranging from three to seven dollars saved for every dollar spent.<sup>6</sup>

Forty-one states now have various types of state-funded preschool programs. Twenty-nine use income as an eligibility criterion.<sup>7</sup> Large cities too are funding their own preschool programs and developing nuanced risk factors. All the programs are optional, but 29 % of the country's four-year-olds are enrolled in state-funded preschools.<sup>8</sup> Federally funded Head Start enrolls another 7%. Business organizations, foundations, and research agencies are promoting high-quality preschool education, especially for children who are poor or otherwise at risk.<sup>9</sup>

### **Full-day Kindergarten and Preschool Education in Utah**

Kindergarten enrollment is optional in Utah, although the great majority of parents enroll their five-year-olds,<sup>10</sup> The Utah State Office of Education (USOE) classifies one third of the 51,000 kindergartners as low income students--those eligible for free or reduced lunch.<sup>11</sup> Of the 51,000, only 18% were in full-day or extended-day kindergarten.<sup>12</sup> In contrast, nationally, 77% of 5-year-olds are in full-day kindergarten; our neighbor Colorado enrolls 74%.<sup>13</sup> Research clearly shows that full-day kindergarten results in significant academic gains for the children enrolled.<sup>14</sup>

Utah is lagging even farther behind in state-funded preschool programs. Yet, some research indicates that a combination of pre-K and half-day kindergarten achieves better results than full-day kindergarten alone.<sup>15</sup> In January 2015, *Education Week* rated Utah as last in the nation for public preschool services, noting that the gap between poor children and non-poor children in Utah preschools had actually grown between 2008 and 2013.<sup>16</sup> The Utah Foundation recently reported that only 13% of the approximately 53,000 four-year-olds were in publicly funded preschools in 2012-2013--7% in Head Start and 6% in special education<sup>17</sup> In short, less than 1% of the state's non-special-education preschoolers attended state-funded preschools, a distressingly low percent that is only marginally higher now.

The few public or public/private high-quality preschool programs<sup>18</sup> in Utah are of recent vintage. Granite School District has the largest such preschool programming of any district in the state, dating from 2006-07. Last year, it served 883 three-year-olds and 1564 four-year-olds in programs receiving Title I and "Pay For Success" private investments. Of this number, 88-89% were eligible for free or reduced lunch. Nine hundred more children were on waiting lists.<sup>19</sup> Most other high-quality preschools in the state date from the Legislature's House Bill 96 (2014), which has provided \$3 million in ongoing state funding for competitive three-year grants to school districts and private preschools to develop high-quality preschool programs.<sup>20</sup> To receive this

funding, preschools must implement the USOE's Early Childhood Standards for high-quality programs. Close to a dozen pilot programs have been funded, with more expected to follow.

The various state-funded preschool programs can (and some do) receive additional funding from foundations, nonprofits, federal grants, municipalities, and sliding-fee-scale payments. Different curricula and methods, along with varying levels of teacher preparation, parent involvement, and assessment procedures make the program outcomes difficult to compare currently. The need for uniform assessment procedures is significant.

The School Readiness Board created under HB 96 can enter into state-financed contracts with private investors who are willing to front the cost of serving a specific number of children at high-quality preschools in expectation of a return on their investment. The preschools must document their high-quality programs and achieve specified outcomes. Such results-based investments are known as "Pay-For-Success" transactions or social impact loans.

HB 96 contracts were modeled on initial funding from Salt Lake County and the United Way of Salt Lake (\$350,000 and \$1 million, respectively), which secured loans from Goldman Sachs and J.B. Pritzker that enabled six preschool providers to serve an additional 600 children in 2013-14.<sup>21</sup> The providers are Granite and Park City School Districts, YMCA of Northern Utah, Guadalupe School, Lit'l Scholars, and Children's Express. HB 96 is providing state funds to enable the private loans to continue for four additional years, dependent on State appropriation. This means that 750 children gained access in 2014-15. The plan is to serve a total of 2,250 children in Years 3-5.<sup>22</sup> The need is for far more high-quality preschools across the state, serving far more at-risk children, and for scaled-up funding from multiple public and private sources.

### **Commendations<sup>23</sup>**

- The **growing public and private awareness** of the importance and value of preschool, especially for children from low-income families or who are English language learners. Among programs deserving recognition are the following:
  - Granite School District's preschool program**, which has extensive teacher and parent training and longitudinal data showing significant reduction or elimination of the achievement gap in language arts and math up through seventh grade thus far;
  - United Way of Salt Lake's upfront investment** in Pay-For Success preschools and its **collective impact model** in Park City, Granite, and Davis school districts;
  - YMCA of Northern Utah's collaboration** on high-quality preschools in Ogden District and Taylorsville Elementary School;
  - Washington, Canyons, Salt Lake City, Logan City, Grand, and Davis School Districts' pilot preschool programs** under HB 96;
  - Head Start's comprehensive approach** to health and education services for three- and four-year olds from low-income families;
  - Waterford Institute's Upstart program** (computer-based program at home for four-year-olds for 15 minutes a day/5 days a week).
- The **parent partnering component** in many preschool programs
- The **Utah Legislature's financial support for preschool, through House Bill 96 (2014)**

- **The Utah State Office of Education’s development of high-quality Early Childhood Standards** for public preschools throughout the state<sup>24</sup>
- **Salt Lake City’s Capital Education Plan**, a comprehensive approach to education from birth to adulthood, currently in advanced planning stages with foundation support
- **Voices for Utah Children’s independent, nonpartisan research** and advocacy for preschool education
- **The SLC Chamber of Commerce’s involvement of the business community** across the state in support of preschool education as part of its Prosperity 20/20 Initiative
- **Private investors who have helped launch preschool programs in Utah**
- **Salt Lake County’s financial contribution to preschool education**

### Recommendations

- **The Utah Legislature should increase funding** in steady stages for HB 96 grant programs and continue to reimburse private investors in the “Pay- For-Success” program.
- **The Utah State Office of Education (USOE) and local education agencies (LEAs) should dedicate a percentage of their federal Title I funds** to expand high-quality preschool programs for at-risk children.<sup>25</sup> The return on investment will be well worth more reallocation of Title I funds.
- **City and county governments, with ballot approval, should consider allocating a percentage of their sales tax revenues to quality preschools in low income areas.**
- **The Legislature should fund full-day kindergarten for at-risk children.**
- **The University of Utah and USOE, with engaged LEAs, should convene a state-wide conference to develop uniform assessment measures.** Outcomes using varying curricula and methods can be compared and uniform, reliable kindergarten readiness assessments established. Leading experts should be invited to share research and best practices to stimulate expanded program development in Utah.
- **The USOE should develop a strategic statewide plan to scale up high-quality preschool programming** for children at risk across the state.
- **All preschool programs should help parents enhance their own parenting skills** because parents are the greatest influence on their preschool children.
- As preschool education scales up, **high-quality preparation programs, better salaries, and a career path for preschool teachers must be addressed.**

---

## Notes

<sup>1</sup> See the 2014 Utah Citizens' Counsel Education Committee Report and Appendix 1 for details about 20-year slippage in achievement scores and the deleterious financial impact of shifting to a flat income tax rate and failing to keep up with student enrollment growth. Recently released 2015 national achievement results for 4<sup>th</sup> and 8<sup>th</sup> grade math and reading show flat scores in Utah except for improvements in 4<sup>th</sup> grade reading. When adjusted for poverty, race, native language, and proportion of special education students, Utah's overall ranking is 47<sup>th</sup> in the country. Even our White students are underperforming compared to those in other states. See David Leonhardt, "Raw Scores Give Misleading Idea of School Progress," *New York Times*, October 27, 2015; Benjamin Wood, "Utah Students Steady on Math and Reading as Nation's Scores Drop," *Salt Lake Tribune*, October 28, 2015, B8.

<sup>2</sup> Robert D. Putnam, *Our Kids: The American Dream in Crisis* (New York: Simon & Schuster, 2015), 162.

Another influential statement comes from Procter and Gamble CEO John Pepper: "Early childhood development is the compelling economic, social, and moral issue of our time. It helps provide all children with the opportunities they deserve to develop their natural abilities. It is also the most effective way to build the workforce... we need. Investing in young children's healthy development is a financial and social imperative for any country "A Matter of Equity: Preschool in America," April 2015, 12, *U.S. Department of Education*, accessed September 3, 2015, <http://www2.ed.gov/documents/early-learning/matter-equity-preschool-america.pdf>.

<sup>3</sup> For instance, Providence, Rhode Island, is scaling up its promising \$5 million "Providence Talks" initiative, which brings audio recordings into the homes of low-income parents to help them understand and improve their verbal interactions with their children. Sarah Sparks, "Research on Quality of Conversation Holds Deeper Clues into Word Gap," *Education Week*, April 22, 2015, 1, 11.

<sup>4</sup> Leonard N. Masse and W. Steven Barnett, "Comparative Cost-Benefit Analysis of the Abecedarian Program and Its Policy Implications," *Economics of Education Review*, 26 (2007): 113-25. A good summary of preschool research is found at "The Economics of Early Childhood Investments," December 2014, *White House Council of Economic Advisers*, accessed September 7, 2015, <https://whitehouse.gov/sites/default/files/docs/the-economics-of-early-childhood-investments.pdf>.

<sup>5</sup> Kevin M. Gorey, "Early Childhood Education: A meta-analytic affirmation of the short and long-term benefits of educational opportunities," *School Psychology Quarterly*, 16 (2001): 9-30. For a more recent summary of multiple studies and benefits, see "The Research on Pre-K," *Center for Public Education (2008)*, accessed September 3, 2015, [www.centerforpubliceducation.org/Main-Menu/Pre-kindergarten/Pre-Kindergarten?css=print](http://www.centerforpubliceducation.org/Main-Menu/Pre-kindergarten/Pre-Kindergarten?css=print).

<sup>6</sup> Hirokazu Yoshikawa, et al., "Investing in Our Future: The Evidence Base on Preschool Education," October 2013, *Society for Research in Child Development & the Foundation for Child Development*, accessed September 3, 2015, <http://fcd-us.org/sites/default/files/Evidence%20Base%20on%20Preschool%20Education%20FINAL.pdf>. Other studies place the return on investment even higher. See "The Economics of Early Childhood Investments," 30-32.

<sup>7</sup> "The State of Preschool 2014," *National Institute for Early Education Research (NIEER)*, accessed August 29, 2015, [http://www.nieer.org/sites/nieer/files/yearbook2014\\_full2\\_0.pdf](http://www.nieer.org/sites/nieer/files/yearbook2014_full2_0.pdf).

<sup>8</sup> *Ibid.*, 9.

<sup>9</sup> For example, Goldman Sachs, J.B. Pritzker, Procter and Gamble, SLC Chamber of Commerce, Kellogg Foundation, Lumina Foundation, William and Flora Hewlett Foundation, National Association for the Education of Young Children (NAEYP), National Institute for Early Education Research.

<sup>10</sup> The total number for 2014-2015, over 51,000, was very close to the total number of 1<sup>st</sup> graders in that same year. The number of kindergartners is currently increasing each year. Kristin Campbell (USOE Research Consultant), e-mail data to Dixie Huefner, August 7, 2015, and follow-up conversation.

<sup>11</sup> *Ibid.*

<sup>12</sup> *Ibid.*

<sup>13</sup> Utah Foundation, "Lessons from Our Neighbor: Learning from Colorado's Educational Success," Report No. 731, July 2015, 14. The report contrasts Colorado and Utah preschool and kindergarten programs. The SLC Chamber of Commerce and the Utah State Office of Education are supporting state funding for optional full-day kindergarten in Utah.

<sup>14</sup> See, e.g., "Starting out right: pre-k and kindergarten: at a glance," *Center for Public Education*, February 2012, accessed September 3, 2015, [www.centerforpubliceducation.org/Main-Menu/Organizing-a-school/Starting-Out-Right-Pre-K-and-Kindergarten?css=print](http://www.centerforpubliceducation.org/Main-Menu/Organizing-a-school/Starting-Out-Right-Pre-K-and-Kindergarten?css=print).

<sup>15</sup> *Ibid.*

---

<sup>16</sup> “States Graded on Indicators for Early Years,” *Education Week*, January 8, 2015, 16-17.

<sup>17</sup> “Lessons from Our Neighbor,” 11-12. The report states that Colorado’s Preschool Program now reaches 22, 359 preschoolers each year . Its preschool programs are credited with a steep drop in the number of Colorado children who need special education in elementary school, resulting in dramatic cost savings for the state.

<sup>18</sup> Not any preschool can achieve the desired outcomes. High-quality preschools are those that meet state standards, specified in Utah law at UCA 53A-1b-105. In broad outline, the standards include: an evidence-based curriculum that is aligned with all of the developmental domains and academic content defined in the Utah Early Childhood Standards; professional development for staff; ongoing student assessment; pre- and post-assessment, class size limits; ongoing program evaluation and data collection; family engagement; and at least the minimum standard of training for staff (child development associate--CDA).

<sup>19</sup> Brenda Van Gorder (Granite Preschool Services Director), Conversation with Dixie Huefner on April 30, 2015 and follow-up conversation (notes in Huefner’s possession).]

<sup>20</sup> “Lessons From Our Neighbor,” 13, points out that funding preschool is not a partisan, red-state v. blue state issue. For instance, Texas enrolls 52% of its 4-year-olds in state-funded preschool; Georgia enrolls 58%, Oklahoma 74%, and Florida 78%.

<sup>21</sup> United Way (UW) and SL County funds are held in an account to repay the investors when preschools reach specified results. In October 2015, the UW announced the first results from end of kindergarten assessments for children who were in preschools receiving UW funds under the Pay-For-Success model. Of 110 preschoolers who were expected as four-year-olds to need special education in kindergarten, only one required special education. The children will continue to be tracked through sixth grade, with future repayments to Goldman Sachs and J.B. Pritzker from HB 96 funds. Benjamin Wood, “Investment Helps Kids, Pays Dividends, United Way Says,” *Salt Lake Tribune*, October 7, 2015, A1. Of interest also is the October 11, 2015 op-ed by Senator Orrin Hatch and Kem Gardner, member of UW’s Board of Directors’ Executive Committee. The authors note the Utah results and describe the Senator’s current efforts to have the federal government help finance Pay-For-Success initiatives across the states so that they can replicate Utah’s success. “Pay for Success is a Model Ready for Federal Funding,” *Salt Lake Tribune*, October 11, 2015, O1. The high level of success in keeping at-risk students out of special education, and the metrics used, have been challenged, however, by some early-education experts. See Nathaniel Popper, "Did Goldman Make the Grade?" *New York Times*, November 4, 2015, B1.

<sup>22</sup> Bill Crim, UW CEO, e-mail message to Dixie Huefner , September 3, 2015; Chris Ellis, UW Partnership Director, Early Learning Outcomes, e-mail message to Huefner, October 8, 2015.

<sup>23</sup> The following agencies or institutions were interviewed as part of our analysis and commendations: United Way of Salt Lake (Bill Crim, Chris Ellis), Voices for Utah Children (Janis Dubno, Terry Haven), University of Utah (Ruth Watkins, Geri Mendoza), Granite School District Preschool Services (Brenda Van Gorder), Salt Lake City Capital Education Plan (Joanne Milner, Ann Cook), YMCA of Northern Utah (Stella Patiño), SLC Chamber of Commerce (Lane Beattie), Salt Lake County (Ben McAdams) , Waterford Institute Upstart program (Isaac Trojo), Utah State Office of Education (Brad Smith, Sydnee Dickson, Susan Ofroy), Salt Lake Community Action Partnership Head Start (ErinTrenbeath-Murray), and Guadalupe School (Elsa Borell, Moira Rampton, Mary Draper).

<sup>24</sup> The USOE anticipates the selection of a statewide kindergarten assessment for implementation in the 2016-17 school year. The intent is to have both a pretest and posttest to assess early literacy and numeracy skills and progress made across the school year. The state board has not established any specific criteria for the assessment yet; it is open to both already created district/charter assessments and commercially produced assessments. Jennifer Thronsdon, USOE K-12 Literacy Coordinator, email to Dixie Huefner, November 29, 2015.

<sup>25</sup> According to Brenda Van Gorder, Granite School District already allocates 8.5% of its Title 1 monies to preschool programs, and small numbers of other districts across the state have also utilized limited Title I dollars to fund some preschool programs.

## Health

*Utah Citizens' Counsel Health Committee*

***Article 4. All Utahns, regardless of circumstances, have the right to comprehensive, quality health care at reasonable cost that protects Utahns from the burdens of catastrophic illness or injury and the ensuing risk of bankruptcy or poverty.***

### **Introduction**

The world's best-performing health systems use policies that take a coherent, whole-system, approach to change, connecting concerns for access, quality, and cost.<sup>1</sup> This report encourages such an approach, to further improve health care and health in Utah.

This year the Utah Department of Health selected primary indicators of Utah's Health.<sup>2</sup> Hospitals and quality assurance organizations pursued leading-edge efforts, of national significance, to manage costs and quality.<sup>3</sup> This progress, however, does not make up for the state's failure to expand Medicaid. Ironically, the arguments used against expansion focused upon the need to control health care costs but approached this as deciding whom and what conditions to exclude from care. That approach shifts and defers costs but does not manage them. More problematic, it diverts attention from the root causes of high costs. This report focuses upon accountability for managing costs and its connections to expanding access and improving quality.

### **Context: What is Utah's Cost of Health Care?**

High health care costs are a major determinant of accessibility, quality, and health itself. Costs must be better managed. By common measures, Utah compares favorably within the U.S.,<sup>4</sup> but available comparisons probably fall short of gauging what cost management in Utah could achieve. First, Utah must do better than the U.S. average, which far exceeds per capita spending in other wealthy nations<sup>5</sup> and is a heavy burden as a proportion of GDP (17.1%).<sup>6</sup> Second, using available comparisons, Utah should compare favorably with the rest of the U.S. because the comparisons inadequately account for such differences as ages of the population, life style, education, and poverty that give Utah large advantages in managing costs. Cost management and measurement deserve high priority because costs are so high, because direct and comparative measures are so imprecise, and because Utah is capable of addressing these difficulties.<sup>7</sup>

Utah's capability includes its health information, protocols, and accounting. They offer tools to manage costs of "waste" that by national estimates include 50% of hospital costs,<sup>8</sup> of complex administrative systems, and of overuse of technology, including imaging and pharmaceuticals.<sup>9</sup> Utah's Health Information Network (UHIN) became the nation's best system for routing health care billings. Reduced provider and payer participation, however, cut its efficiency and its possibilities for an extraordinary cost-management data base as well as for a clinical information exchange to improve quality, reduce duplicated treatments, and coordinate care. These possibilities, being enhanced as insurance reaches most of the population, deserve pursuit.

## **Context: What Is Utah's Access to Health Care?**

Improved access and resulting cost management were set back by Utah's failure to expand Medicaid.<sup>10</sup> The delay left Utah, previously having a larger proportion of its population insured than the nation as a whole, behind the national coverage rate.<sup>11</sup> Utah's uninsured rate is now 13.2%, down from 15.6% in 2013; however, Utah's state ranking at 37<sup>th</sup> is a decline from 25<sup>th</sup> in 2013,<sup>12</sup> as Medicaid expansion elsewhere insured previously uninsured persons.

Managing costs by leaving some people without access to insurance is neither fair nor effective.<sup>13</sup> The UCC endorsed full expansion of Medicaid, seeing benefit for the state budget and the public. Subsequent local studies supported these expectations,<sup>14</sup> as did national studies.<sup>15</sup> Benefits include federal financing that more than makes up for state costs, improves medical care, reduces family financial stress and bankruptcy, and funds much of presently uncompensated care.<sup>16</sup> Non-quantified benefits of the expansion, largely federally financed, include (1) increases in local productivity by improving health and (2) increases in funding when the economy is worst, thus providing counter-cyclical economic stimulus.<sup>17</sup>

Health insurance costs extend beyond the out-of-pocket expenditures of the enrollee, as nearly all health insurance is subsidized by some combination of employers, other institutions, and governments.<sup>18</sup> Employer-based health insurance coverage, excluded from income tax, was subsidized by an estimated \$248 billion in 2013.<sup>19</sup> Medicare coverage for the elderly and disabled is subsidized by nearly 4% of GDP. The Affordable Care Act (ACA), in mandating health insurance coverage, provides federal subsidies for individuals with family income between 138% and 400% of the Federal Poverty Level (FPL). Without Medicaid expansion, those with income beyond the old ceilings and categories for Medicaid eligibility, but below 138% FPL, constitute the major group without some form of subsidized health insurance.

Even with insurance, benefit plans and their administration deserve continuing attention:

- Are benefit packages adequate for efficient and effective health care?<sup>20</sup>
- Do provider networks assure timely, accessible, and efficient care?<sup>21</sup>
- Are claims, denials, and other aspects of administration fair?
- What are administrative costs (and capabilities) for payers, providers, and patients?
- Can providers and patients pursue the right service at the right time in the right location?

Since WWII, growing costs of health care and expectations of available health care have spread responsibility for financing health care and brought attention to what constitutes essential care. The ACA establishes some minimum coverage standards and transparency expectations for benefit plans. These allow comparisons of competing plans, but the choices are daunting because of complexity, technicalities, and health and health care uncertainties.<sup>22</sup> These concerns, crucial to health, reveal serious challenges for administrative law, health care professionals, health care and insurance administrators, and patients searching for quality health care and health.

## **Context: What Is Utah's Quality of Health Care and Health?**

Good health care, like good health insurance, may or may not provide direct cost savings. Studies of whether public health and behavioral health programs produce lower costs frequently conclude they do not.<sup>23</sup> Contrary studies suggest that such programs may take years or decades to

implement and to realize their benefits. Consider cigarette smoking in the U.S., beginning in 1900 and growing to a peak in the early 1960s when people 18 and older smoked an average of 4,000 cigarettes per year. Then, prompted by the 1954 Surgeon General's report, smoking fell more than two-thirds by 2010.<sup>24</sup> It may be argued that we previously realized savings in retirement benefits because of early deaths due to smoking. Although there are less expensive and more comfortable ways to early deaths, this reason for smoking fails to meet the basic purpose of a well-functioning health care system: to support happy and productive lives, not necessarily at lowest cost but at an affordable cost.

A well-functioning health care system recognizes that healthy lives depend upon more than access to quality health care. Marc Lalonde, when Minister of Health in Canada, wrote *A New Perspective on the Health of Canadians*, identifying four determinants of health that have come to be known as *the health field concept*: human biology, environment, lifestyle, and the health care system.<sup>25</sup> Health policy too often focuses upon health care, though the causes of sickness and death are deeply rooted in the other three determinants. Health policy should recognize that happy and productive lives incorporate all four determinants of health, which relates this health report to the other reports in this assessment, with their concerns for human dignity, the environment, education, personal security, social services, and participatory governance.

Utah, by commonly referenced reports, ranks among the healthiest states in the nation, moving this year from 6<sup>th</sup> to 5<sup>th</sup> overall,<sup>26</sup> and is in the top quartile in overall quality of care and the second quartile in such disparities in quality of care as those across income and racial groups.<sup>27</sup> Utah is tied for 13<sup>th</sup> in infant mortality,<sup>28</sup> 4<sup>th</sup> in mortality amenable to health care,<sup>29</sup> and is in a three-state tie for 9<sup>th</sup> in healthy life expectancy at 65.<sup>30</sup> For life expectancy at birth, Utah tied for 10<sup>th</sup> (80.2).<sup>31</sup> International comparisons, commonly based upon data and analysis of the Organization for Economic Cooperation and Development (OECD), reveal opportunities for improvement in U.S. (and presumably Utah) as the U.S. ranks low compared to other wealthy countries.<sup>32</sup> Like comparisons of costs, differences in measurement confuse comparisons over time and across jurisdictions. They need improvement and careful use.<sup>33</sup> A significant achievement in Utah is the adoption of key indicators to measure public health and behavioral health programs. Although Utah ranks well in many of these indicators, there is room for improvement.<sup>34</sup>

The quality of a health care system depends upon its engagement with the patient: a two-way engagement. Measuring the engagement is as difficult as understanding what it means. Measures of consumer satisfaction have become common in the market place and are available for a broad variety of consumer products and services. Utah's health care systems, providers, and payers increasingly collect such information for internal use and to promote their services. The evolution of such measures to assess two-way engagements depends upon improving the understanding and purposes of providers, professionals, and patients.

## Commendations

- Utah again being among the top five states in **healthy lifestyles**.

- **New health care delivery structures and systems** such as, or similar to, the Utah Health Information Network (UHIN), Accountable Care Organizations (ACOs), and Medical Homes. These build upon Utah's history of improving and applying best-practice protocols as well as giving attention to patient/provider engagement in improving health and the diagnosis and treatment of health problems.
- **Better accounting and protocols to manage costs and improve quality.** Utah continues its progress, of national and international importance, through its hospitals and quality assurance agencies and institutions.
- **Attention to environmental health.** Utah is expanding attention to air pollution with publicly available and reported measures and by building organizational capability and accountability to assess problems and better address these problems.
- **UDOH indicators.** Utah's Department of Health supported its *Strategic Plan* of 2013 by establishing indicators of the health of Utah's population.
- **Working to insure the uninsured. Interested groups and individuals have exercised remarkable commitment to the yet unsuccessful attempt to overcome the barriers thrown in the path of the needed Medicaid expansion.**

## Recommendations

- **Assure access to quality health insurance.** Take full advantage of Medicaid expansion and build the education, support services, and regulation necessary for adequate, effective, and fair care
- **Improve coordination of care.** To improve quality and reduce costs, providers and payers should be strongly encouraged to participate in community health information exchanges and health information networks that allow for secure sharing of clinical information and improving analytic capacity for studying health system performance.
- **Cooperate to improve the safety and efficacy of health care.** A governmental entity should regularly promote and assess cooperative improvement efforts by providers, payers, and patients, making recommendations where new approaches are needed.
- **Establish primary measures of cost and quality to regularly assess, by region and at least by major institutions and categories of providers, the improvement or failure of health care.** This is presumably the responsibility of state government. It is understandably difficult, requiring an evolutionary approach. A first step is to use available measures, skeptically assessing the resulting data to point the way to improvement.
- **Establish strategic state leadership in cost containment.** Health care costs deserve high priority; much responsibility falls upon health care providers, including health care educators, and agencies concerned with public health, environmental health, and

behavioral health. It needs support, encouragement, coordination, and evaluation by public agencies, e.g., the Utah Department of Health, the Governor, and the Legislature. This leadership would appropriately address the above recommendations, and more.

**Notes**

<sup>1</sup> Cathy Schoen, et al., “U.S. Health System Performance: A National Scorecard,” *Health Affairs*, 25 (No. 6) (November 2006): w457-w475, accessed November 16, 2015,

<http://content.healthaffairs.org/content/25/6/w457.full?sid=5d75d908-c495-402a-9935-0bd56349c12d>.

<sup>2</sup> Utah Department of Health, “Utah’s Healthiest People, Priorities Report” (January 2015), accessed November 21, 2015, <http://health.utah.gov/opha/publications/2015HealthiestPeople.pdf>.

<sup>3</sup> This includes, though is not limited to, the work of Intermountain Healthcare, the University of Utah Health Care, and Health Insight, as reported in such documents as:

Brent C. James, M.D., M.Stat. (2015). “There is No Quality without Access: Bending the Cost Curve in Health Care,” slide presentation before the Harvard Alumni Association of Utah (Feb. 26).

Gina Kolata, “What Are a Hospital’s Costs? Utah System Is Trying to Learn,” *New York Times*, September 7, 2015: 1.

HealthInsight, “Draft Utah Health IT Strategic Plan” (June 2015).

<sup>4</sup> Health care expenditures:

**Expenditures per person, with rates of change with national comparisons**

	1991	1996	2001	2006	2009	average annual % growth
Utah (by state of residence)	\$1,993	\$2,500	\$3,293	\$4,486	\$5,031	5.3%
U.S.	\$2,678	\$3,421	\$4,435	\$6,028	\$6,815	5.3%
Medicare: Utah	\$2,600	\$4,173	\$4,705	\$7,363	\$8,326	6.7%
Medicare: U.S.	\$3,435	\$5,196	\$6,101	\$9,012	\$10,365	6.3%
Medicaid Utah: Utah	\$4,135	\$4,824	\$5,968	\$6,835	\$7,293	3.2%
Medicaid: U.S.	\$3,545	\$4,185	\$5,671	\$6,226	\$6,826	3.7%

Sources: Centers for Medicare and Medicaid Services (CMS), “Total All Payers State Estimates by State of Residence,” accessed Aug. 31, 2015, <https://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/NationalHealthExpendData/Downloads/res-tables.pdf>, 11, 22, 26. For a brief analysis of the national tables from which these figures are drawn, see CMS “State Health Expenditure Accounts by Residence Location, Highlights,” accessed Aug. 31, 2015, <https://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/NationalHealthExpendData/Downloads/res-Highlights.pdf>.

It is not clear that this information provides meaningful, usable information. The Medicaid figures provide an example of the problem. Why would Medicaid be the only Utah payer listed with costs higher than the national average? It is possible, but it more likely results from inconsistencies in data collection/definitions, data reporting, or some undetermined mix of variables that significantly weight the Medicaid data toward higher costs. Or, higher costs may reflect such differences in policy as eligibility levels or provider payments. Or, the state could be less efficient. The present comparison may say something about costs in Utah, but it is not clear what, and it certainly is difficult to draw actionable conclusions from the comparison with other locations. Assessing and improving the validity of such measures are complex tasks whose difficulty should not be underestimated.

<sup>5</sup> International comparisons of health care expenditures:

**Comparison of U.S. and other industrialized nations spending per capita, including rates of change, 2013**

	Total per capita	% annual change 2009-2013	Source		
			Public	Out of Pocket	Other private
U.S.	\$9,086	1.50%	\$4,197	\$1,074	\$3,442
Range: 12 nations	\$3,364 - \$6,325	-0.88% - 6.95%	\$2,614 - \$4,981	\$270 - \$1,630	\$26 - \$654
Low – high nation	UK – Switz.	UK - Sweden	Australia - Norway	Netherlands – Switz.	Norway - Canada
OECD median	\$3,661	1.24%	\$2,598	\$625	\$181

Source: D. Squires and C. Anderson, “U.S. Health Care from a Global Perspective,” Exhibit 2. The Commonwealth Fund, October 2015, accessed November 16, 2015,

<http://www.commonwealthfund.org/publications/issue-briefs/2015/oct/us-health-care-from-a-global-perspective>.

Exhibit 2 draws from OECD (Organization for Economic Co-operation and Development) Health Data reported in 2015 for 2013, with adjustments for comparability, such as for difference in cost of living. The 12 nations are France, Sweden, Germany, Netherlands, Switzerland, Denmark, New Zealand, Canada, Japan, Norway, Australia, and the United Kingdom.

<sup>6</sup> “U.S. Health Care from a Global Perspective,” Exhibit 1. The U.S. rate is 17.1% of GDP vs. a range of 8.8% (UK) to 11.6% (France) for the other nations (2013).

<sup>7</sup> The difficulties should not be underestimated. Challenges exist in every aspect of health care, as shown in the following distribution of reimbursements by provider type and comparisons of costs. Providers themselves will necessarily be involved in each expenditure type, payers also have crucial roles, and governments are involved as payers, regulators, and conveners of cooperative efforts.

**Distribution per enrollee of reimbursements, by provider type**

	Utah 1991	Utah 1996	Utah 2001	Utah 2006	Utah 2009	U.S. 2009	UT annual %Δ '91-'09	US annual %Δ '91-'09
Hospitals	\$767	\$939	\$1,119	\$1,571	\$1,830	\$2,475	4.9%	4.7%
Physicians & clinical services	\$498	\$583	\$764	\$1,072	\$1,189	\$1,650	5.0%	4.9%
Pharmaceuticals	\$241	\$320	\$541	\$707	\$741	\$968	6.4%	7.3%
Insurers								
Dental	\$128	\$176	\$250	\$308	\$342	\$333	5.6%	5.3%
Nursing homes	\$100	\$117	\$139	\$165	\$186	\$447	3.5%	4.7%
Other	\$260	\$365	\$480	\$662	\$743	\$955	5.5%	7.4%

Source: “Total All Payers State Estimates by State of Residence,” 12-20, Centers for Medicare and Medicaid Services, accessed November 21, 2015, <https://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/NationalHealthExpendData/Downloads/res-tables.pdf>.

Insurers are not reported. “Other” includes other professional, home health care, durable medical products, and “other.”

**International comparative diagnostic imaging use per 1,000 population**

	MRI exams	CT exams	PET exams
<b>U. S.</b>	106.9	240	5.0
<b>Range</b>	27.6 – 90.9	71 - 193	2.0 – 6.3
<b>OECD median</b>	50.6	136	N A

Source: “U.S. Health Care from a Global Perspective,” Exhibit 5. The range is limited by available information to fewer than the 12 nations listed by the Commonwealth Fund. The year is generally 2013, but in specific cases is 2010, 2011, or 2012.

**Comparative prices for procedures (2013) and pharmaceuticals (2010)**

	<b>Bypass Hosp. &amp; Physician</b>	<b>Appendectomy Hosp. &amp; Physician</b>	<b>Diagnostic MRI</b>	<b>Diagnostic CT (abdomen)</b>	<b>Pharmaceuticals In-patient</b>
<b>U. S.</b>	\$75,345	\$13,910	\$1,145	\$896	100
<b>Range</b>	\$15,742-\$42,130	\$4,995-\$9,845	\$138-\$1,005	\$97-\$500	46 - 95

Source: International Federation of Health Plans, “2013 Comparative Price Report,” accessed November 16, 2015, <http://www.ifhp.com/1404121/>, & reported in “U.S. Health Care from a Global Perspective,” Exhibit 7. Pharmaceuticals are a comparison of prices for a basket of pharmaceuticals, with U.S. set to 100.

Comparison of expenditures as percentage of GDP (2013).

	<b>Health Care</b>	<b>Social Care</b>	<b>Total</b>
<b>U. S.</b>	16	9	25
<b>Range</b>	9 - 12	10 - 21	20 -33

Source: E. H. Bradley and L. A. Taylor. “The American Health Care Paradox: Why spending More Is Getting Us Less.” *Public Affairs* (2013), as reported in “U.S. Health Care from a Global Perspective,” Exhibit 8.

<sup>8</sup> Brent C. James, “There is No Quality without Access: Bending the Cost Curve in Health Care,” James summarizes assessments suggesting that up to 50% of hospital costs are “waste,” resulting in poorer outcomes. He summarizes a “new health care delivery world” in which there is:

- “All the right care (no underuse), but
- Only the right care (no overuse);
- Delivered free from injury (no misuse);
- At the lowest necessary cost (efficient);
- Coordinated along the full continuum of care (timely; 'move upstream');
- Under each patient’s full knowledge and control (patient-centered; 'nothing about me without me');
- With grace, elegance, care, and concern.”

<sup>9</sup> “U.S. Health Care from a Global Perspective.”

<sup>10</sup> Editorial, "Utah Republicans want to avoid responsibility for killing health care access," *Salt Lake Tribune*, October 4, 2015; Editorial, "Lawmakers trick doctors into killing health care access," *Salt Lake Tribune*, October 09, 2015. These scathing analyses of the October situation are reasonably summarized by their headlines. The blame, however, is too broadly applied; political maneuvering had given House leadership the power to block the more favorable support of expansion by the Governor and the Senate.

<sup>11</sup> “State Health Facts,” Kaiser Family Foundation, accessed Nov. 19, 2015, <http://kff.org/other/state-indicator/total-population/#map>. Utah’s uninsured rate in 2014 was in the third quintile of states; other states with as high a rate were Alaska, Montana, Nevada, Arizona, New Mexico, Oklahoma, and in the South.

<sup>12</sup> Dan Witters, “In U.S., Uninsured Rates Continue to Drop in Most States,” accessed Nov. 16, 2015, <http://www.gallup.com/poll/184514/uninsured-rates-continue-drop-states.aspx>. The 2013 to 2015 comparison is based on the numbers in the Gallup survey.

<sup>13</sup> Aileen H. Clyde, “Testimony to the Health and Human Services Subcommittee, Joint Appropriations Committee, 2015 Utah Legislature, February 11, 2015.” See [www.utahcitizenscounsel.org](http://www.utahcitizenscounsel.org).

<sup>14</sup> Public Consulting Group, “Report on expansion options for Utah’s Medicaid program under the Affordable Care Act” released by the Utah Department of Health (UDOH) May 23, 2013, summarized in a UDOH release “Public Consulting Group, Summary of Cost/Benefit Analysis,” and a summary by the Utah Health Policy Project “Pros and Cons of Medicaid Expansion,” released June 2013.

Sven E. Wilson, PhD, “Economic Perspectives on Utah Medicaid Reform under the ACA,” a subsequent report for the UDOH, released August, 2013.

There was much dispute over projections of costs, financial returns, enrollees, and dependability of federal support. The most recent proposal considered by the Legislature, killed Oct. 13, 2015, expected providers to pay most of the state’s direct costs, “about \$50 million to bring in \$450 million of federal matching funds in order to subsidize health coverage for about 95,000 of Utah’s poor,” Robert Gehrke, “Medicaid expansion plan likely doomed,” *Salt Lake Tribune*, October 13, 2015, 1.

<sup>15</sup> A 2014 Urban Institute report outlined expected economic benefits, concluding that “Every comprehensive state-level budget analysis of which we know found that expansion helps state budgets, because it generates state savings and additional revenues that exceed increased Medicaid costs.” Stan Dorn, Megan McGrath, and John Holahan,

---

“What is the Result of States Not Expanding Medicaid?” Urban Institute, August 7, 2014, accessed October 17, 2015, <http://www.urban.org/research/publication/what-result-states-not-expanding-medicaid>.  
A Robert Wood Johnson Foundation Issue Brief by Deborah Bachrach, Patricia Boozang, and Doris Glanz, “Medicaid Expansion States See Significant Budget Savings and Revenue Gains,” March 2013, accessed October 16, 2015, [http://www.rwjf.org/content/dam/farm/reports/issue\\_briefs/2015/rwjf419097](http://www.rwjf.org/content/dam/farm/reports/issue_briefs/2015/rwjf419097) reports “consistent economic benefits across expansion states.”

Other studies make similar reports:

Kerri Richardson and Terry Sebastian, “KY’s Medical Expansion: 40,000 jobs, \$30B Economic Impact,” accessed October 16, 2015, <http://kentucky.gov/Pages/Activity-Stream.aspx?viewMode=ViewDetailInNewPage&eventID=%7B97DA58DC-A167-4B3B-9B18-7C1E2CA79C88%7D&activityType=PressRelease> ;

Deborah Bachrach, Patricia Boozang, and Mindy Libson, “Medicaid Update,” accessed October 16, 2015, <https://www.manatt.com/medicaid-update/Manatt-on-Medicaid-Early-Results-Point-to.aspx>

Jocelyn Guyer, et al. “A Look at the Private Option in Arkansas,” accessed October 16, 2015, [http://kff.org/medicaid/issue-brief/a-look-at-the-private-option-in-arkansas/?utm\\_campaign=KFF%3A+2015+August+Arkansas+Private+Option&utm\\_source=hs\\_email&utm\\_medium=email&utm\\_content=21583677&\\_hsenc=p2ANqtz--qtH\\_ISX16YEVgtOAAdc1FTKic86pdKBNQVQfqBxXlfnCZopnEm3Nkp-55RU-Lg65sUi86xx-46FHgOBPHWBPbiFR-hzaXrb-GPH2YdxcamymY&\\_hsmi=21583677](http://kff.org/medicaid/issue-brief/a-look-at-the-private-option-in-arkansas/?utm_campaign=KFF%3A+2015+August+Arkansas+Private+Option&utm_source=hs_email&utm_medium=email&utm_content=21583677&_hsenc=p2ANqtz--qtH_ISX16YEVgtOAAdc1FTKic86pdKBNQVQfqBxXlfnCZopnEm3Nkp-55RU-Lg65sUi86xx-46FHgOBPHWBPbiFR-hzaXrb-GPH2YdxcamymY&_hsmi=21583677)

<sup>16</sup>David Blumenthal, et al., “Does Medicaid Make a Difference?” Commonwealth Fund, accessed October 16, 2015, [http://www.commonwealthfund.org/~media/files/publications/issue-brief/2015/jun/1825\\_blumenthal\\_does\\_medicaid\\_make\\_a\\_difference\\_ib\\_v2.pdf](http://www.commonwealthfund.org/~media/files/publications/issue-brief/2015/jun/1825_blumenthal_does_medicaid_make_a_difference_ib_v2.pdf).

<sup>17</sup>The Council of Economic Advisors, “Missed Opportunities: the consequences of state decisions not to expand Medicaid,” Executive Office of the President of the United States, July 2014, accessed November 16, 2015, [https://www.whitehouse.gov/sites/default/files/docs/missed\\_opportunities\\_medicaid.pdf](https://www.whitehouse.gov/sites/default/files/docs/missed_opportunities_medicaid.pdf).

<sup>18</sup>Michael Stapley, “My view: Because we’re all dependent, Utah should pass health care reform” *Deseret News*, July 19, 2015, accessed November 20, 2015, <http://www.deseretnews.com/article/865632894/Because-were-all-dependent-Utah-should-pass-health-care-reform.html>.

<sup>19</sup>Congressional Budget Office (CBO), “The Distribution of Major Tax Expenditures in the Individual Income Tax System,” Congress of the United States, May 2013, accessed October 16, 2015, [http://www.cbo.gov/sites/default/files/cbofiles/attachments/43768\\_DistributionTaxExpenditures.pdf](http://www.cbo.gov/sites/default/files/cbofiles/attachments/43768_DistributionTaxExpenditures.pdf). The CBO describes the exclusion in the following way, “A number of exclusions, deductions, preferential rates, and credits in the federal tax system cause revenues to be much lower than they would be otherwise for any given structure of tax rates. Some of those provisions—in both the individual and corporate income tax systems—are termed “tax expenditures” because they resemble federal spending by providing financial assistance to specific activities, entities, or groups of people. Tax expenditures, like traditional forms of federal spending, contribute to the federal budget deficit; influence how people work, save, and invest; and affect the distribution of income” (p.1). By far the largest of these tax expenditures is the employer-sponsored health insurance: \$248 billion in 2013 compared, for example, with the (next largest) mortgage deduction valued at \$70 billion in 2013. “The exclusions for employer-sponsored health insurance and net pension contributions and earnings not only reduce income subject to the income tax but also reduce earnings subject to the payroll taxes for Social Security (Old-Age, Survivors, and Disability Insurance, or OASDI), and Medicare’s Hospital Insurance (HI) program. The estimates in this report of the exclusions for employer-sponsored health insurance and pension contributions include that effect on payroll taxes” (p. 23). A more detailed, technical, current, and perhaps not exactly comparable is: Joint Committee on Taxation, *Estimates of Federal Tax Expenditures for fiscal years 2014-2018*, Congress of the United States, August 5, 2014, accessed October 16, 2015, <https://www.jct.gov/publications.html?func=startdown&id=4663>.

<sup>20</sup>“Essential Health Benefits: Balancing Coverage and Cost,” Institute of Medicine, October 6, 2011, accessed October 16, 2015, <http://iom.nationalacademies.org/Reports/2011/Essential-Health-Benefits-Balancing-Coverage-and-Cost.aspx#sthash.DwrXLe40.dpuf>.

---

<sup>21</sup> James C. Robinson, "Comparative Effectiveness Research: From Clinical Information To Economic Incentives," *Health Affairs*, 29 (October 2010): 1788-95, accessed November 16, 2015, <http://content.healthaffairs.org/content/29/10/1788.full?sid=b6f4a8f1-5510-4f55-a233-6a2f88d2108e>  
[http://www.massmed.org/advocacy/key-issues/health-care-reform/mms-principles-for-the-use-of-prior-authorization-programs-\(pdf\)/](http://www.massmed.org/advocacy/key-issues/health-care-reform/mms-principles-for-the-use-of-prior-authorization-programs-(pdf)/).

"Principles for the Use of Prior Authorization Programs," Massachusetts Medical Society, 2006, accessed November 16, 2015, [http://www.massmed.org/advocacy/key-issues/health-care-reform/mms-principles-for-the-use-of-prior-authorization-programs-\(pdf\)/](http://www.massmed.org/advocacy/key-issues/health-care-reform/mms-principles-for-the-use-of-prior-authorization-programs-(pdf)/)

<sup>22</sup> For recent examples of problems of complexity:

Robert Pear, "Makeover Coming for HealthCare.gov," *New York Times*, October 12, 2015, .A16.

Editorial, "How to Keep People in Health Plans," *New York Times*, October 12, 2015, .A22.

<sup>23</sup> Margot Sanger-Katz, "Conventional Wisdom Clashes with Data on Health Care Savings," *New York Times*, August 15, 2015, A15.

<sup>24</sup> Heather L Wipfli and Jonathan Samet, "Framing Progress in Global Tobacco Control To Inform Action On Noncommunicable Diseases," *Health Affairs* 34 (September 2015): 1480-1488.

<sup>25</sup> Marc Lalonde, "A New Perspective on the Health of Canadians," Ottawa: Ministry of Supply and Service, 1974, 31-32.

"A basic problem in analyzing the health field has been the absence of an agreed conceptual framework for subdividing it into its principal elements. Without such a framework, it has been difficult to communicate properly or to break up the field into manageable segments which are amenable to analysis and evaluation. It was felt keenly that there was a need to organize the thousands of pieces into an orderly pattern that was both intellectually acceptable and sufficiently simple to permit a quick location, in the pattern, of almost any idea, problem or activity related to health: a sort of map of the health territory. Such a Health Field Concept was developed during the preparation of this paper and it envisages that the health field can be broken up into four broad elements: **HUMAN BIOLOGY, ENVIRONMENT, LIFESTYLE and HEALTH CARE ORGANIZATION**. These four elements were identified through an examination of the causes and underlying factors of sickness and death in Canada, and from an assessment of the parts the elements play in affecting the level of health in Canada.

"The **HUMAN BIOLOGY** element includes all those aspects of health, both physical and mental, which are developed within the human body as a consequence of the basic biology of man and the organic make-up of the individual (including the genetics), the processes of maturation and aging, and the many complex internal systems in the body, such as skeletal, nervous, muscular, cardio-vascular, endocrine, digestive and so on.

"The **ENVIRONMENT** category includes all those matters related to health which are external to the human body and over which the individual has little or no control. Individuals cannot, by themselves, ensure that foods, drugs, cosmetics, devices, water supply, etc. are safe and uncontaminated; that the health hazards of air, water and noise pollution are controlled; that the spread of communicable diseases is prevented; that effective garbage and sewage disposal is carried out; and that the social environment, including the rapid changes in it, do not have harmful effects on health.

"The **LIFESTYLE** category, in the Health Field Concept, consists of the aggregation of decisions by individuals which affect their health and over which they more or less have control. . . . Personal decisions and habits that are bad, from a health point of view, create self-imposed risks. When those risks result in illness or death, the victim's lifestyle can be said to have contributed to, or caused, his own illness or death.

"The **HEALTH CARE ORGANIZATION** consists of the quantity, quality, arrangement, nature and relationships of people and resources in the provision of health care. It includes medical practice, nursing, hospitals, nursing homes, medical drugs, public and community health care services, ambulances, dental treatment and other health services such as optometry, chiropractics and podiatry. This fourth element is what is generally defined as the health care system."

Also "Lalonde Report," *Wikipedia*, accessed November 16, 2015, [https://en.wikipedia.org/wiki/Lalonde\\_report](https://en.wikipedia.org/wiki/Lalonde_report).

<sup>26</sup> United Health Foundation, "America's Health Rankings: State public health statistics," accessed October 18, 2015, [www.americashealthrankings.org/UT](http://www.americashealthrankings.org/UT).

<sup>27</sup> "2014 National Healthcare Quality and Disparities Report," U.S. Department of Health and Human Services, Agency for Healthcare Research and Quality, 22, accessed November 17, 2015, [www.ahrq.gov/research/findings/nhqrdr/index.html](http://www.ahrq.gov/research/findings/nhqrdr/index.html).

<sup>28</sup> Henry J. Kaiser Foundation, "State Health Facts, Infant Mortality," accessed October 16, 2015, <http://kff.org/other/state-indicator/infant-death-rate/>.

<sup>29</sup> Health System Data Center, “Avoidable Hospital Use & Costs,” The Commonwealth Fund, accessed November 18, 2015, <http://datacenter.commonwealthfund.org/#ind=24/sc=1>. Data are for 2014.

A related study is S. C. Schoenbaum, et al., “Mortality Amenable to Health Care in the United States: The Roles of Demographics and Health Systems Performance,” *Journal of Public Health Policy*, 32 (Aug. 25, 2011): 407-29, accessed November 17, 2015, <http://www.palgrave-journals.com/jphp/journal/v32/n4/full/jphp201142a.html>.

<sup>30</sup> “State-Specific Healthy Life Expectancy at Age 65 Years—United States 2007—2009,” Centers for Disease Control and Prevention, accessed November 17, 2015, [www.cdc.gov/mmwr/pdf/wk/mm6228.pdf](http://www.cdc.gov/mmwr/pdf/wk/mm6228.pdf).

<sup>31</sup> The Henry J. Kaiser Foundation, “Life Expectancy at Birth (in years),” accessed November 16, 2015, <http://kff.org/other/state-indicator/life-expectancy/>.

<sup>32</sup> “U.S. Health Care from a Global Perspective,” Exhibit ES-1. Their rankings compare the U.S. and other wealthy countries in the data base of the OECD: 10 countries more comparable to the U.S. It takes an understanding of definitions and of how multiple indicators are aggregated for the overall ranking to see how the UK can rank number 1 for most of the specific indicators, yet ranks 10<sup>th</sup> (of 11) for the measure of “healthy lives,” which is the ultimate goal. This can question the relative impact of the health care system on “healthy lives” as compared with “lifestyle,” “environmental” and “human biology” factors, which are variables in the health field concept and which appear to have a more significant impact on overall health.

### EXHIBIT ES-1. OVERALL RANKING

#### COUNTRY RANKINGS

Top 2*
Middle
Bottom 2*

											
	AUS	CAN	FRA	GER	NETH	NZ	NOR	SWE	SWIZ	UK	US
<b>OVERALL RANKING (2013)</b>	4	10	9	5	5	7	7	3	2	1	11
<b>Quality Care</b>	2	9	8	7	5	4	11	10	3	1	5
Effective Care	4	7	9	6	5	2	11	10	8	1	3
Safe Care	3	10	2	6	7	9	11	5	4	1	7
Coordinated Care	4	8	9	10	5	2	7	11	3	1	6
Patient-Centered Care	5	8	10	7	3	6	11	9	2	1	4
<b>Access</b>	8	9	11	2	4	7	6	4	2	1	9
Cost-Related Problem	9	5	10	4	8	6	3	1	7	1	11
Timeliness of Care	6	11	10	4	2	7	8	9	1	3	5
<b>Efficiency</b>	4	10	8	9	7	3	4	2	6	1	11
<b>Equity</b>	5	9	7	4	8	10	6	1	2	2	11
<b>Healthy Lives</b>	4	8	1	7	5	9	6	2	3	10	11
<b>Health Expenditures/Capita, 2011**</b>	<b>\$3,800</b>	<b>\$4,522</b>	<b>\$4,118</b>	<b>\$4,495</b>	<b>\$5,099</b>	<b>\$3,182</b>	<b>\$5,669</b>	<b>\$3,925</b>	<b>\$5,643</b>	<b>\$3,405</b>	<b>\$8,508</b>

Notes: \* Includes ties. \*\* Expenditures shown in \$US PPP (purchasing power parity); Australian \$ data are from 2010.

Source: Calculated by The Commonwealth Fund based on 2011 International Health Policy Survey of Sicker Adults; 2012 International Health Policy Survey of Primary Care Physicians; 2013 International Health Policy Survey; Commonwealth Fund *National Scorecard 2011*; World Health Organization; and Organization for Economic Cooperation and Development, *OECD Health Data, 2013* (Paris: OECD, Nov. 2013).

<sup>33</sup> Alice Chen, Emily Oster and Heidi Williams, "Why is infant mortality higher in the US than in Europe?" accessed November 17, 2015, [www.nber.org/papers/w20525](http://www.nber.org/papers/w20525). Using infant mortality rates as the example, the researchers state that "cross country comparisons of aggregate infant mortality rates provide very limited insight [because of the] well-recognized problem that countries vary in their reporting of births near the threshold of viability."

<sup>34</sup> Utah Department of Health, *Utah's Healthiest People, Priorities Report*, January 2015, accessed November 16, 2015, <http://health.utah.gov/oph/publications/2015HealthiestPeople.pdf>. Each indicator is shown with a several page interpretation, including comparisons with the nation, trends, details of definitions and sources, and programs and goals. Most data age adjusted, some extrapolated from graphs, and trends are for the last five years.

Indicator	Utah Rate	U.S. Rate	Utah Trend
Smoking, Adolescents	4.4	15.7	good
Smoking Adults	10.2	18.6	good
Physical Activity, Adults	55.7	49.5	good
Physical Activity, Adolescents	19.7	27.1	poor
Obesity, Adult	24.9	28.2	poor
Obesity, Adolescents	6.4	13.7	poor
Binge Drinking	12.3	16.5	poor
Chronic Drinking	4.5	6	poor
Substance Abuse, Adolescents, Alcohol	11.0	34	good
Substance Abuse, Adolescents, Marijuana	7.6	23	good
Depression, Adult	21.7	17.6	poor
Suicide Risk, Youth	12.4	13.6	poor
Suicide Attempt, Youth	7.3	8.0	good
Drug Overdose & Poisoning	20.3	13.1	poor
Unintentional Injury Deaths	42	39	poor

Source: Utah Department of Health, *Utah's Healthiest People Priorities Report*

## Personal Security

*Utah Citizens' Counsel Personal Security Committee*

***Article 5. All Utahns have the right to security of person, especially freedom from physical harm and psychological abuse, whether experienced within the family or in the community at large.***

### **Introduction**

The 2014 Committee Report on the right to personal security focused on the victims of domestic violence and domestic violence-related homicides (with an emphasis on the role of firearms in such homicides). Nationally, firearms continue to be the most commonly used weapon by males to murder females, and 15 times as many women were killed by men they knew as were killed by male strangers.<sup>1</sup> Utah's rate of domestic violence-related homicides as a percentage of all Utah homicides continues to be a concern. Little progress was achieved in alleviating the overburden at Utah's crisis shelters, despite ongoing and one-time funding from the state legislature. No legislative progress was achieved on background checks for every firearms sale, or enhanced training for concealed-carry permit owners. Parents are still not provided notification if their child's teacher is carrying a weapon in the classroom, or allowed to request their child's transfer to another classroom. The 2015 Committee Report updates issues and policies regarding domestic violence, and introduces rape as a subject under Article 5.

### **Background: Domestic Violence**

Utah's criminal violence rate (including homicide, robbery, and aggravated assault) has historically been lower than the national average by as much as half to one-third. Utah's homicide rate has also been significantly below the national average.<sup>2</sup> Over the last ten years, however, Utah's domestic violence-related homicides have constituted 42% of all Utah homicides, while the national figure for domestic violence-related homicides rates stood at 30% of all homicides.<sup>3</sup>

Utah agencies have confirmed 264 domestic violence-related homicides from 2000-2013, averaging 19 deaths a year.<sup>4</sup> In 2014, domestic violence-related deaths reached a five-year peak, with 29 women, men, and children losing their lives. Under federal law, Protective Orders bar abusers from possessing or purchasing firearms. In Utah, however, firearms are not confiscated for the duration of a Protective Order unless the individual violates the Protective Order or another law,<sup>5</sup> leaving the abused person in considerable danger.

The multifaceted consequences of domestic violence can devastate a family's economic, social, and emotional well-being, as well as create a preeminent physical danger. One indication of the number of families affected comes from *Salt Lake City Weekly's* report that approximately 3,000 people gained protection in one of Utah's 15 crisis shelters in 2014, while an equal number of women, children, and men were turned away for lack of space.<sup>6</sup>

The Lethality Assessment Protocol (LAP) was first implemented in Maryland where it has been credited with reducing intimate partner (IPV) homicides by 40% since 2005. LAP teaches police officers how to conduct a "lethality assessment" during domestic violence calls. Participants are separated while the complainant is presented with a series of 11 questions designed to help the victim (as well as the police) determine the level of danger. When indicated, police officers can immediately put the at-risk person on the phone with a local shelter or transport them to a local shelter, if the victim so desires. LAP has become standard practice in multiple police departments in approximately 30 states.<sup>7</sup>

After obtaining a 2013 grant to train its police officers in the purpose and procedures of LAP, the Woods Cross police department reports that it has significantly reduced repeat calls, and most likely averted tragedy for at least one Woods Cross family. Currently, four Utah law enforcement agencies are employing LAP.<sup>8</sup>

Many Utah women who comprehend the danger of their domestic situation still are reluctant to leave an abusive relationship. According to a 2015 study by WalletHub, Utah women were ranked 50th in a state-by-state comparison using 11 factors that reflect women's status in their work place environment, educational attainment, and political empowerment.<sup>9</sup> This mirrors the 50th ranking assigned to Utah women in 2014 by 24/7 Wall St. (and published in *USA Today*) based on the daily realities of economy, leadership, and health.<sup>10</sup> These realities may help explain why many of them do not leave abusive relationships.

Utah addresses its domestic and sexual violence problems through its "No More Secrets: Utah's Domestic and Sexual Violence Report" (available for 2004-14). These annual reports can be found online at the web site for the Utah Office on Domestic and Sexual Violence.<sup>11</sup>

### **Background: Rape**

Rape is a fundamental violation of personal security. Although Utah's rate of overall violent crime remains below the national average, one in three Utah women suffers sexual assault, and one in eight has been raped. Based on the Uniform Crime Reports, Utah's rape rate has been significantly higher than the national rate since 2000. In 2012, the national crime rate for rape stood at 52 women per 100,000, while in Utah that figure stood at 68 per 100,000.<sup>12</sup> In 2012, 971 rapes were reported to Utah law officials, and in 2013 the figure fell to 895.<sup>13</sup>

While some police officers and prosecutors argue that at least 10% of rape claims are false,<sup>14</sup> some victim advocates estimate that as many as 88% of rapes are unreported.<sup>15</sup> Approximately four out of five rapes are committed by someone the victim knows.<sup>16</sup> Stranger rapes are disproportionately committed by serial rapists, with perhaps between 5.8 and 11.7 individual victims per serial rapist.<sup>17</sup>

In response to the common complaint that sexual assaults are a low priority to police departments, victim advocates propose that police should use the "48 hour" rule before interviewing sexual assault victims. Two sleep cycles are typically given to police officers involved in shootings and to children who have suffered violence in order to mitigate the often

confusing and contradictory statements made in a flood of emotions and hormones in the immediate aftermath of an assault which can lead police officers to discount allegations.<sup>18</sup>

A prime illustration of the frustration often suffered by rape victims lies in the handling of "Code R" rape kits. The kits are assembled in the emergency room by Sexual Assault Nurse Examiners (SANE), who take photographs, swabs, and gather other evidence in an hours-long process to capture DNA samplings that help identify rapists. With stunning regularity, rape kits are not forwarded for the follow-up lab process that establishes the forensic foundation for a legal charge and helps identify repeat offenders (through the FBI's CODIS data base). Police and prosecutors argue that this reflects, in part, the nearly \$1,000 average cost for testing each rape kit.<sup>19</sup>

Using open-record sources, *USA Today* investigated 1,000 police departments across the nation and found at least 70,000 untested rape kits. It further speculated that the total number of untested kits in the 18,000 police departments across the U.S. would be in the hundreds of thousands. In addition, *USA Today* found few consistent procedures across or even within police departments. Many departments simply kept no inventory regarding rape kits.<sup>20</sup>

Utah shares this problem. Recent research on a random selection of rape kits collected between 2003 and 2011 found that only 9% of reported sexual assaults in Salt Lake County resulted in criminal charges. Some 2,700 untested rape kits were found across the state. The Salt Lake City Police Department, for example, held 1,001 rape kits, of which 788 were untested.<sup>21</sup>

A coalition of legislators, state agency and non-profit personnel, as well as health professionals persuaded the Utah Legislature to allocate \$750,000 to work on the unprocessed kits.<sup>22</sup> Recently, jurisdictions in 27 states were designated as recipients of \$41 million from the federal government and \$38 million from the city of New York to facilitate testing of tens of thousands of backlogged rape kits.<sup>23</sup> As one of the beneficiaries, Utah should be able to clear its own backlog.<sup>24</sup>

Utah is one of four states that remains out of compliance with federal guidelines in the Prison Rape Elimination Act (PREA), which aims to prevent the approximately 216,000 sexual assaults committed annually on adult and juvenile inmates. Passed unanimously in Congress in 2003 and implemented on August 20, 2012, PREA includes requirements such as an option for inmates to report an alleged rape outside the prison system, and increased staff training to screen new inmates to identify the most likely abusers and victims.<sup>25</sup>

While ten states had met PREA standards and 25 states were in the process of doing so in 2014, Utah lost \$142,000 in federal funding for its noncompliance.<sup>26</sup> Governor Herbert maintains that Utah follows most PREA practices and works for the same goals. However, he believes that aspects of PREA are counterproductive, as well as too costly.<sup>27</sup>

## Commendations

- **Governor Herbert's indication that he would again veto any bill that would eliminate the requirement for a state-issued permit to carry a concealed weapon.**

- **The Woods Cross Police Department's initiative** to obtain grant monies to implement the Lethality Assessment Protocol (LAP) approach to domestic violence cases.
- **The Utah Legislature's allocation of \$693,000 to pilot the Lethality Assessment Protocol** in four Utah jurisdictions (Davis County, Logan, West Jordan, and Cedar City) in response to the significant and verified impact of LAP in reducing domestic violence homicides.
- **The Utah Legislature's allocation of \$750,000 to help clear the substantial backlog of rape kits** to facilitate a greater number of successful prosecutions, and help identify serial rapists.
- **The Utah Legislature's passage of House Bill 74 (2015)**, which states that an incapacitated person who is unconscious, unaware, or physically unable to resist has not given consent to sex. Therefore, the victim no longer must prove lack of consent under these circumstances.
- **The Utah Legislature's passage of House Concurrent Resolution 1 (2015)**, designating April 1st as "Believing Day," to encourage police, prosecutors, and the public to take claims of sexual violence seriously.
- **The West Valley Police Department's implementation of the "48 hour" rule** to promote effective police procedures before interviewing sexual assault victims.

## **Recommendations**

- **Firearms should be systematically collected from the person constrained by the Protective Order for its duration**, rather than leaving court orders dealing with weapons to individual compliance.
- **State funding should be sufficient to allow the Utah Domestic Violence Coalition to provide adequate facilities for the nearly 3,000 women, children, and men turned away in 2014 from overburdened crisis shelters.**
- **All rape kits should be held in law enforcement labs or the state Department of Public Safety** rather than left in various locations, to systematize rape kit procedures and thus help assure legal forensic lab work.
- **The Governor and the Utah Department of Corrections should accept the additional procedures and costs of the Prison Rape Elimination Act** to join in the national effort to secure human rights to personal security for all people, including prisoners.

---

## Notes

<sup>1</sup> Violence Policy Center, "When Men Murder Women: An Analysis of 2013 Homicide Data," 3, September 2015, accessed September 15, 2015 <http://www.vpc.org/studyncdx.htm>. Appendix One demonstrates that the 2013 national homicide rate for a single female victim murdered by a single male was 1.09 per 100,000 females. Utah tied at 36th among the 50 states with .76 female murder victims killed by a single male.

<sup>2</sup> Using FBI Uniform Crime Reports, the Death Penalty Information Center reports the national murder rate at 4.5 people per 100,000 in comparison with the Utah murder rate of 1.7 people per 100,000, accessed May 20, 2015, <http://deathpenaltyinfo.org/murder-rates-nationally-and-state>.

<sup>3</sup> Carly Figueroa, "Utah Above National Average for Domestic Violence Homicides; Victim Advocates Seek More Resources," *Fox News*, March 4, 2015, accessed May 15, 2015, <http://fox13now.com/2015/03/04/utah-above-national-average-domestic-violence>.

<sup>4</sup> Utah Administrative Office of the Courts; Utah Children's Justice Centers; Utah Coalition Against Sexual Assault; Utah Commission on Criminal and Juvenile Justice; Utah Department of Health, Violence and Injury Prevention Program; Utah Department of Human Services, Division of Child and Family Services; Utah Domestic Violence Coalition; Utah Office for Victims of Crime; "No More Secrets, Utah's Domestic and Sexual Violence Report - 2014," 8, accessed October 11, 2014, [http://www.nomoresecrets.utah.gov/Annual%20Reports/nms\\_annualreport\\_2014.pdf](http://www.nomoresecrets.utah.gov/Annual%20Reports/nms_annualreport_2014.pdf).

<sup>5</sup> "Utah: State Gun Laws," WomensLaw, a project of the National Network to End Domestic Violence, accessed September 15, 2015, [http://www.womenslaw.org/laws\\_state\\_type.php?id=303&state\\_code=UT&open\\_id=9895](http://www.womenslaw.org/laws_state_type.php?id=303&state_code=UT&open_id=9895).

<sup>6</sup> Stephan Dark, "Powerless: While State Funds for Domestic Violence Dwindle, the Cost in Lives Climbs," *Salt Lake City Weekly*, January 7, 2013, accessed May 23, 2015, <http://www.cityweekly.net/utah/powerless/Content?oid=2652399&mode=print>.

<sup>7</sup> "Maryland's Lethality Assessment Program: From Research into Practice," Battered Women's Justice Project, accessed June 8, 2015, <http://www.bsjp.org/resource-center/resource-results/maryland-s-lethality-assessment-program>. LAP is based on 25 years of research by Dr. Jacquelyn Campbell (The Johns Hopkins University, School of Nursing). Campbell's research has also determined that 1) only 4% of domestic violence murder victims nationwide had ever availed themselves of the services of domestic violence programs; 2) officers had previously responded to domestic violence calls in 50% of homicide cases; 3) re-assault of domestic violence victims in 'high danger' was reduced by 60% if they went into a shelter. See the "Domestic Violence Lethality Screen for First Responders" list of 11 questions, 5, Maryland Network Against Domestic Violence, accessed June 8, 2015, <http://mnadv.org/mnadvWeb/wp-content/uploads/2011/10/LAP-Info-Packet-as-of-12-8-10/pdf>. (Intimate Partner Violence (IPV) refers to marriage, divorce, or dating relationships.)

<sup>8</sup> Andrea Smardon, "New Project Aims to Prevent Domestic Violence Deaths in Utah," *KUER*, July 9, 2015, accessed July 14, 2015, <http://kuer.org/post/new-project-aims-prevent-domestic-violence-deaths-utah>.

<sup>9</sup> Richie Bernardo, "2015's Best and Worst States for Women's Equality," WalletHub, accessed July 14, 2015, <http://wallethub.com/edu/best-and-worst-states-for-women-equality/5835/>. The study compared the state-by-state gender gaps in three broad categories explained below. Ranked 50th overall, Utah came in 45th in Workplace Environment, 49th in Education, and 36th in Political Empowerment.

1) Workplace Environment - pay (median weekly earnings) / number of executives / average work hours / number of minimum wage earners / unemployment rate / entrepreneurship

2) Education - percentage of residents aged 25 & older with a Bachelor's Degree or higher / math test scores

3) Political Empowerment - percentage of female lawmakers in U.S. Senate / percentage of female lawmakers in U.S. House / percentage of female lawmakers in state legislature.

<sup>10</sup> Thomas Frohlich, Alexander Kent, and Alexander Hess, "The Ten Worst States for Women," *USA Today*, October 19, 2014, accessed May 17, 2015, <http://www.usatoday.com/story/money/business/2014/10/19/24-7-wall-st-worst-states-women/17344861>.

<sup>11</sup> <http://nomoresecrets.utah.gov/>.

<sup>12</sup> Utah Department of Health, Violence and Injury Prevention Program, "Rape and Sexual Assault," 2, accessed May 18, 2015, <http://health.utah.gov/vipp/topics/rape-sexual-assault>.

<sup>13</sup> "No More Secrets - 2014," 17.

<sup>14</sup> Stephan Dark, "Rape in Utah," *Salt Lake City Weekly*, December 31, 2013, accessed April 27, 2015, <http://www.cityweekly.net/utah/rape-in-utah/Content?oid=2306088&mode=print>.

<sup>15</sup> "Rape and Sexual Assault," 2.

---

<sup>16</sup> "The Offenders: The Rapist Isn't a Masked Stranger," RAINN (Rape, Abuse, Incest National Network), accessed October 19, 2015 <http://rainn.org/get-information/statistics/sexual-assault-offenders>. RAINN cites the U.S. Department of Justice's "National Crime Victimization Study: 2009-2013" as its source for this figure.

<sup>17</sup> David Lisak and Paul Miller, "Repeat Rape and Multiple Offending Among Undetected Rapists," *Violence and Victims*, Vol. 17, No. 1 (2002): 73-84, accessed September 13, 2015, <http://www.davidlisak.com/wp-content/uploads/pdf/RepeatRapeinUndetectedRapists.pdf>.

<sup>18</sup> Rebecca Campbell, "Neurobiology of Sexual Assault: Implications for First Responders in Law Enforcement, Prosecution, and Victim Advocacy," *National Institute of Justice*, December 3, 2013, accessed September 26, 2015, <http://nij.gov/multimedia/presenter/presenter-campbell/pages/presenter-campbell-transcript>. Christopher Smart, "Rape Trauma: Why Cops May Think Victims are Lying," *Salt Lake Tribune*, July 7, 2013, accessed May 6, 2015, <http://archive.sltrib.com/printfriendly.php?id=58142434&itype=cmsid>.

<sup>19</sup> "What is a Rape Kit?" RAINN, accessed September 11, 2015, <http://rainn.org/get-information/sexual-assault-recovery/rape-kit>. CODIS stands for Combined DNA Index System.

<sup>20</sup> Steve Reilly, "Tens of Thousands of Rape Kits Go Untested Across USA: Exclusive Nationwide Count by USA Today Reveals Abandoned Rape Evidence," *USA Today*, July 16, 2015, accessed September 12, 2015, <http://www.usatoday.com/story/news/2015/07/16/untested-rape-kits-evidence-across-usa/29902199/>.

<sup>21</sup> Christopher Smart, "Salt Lake City Moves to Update Investigation Strategy for Sex Assaults," *Salt Lake Tribune*, December 3, 2014, accessed May 6, 2015, <http://www.sltrib.com/csp/mediapool/sites/sltrib/pages/printfriendly.csp?id=1900776>. The research, conducted by SANE nurse and BYU Nursing faculty member July Valentine employed a random selection of 30 "Code R" rape kits from Salt Lake County for each year from 2003-2011. Follow-up on the 270 cases confirmed that only 9% resulted in criminal charges. The publicity from this finding helped prompt widespread awareness and responses by the Salt Lake City Council, Salt Lake City Police Department, Salt Lake District Attorney, Salt Lake County Council, and Salt Lake County Law Enforcement. Accounts can be found in the archives of the *Salt Lake Tribune* and *Deseret News* (2014-2015).

<sup>22</sup> Christopher Smart, "Group Urges Utah Lawmakers to Fund DNA Analysis of all Rape Kits," *Salt Lake Tribune*, October 17, 2014, accessed May 6, 2015, <http://www.sltrib.com/csp/mediapool/sites/pages/printfriendly.csp?id=1709236>. Former Representative Jennifer Selig is widely credited for organizing this legislative effort.

<sup>23</sup> James McKinley, Jr., "New York City Prosecutor Using Millions Taken from Banks for Rape-Kit Testing," *New York Times*, September 10, 2015, accessed September 30, 2015, <http://www.nytimes.com/2015/09/11nyregion/city-prosecutor-using-millions-seized-from-banks>. The U.S. Justice Department is contributing \$41 million in grants to assist 20 jurisdictions in clearing their inventory of kits, and New York City District Attorney Cyrus Vance, Jr., is adding \$38 million to various jurisdictions in 20 states, including Utah, for the same purpose. (Mr. Vance's office has amassed some \$800 million in settlements from international banks charged with violating U.S. sanctions. He is contributing it to this cause, believing it will enhance confidence in the U.S. criminal justice system.)

<sup>24</sup> Associated Press, "New National Funding Will Clear Utah's Backlog of Untested Rape Kits," *Salt Lake Tribune*, September 10, 2015, accessed October 22, 2015, <http://www.sltrib.com/csp/mediapool/sites/sltrib/pages/printfriendly.csp?id=2935573>.

<sup>25</sup> Rebecca Boone, "Utah Among Just 4 States that Reject Federal Guidelines to Prevent Prison Rape," *Salt Lake Tribune*, June 15, 2015, accessed June 16, 2015, <http://www.sltrib.com/home/2628041-155/utah-among-just-4-states-that>. (Idaho, Arkansas, and Alaska are the other three, as of May, 2015.)

<sup>26</sup> Kimberly Scott, "Utah Among 4 States Rejecting Federal Rules to Prevent Prison Rape," *St. George News*, July 16, 2015, accessed September 24, 2015, <http://www.stgeorgenewsutah.com/news/archive/2015/07/16/-utah-among-4-states-rejecting>.

<sup>27</sup> Associated Press, "Utah Opts out of Prison Rape Law Requirements," *Washington Times*, May 23, 2014, accessed July 12, 2014, <http://www.washingtontimes.com/news/2014/may/23/utah-opts-out-of-prison-rape-law-requirements/>. Although he agrees with the law's purpose, Governor Herbert objects to the expense of auditing the various aspects of PREA, which is beyond current Utah auditing capacity. He also rejects the requirement that guards announce their entrance into opposite sex housing areas. Although intended to limit sexual harassment and exploitation by guards, Herbert believes it actually creates potential dangers for guards, and limits their ability to prevent sexual abuse among prisoners. See the National PREA Resource Center web site for a detailed examination of its contents <<http://www.prearesourcecenter.org/frequently-asked-questions>>.

# Social Support Systems

*Utah Citizens' Counsel Social Support Systems Committee*

***Article 6: All Utahns have the right to the fundamental social support systems that assist in assuring a standard of living adequate for the well-being of both the individual and families, in all their configurations, including timely assistance in case of unemployment, disability, old age, and natural or human-made disasters.***

## **Introduction**

The 2014 Committee Report dealt broadly with poverty among many groups, including the elderly, people with disabilities, racial and ethnic minorities, the working poor, and families with children. Many members of these segments of Utah society fall below the statewide poverty level and have needs that are currently unmet.

This year, our report and recommendations focus more narrowly and even more urgently on poverty among families with young children. It is well established that young children living in poverty have a much higher risk of developing cognitive and behavioral impairments that limit them throughout their lives. Depriving these children of the cognitive and emotional tools they need to succeed is an especially cruel manifestation of the "opportunity gap" mentioned in this year's Education Committee report.

## **The Impact of Poverty on Young Children**

As measured by brain volume in MRI studies, poverty, especially deep poverty, may doom the developing brain to structural deficits. Recent prospective longitudinal studies have shown the profound damage that poverty inflicts on the developing brain. Children from poor families have diminished total gray and white matter and smaller amygdala and hippocampal volume.<sup>1</sup> The amygdala and hippocampus play a critical role in stress regulation and emotional development.<sup>2</sup> Poverty contributes to "atypical structural development" in several critical areas of the brain. These neurological losses may account for a 15-20% achievement gap.<sup>3</sup>

The developing brain requires strong supportive relationships for proper development. Children need adult interactions that focus on their needs. Parents in poverty are often burdened with overtime work, multiple jobs, and long commutes, leaving little time for positive interactions so essential to children's proper development. The stress of poverty can sometimes lead to parenting practices that are more punitive, inconsistent, detached, and less nurturing and responsive to small children's needs. Neglect is considered the most profound of childhood stressors. The response to chronic stress is considered the primary mechanism for the neurological losses.<sup>4</sup> There is a logarithmical relationship between income and brain area with larger differences seen in the most impoverished.<sup>5</sup>

## Poverty Among Utah Children and Families

For purposes of eligibility for government programs such as SNAP (formerly food stamps), Head Start, Medicaid, and reduced-cost school breakfasts and lunches, the federal government has defined “poverty” as \$11,888 annually for a single person and \$18,769 for one adult and two minor children.<sup>6</sup>

In 2013, the percentage of people living at or below poverty in Utah was 12.7%, the tenth lowest in the country. However, for female-headed households with children, the Utah poverty rate was 36.6%.<sup>7</sup> A woman in Utah earns 69.9 cents for each dollar a man earns.<sup>8</sup> A single parent, earning the minimum wage of \$7.25 an hour, would earn \$15,080, clearly far too little to even reach full “poverty” income for herself and her two children.

Approximately 360,000 Utah residents lived below the poverty line in 2013; 130,000 were children (14.6% of all Utah children). The majority of the poor live along the Wasatch Front, but eight of the ten counties with over 20% of children in poverty are rural.<sup>9</sup>

The most recent state Intergenerational Welfare Reform Commission Report identified 234,391 “at risk” children in Utah.<sup>10</sup> These were children whose families received some kind of public assistance during the previous year. Of these, 48,281 were children whose parents also received public assistance as children. Sixty-one percent of the latter group of children lived in single-parent homes, and 88 % of them were under 12 years of age.<sup>11</sup> Nearly 26% of this “intergenerational poverty” cohort are victims of abuse or neglect, as were 29% of their parents.<sup>12</sup>

Many of these impoverished parents and children are both food and housing insecure. Overall, in Utah, 47% of families must pay more than 30% of their income (the rate considered “affordable”) for housing.<sup>13</sup> Between 2011 and 2013, 20% of Utah children belonged to families who experienced difficulty providing enough food because they lacked resources. In 2013, 172,538 children (nearly 30% of all school children) received free or reduced-price school lunches. Only 59,787, however, participated each school day in the free or reduced-price breakfast program (approximately 34.7% of the eligible children). Utah is 51<sup>st</sup> among the states in breakfast program participation.<sup>14</sup>

## Family Poverty in Utah Impacts All of Us

UCC is committed to fighting the blight of poverty because of the suffering it imposes on its victims, young and old. The larger community also benefits when the needs of the poor are adequately addressed. As is pointed out in the most recent *Utah Children's Budget Report*, additional upfront investment in children leads to increased school readiness and educational achievement. That, in turn, increases workforce productivity, enhances economic growth, and reduces social dysfunction. This all leads to increased public revenues and reduced public expenditures to address social dysfunction. Once this “virtuous cycle” is initiated, everybody wins and the increased upfront investment in children more than pays for itself.<sup>15</sup>

Too many efforts to decrease poverty view the needs of children and their parents separately rather than as intertwined and interdependent. For example, child-care is almost always necessary for the adults in the household to enroll in adult education programs and/or to become wage earners. The children and society as a whole suffer if that care is of low quality. Clearly, childhood poverty cannot be effectively addressed without programs to aid their caregivers. The needs of all family members must be addressed through a common lens.

### Commendations

- **Several efforts to alleviate child and family poverty through "Collective Impact" strategies, where a number of public and private agencies work together to achieve a common goal.** <sup>16</sup>Approaches employed by partnerships, including the Intergenerational Welfare Reform Commission, United Way, Housing First, Next Generation Kids, and Promise Partnerships, all appear promising.
- **The work of *Voices for Utah Children* providing accurate, consistent data for the last 25 years on many dimensions of child welfare in Utah.** The annual *Kids Count Data Book*, and other publications measuring the well-being of Utah children provide crucial information for everyone in the child welfare community.
- **The Intergenerational Welfare Reform Commission (established by a unanimous vote of the Utah Legislature) for the research compiled in its *Fourth Annual Report on Intergenerational Poverty, Welfare Dependency and the Use of Public Assistance (2015)*.** Their research exhibits significant progress in analyzing the character of poverty in Utah and outlining the programs needed to alleviate it. <sup>17</sup>

### Recommendations

- **The Intergenerational Welfare Reform Commission (IWRC), representing all the involved state government departments, should focus on getting as much cash and non-cash income as possible into poverty level households, using uncapped existing sources of funds, i.e., the federal Earned Income Tax Credit, food stamps, WIC, school breakfast and lunches.** A greater outreach effort and an investigation of why many eligible clients fail to participate in these programs could increase the use of these and other available resources relatively quickly and without additional state funding.
- **The IWRC should present to the State Legislature a realistic budget that will enable the intergenerational focus to succeed.** The five- and ten-year poverty reduction goals of the IWRC cannot be met without new appropriations. Currently funded IWRC programs reach only about 100 families. New funds need to provide low income families with support for pre-kindergarten programs and child care, adult education and training programs, adequate housing, mass transit fares, and other essential work-related needs.

- **The state needs to move systematically to require its licensed child-care providers to meet its now-voluntary quality rating levels.** Such action is needed to raise the quality of infant and child care to adequate levels.
- **The state should adopt several provisions allowed by the federal Temporary Assistance for Needy Families (TANF) statute but currently denied to Utah residents.** These include extending the current 36-month maximum for receiving funds to 60 months, exempting mothers of children under the age of one from the TANF work requirement (because the first year of a child's life is crucial for bonding and early brain development), and allowing a pass-through of \$100 per child (maximum \$200 monthly) in child support payments rather than the state keeping all these payments up to the amount of the cash assistance.
- **Current home visitation programs proven effective in addressing the needs of poor children from birth to age three should be brought to scale to serve all eligible families.** These include the Nurse Family Partnership, the Parents as Teachers program, and similarly proven programs.
- **Collective Impact programs employing strategies to decrease poverty need to be expanded and strengthened to multiply the impact of the many public and private anti-poverty efforts across the state.** Current piecemeal and uncoordinated efforts are not sufficient to address major system-wide issues. Fully-fledged Collective Impact initiatives have a common agenda, shared measurement systems, mutually reinforcing activities, continuous communication among participants, and backbone support organizations.

---

## Notes

<sup>1</sup> Joan Luby et al., "The Effects of Poverty on Childhood Brain Development: the Mediating Effect of Caregiving and Stressful Life Events, *JAMA Pediatrics* 167 (2013): 1135-42.

<sup>2</sup> Pilyoung Kim et al., "Effects of Childhood Poverty and Chronic stress on Emotion Regulatory Brain Function in Adulthood," *PNAS* (Proceedings of the National Academy of Science) 110 (2013): 18442-447.

<sup>3</sup> Nicole.L. Hair et al. "Association of Child Poverty, Brain Development, and Academic Achievement," *JAMA Pediatrics* 169 (2015): 822-829.

<sup>4</sup> Center on the Developing Child, Harvard University (2012). "The Science of Neglect: The Persistent Absence of Responsive Care Disrupts the Developing Brain: Working Paper No. 12," accessed November 16, 2015, <http://developingchild.harvard.edu/resources/the-science-of-neglect-the-persistent-absence-of-responsive-care-disrupts-the-developing-brain/>.

<sup>5</sup> Kimberly G. Noble et al., "Family Income, Parental Education and Brain Structure in Children and Adolescents," *Nature Neuroscience* 18 (2015):773-778.

<sup>6</sup> Community Action Partnership of Utah, "Annual Report on Poverty in Utah 2014," 10.

<sup>7</sup> *Ibid.*, 20.

<sup>8</sup> *Ibid.*, 24. Utah is ranked 47<sup>th</sup> in the country in wage equality. Institute for Women's Policy Research and the YWCA of Utah, "The Well-Being of Women in Utah: An Overview," May 2014, 2.

<sup>9</sup> Intergenerational Welfare Reform Commission, "Utah's Fourth Annual Report on Intergenerational Poverty," September 2015, 5, 9, 11. In Iron, Washington, Piute, San Juan, Grand, and Carbon Counties, over 40% of the children are "at risk."

<sup>10</sup> *Ibid.*, 13.

<sup>11</sup> *Ibid.*, 13-14.

<sup>12</sup> *Ibid.*, 36.

<sup>13</sup> Put another way, a minimum wage worker must work 84 hours a week, 52 weeks in a year to afford the \$794 monthly fair market rent for a two-bedroom apartment. A single parent must earn \$15.26 an hour, or \$31,741 each year, to actually "afford" a two-bedroom home for herself and her two children. It is estimated that Utah currently has a 42,601-unit shortage of available housing for very low income persons." Utah's Fourth Annual Report," 37, 41.

<sup>14</sup> "Utah Demographics, Poverty and Food Insecurity," *Food Research and Action Center*, accessed October 9, 2015, <http://frac.org/wp-content/uploads/2010/07/ut.pdf>. If the breakfast participation rate reached 70% of the lunch participation rate, Utah would receive an additional \$15,523,057 in federal dollars.

<sup>15</sup> Voices for Utah Children, "Utah Children's Budget Report, 2014," 6.

<sup>16</sup> As John Kania and Mark Kramer point out in a recent study, "Large scale social change requires broad cross-sector coordination, yet the social sector remains focused on the isolated intervention of individual organizations." "Collective Impact," *Stanford Innovation Review* (Winter 2011): 36-41.

<sup>17</sup> Further, the Commission's own Annual Report for 2014 sets forth the 2014 and 2015 activities of the five entities whose executive directors are members of the Commission: Department of Health, Department of Human Services, Department of Workforce Services, Utah State Office of Education, and the Juvenile Court. We applaud their efforts to ameliorate intergenerational poverty.

## Participatory Governance

*Utah Citizens' Counsel Transparent, Ethical, and Participatory Governance Committee*

***Article 7. All Utahns have the right to transparent and ethical governance as well as effective participation in the democratic process.***

### **Introduction**

Many issues fall under the rubric of transparent, ethical, and participatory government. Covering this topic for the first time in our annual reports, UCC has chosen to focus on three issues that demonstrate the closed nature of our current governmental processes: gerrymandering, which favors incumbent parties and reduces competitive elections; Utah's political party caucus/convention systems, which many think contribute to a decline in voter turnout and reduce democratic participation in Utah elections; and the lack of campaign finance reform, which promotes favoritism for moneyed special interests rather than for the broader public.

### **Gerrymandered Legislative Districts**

Every ten years, state legislatures redraw federal and state legislative boundaries in response to the decennial census. Gerrymandered (artificial and distorted) boundaries routinely accompany this redistricting and are designed to protect incumbent legislators and favor whichever political party is in power. The redrawn boundaries often divide groups with similar needs and interests and reduce the voting power of political and ethnic minorities. Over time, more and more one-party districts and states have emerged, resulting in less competitive elections. In 2011, for instance, the Utah Legislature adopted a redistricting plan that provided for a 62% Republican majority in each Utah congressional district. The Democratic majorities in Salt Lake and Summit counties were carefully neutered in the process so those votes would not affect election outcomes. Currently, more than 80% of Utah's legislative districts are single-party districts; several are Democratic, but most are Republican. This calls into question what is labelled the "representational fairness" of current redistricting processes.<sup>1</sup>

Although partisan considerations will probably always play a role in redistricting, a number of states have reduced the partisanship of legislative redistricting by the use of independent redistricting commissions, which tend to be less concerned with preserving artificial boundaries that protect incumbents and the party in power.<sup>2</sup> Arizona and California are among the best known, while Iowa has a unique system of legislative advisers to help redraw boundaries.<sup>3</sup>

Arizona survived a recent legal challenge which asserted that the state's five-member independent commission contravened the U.S. Constitution's Election Clause.<sup>4</sup> In *Arizona State Legislature v. Arizona Independent Redistricting Commission* (2015),<sup>5</sup> the U.S. Supreme Court held that the power to redistrict given in the Arizona Constitution to the "legislature" extends to Arizona voters who successfully use the initiative provision in that constitution. The Court ruled that such an initiative provision gives voters legislative power over state and congressional

redistricting that is co-extensive with that of the state legislature. The Utah Constitution has a similar provision.<sup>6</sup>

An attempt in 2010 by a group called Fair Boundaries to establish, through an initiative petition, a Utah independent redistricting commission failed to get enough signatures to get on the ballot. Since that time, the Utah Legislature has made it even more difficult for any initiative petition to succeed. By statute it has increased the number of signatures required and provided that signers may withdraw their signatures for a 30-day period after the closing date of the petition drive, thereby allowing opponents of the petition an extended period to try to persuade signers to change their minds when proponents can no longer gather additional signatures. Electronic signatures on initiative and referendum petitions have also been outlawed by statute.<sup>7</sup>

### **Political Party Caucus/Convention Systems**

Both the Republican and Democratic parties in Utah select their candidates for state and federal office in a caucus/convention system. Utah is one of the few states whose political parties do so. In recent years, party activists, particularly Republicans in control of the party machinery, have made intensive efforts to ensure that all candidates support state-party-line positions, especially on hot button issues. The result has been to eliminate candidates for whom the broader public might want to vote. For example, Senator Robert Bennett was eliminated in the 2010 Republican convention because far right, tea party delegates thought he was not conservative enough.

Party caucuses select delegates to represent their precincts at state conventions, where candidates are selected to run for state and federal office. Overwhelmingly, Utahns do not attend their respective caucuses, so the notion of grassroots participatory democracy doesn't really work. The caucus system is not well understood by the public, the rules are complex, notice of the meeting locations is often poor, and those who attend are those with the most intense party loyalties. Women, minorities, and non-Mormons are frequently underrepresented. Caucuses subvert the one-person-one-vote principle because the number of voters in neighborhood voting precincts is not equalized. Furthermore, political party leaders can skew the allocation of delegates by adding "ex officio" delegates and appointing delegates in inactive precincts. A small district can end up with twice the number of delegates as a larger district.

Because legislators respond to the delegates who select them to run for office, they often can ignore the broader public with impunity. Many pundits believe that voter turnout in Utah's general elections has declined because voters know that their votes don't really matter; they didn't have a say in selecting the candidates. In a single-party district, their votes matter even less because the outcome has already been decided.

A group entitled Count My Vote began gathering signatures in 2013 for a ballot initiative to provide an alternative to the caucus system; candidates could get on the primary ballot by obtaining a certain percentage of registered voter signatures, in other words, bypassing the caucus/convention process. The effort was meant to ensure a more open, less controlled nomination process and better public participation.

The Legislature, and the Republican Party in particular, disliked the initiative petition, but a compromise was worked out in the 2014 legislative session: The initiative sponsors agreed to suspend their signature gathering in return for enactment of a somewhat convoluted direct

primary election process. The compromise bill (SB 54) allowed a petition process in addition to or as an alternative to the party caucus/convention system. Sponsors hoped that the compromise would create a way to break the stranglehold that extremists had on the nomination process. The bill has been subject to controversy and litigation challenging its validity.<sup>8</sup> It is scheduled for its first test in the 2016 elections.

## **Campaign Finance**

Utah is one of only seven states without any limits on financial contributions to campaigns from individuals, corporations, PACs, and unions.<sup>9</sup> That is, no caps are placed on the amount of money that candidates for state office can accept from such donors. This is in contrast to races for federal office, where contribution caps are set in law and contributions from corporations directly to candidates are prohibited. In January 2015, the *Salt Lake Tribune* documented that 82% of all donations accepted by incoming Utah legislators came from special interests, such as lobbyists, corporations, business leaders, advocacy groups, and political action committees (PACs).<sup>10</sup> Only 7% came from constituents living within the district boundaries of their state senators and representatives. Even senators not running for re-election received donations. These are alarming reflections on the politics of big money. Special interests give money to candidates, especially incumbents, because they expect to receive, first and foremost, access to legislators-- a powerful factor in adopting legislation acceptable to the big donors. The donations also reward incumbents with the resources they need in their re-election campaigns.

The public is increasingly aware of the danger to democracy resulting from big money and special interests with too much influence on election outcomes and subsequent policies.<sup>11</sup> Many tie the growing problem to the Supreme Court's 2010 decision in *Citizens United v. Federal Election Commission*.<sup>12</sup> The controversial 5-4 decision ruled that corporations and unions have a first amendment right to spend unlimited amounts of money to support or oppose candidates for federal office. Although they are not permitted to give directly to the campaigns, they can give indirectly through political ads or contributions to political action committees independent (theoretically, at least) of the candidates. The decision has led to a proliferation of so-called super PACs, raising millions of dollars from billionaires, businesses, and unions. Although super PACS must disclose their donors, many newly formed nonprofits that file as "social welfare" groups under section 501(c)(4) of the federal tax code do not have to disclose their donors. These groups have been giving extravagant sums of money to support or oppose candidates. Their only limit is that their primary purpose not be political. The supposed standard, largely unenforced, is that the organization's political spending not reach 50% of its income in a given year. Huge increases in overall campaign expenditures for congressional and presidential elections have resulted from super PACs and "social welfare" nonprofits. The role of PACS has even spread to local elections. For instance, in the 2015 Salt Lake City mayoral election, an independent PAC funded largely by Reagan Outdoor Advertising spent more than \$140,000 for billboards in support of candidates opposing the incumbent Salt Lake City mayor.<sup>13</sup>

Groups have formed to try to amend the U.S. Constitution to overturn the *Citizens United* decision. Such an undertaking faces serious political and procedural difficulties and would not stop unlimited independent spending by billionaires. Many pundits believe that other alternatives would be preferable, such as various forms of public financing, free equal TV time for candidates, better informed voters, and across-the-board campaign limits for all contributors.<sup>14</sup> Thirteen states now offer a few kinds of public campaign funding. For example, Arizona,

Connecticut, and Maine offer subsidies to candidates who agree to limit their spending and their private fund raising. Florida and Hawaii will match small contributions up to a certain amount. New York City also has a matching-contribution law.<sup>15</sup> Seattle voters recently passed a taxpayer-funded voucher system to try to reduce reliance on wealthy donors. Seattle government will give each of its registered voters four \$25 vouchers that can be contributed to municipal candidate(s) for mayor, city council, or city attorney. Candidates who choose to participate in this system must agree to strict limits on spending and on private donations. The hope is to increase the involvement and number of contributors by 10-15%. Money for the vouchers will come from a modest \$3 million increase annually in property taxes. When the money runs out, so do the vouchers: in other words, it's first come, first served.<sup>16</sup> All these forms of public financing deserve careful watching and further study. Utah has shown no interest in public financing, although the day may yet come when Utah will need to confront this directly.<sup>17</sup>

### Commendations

- **SB 54**, passed by the 2014 Legislature, which allowed the Count My Vote compromise to go forward
- The attempt to pass **campaign spending limitations** in recent legislative sessions by Representatives Brian King (Democrat) and Kraig Powell (Republican)

### Recommendations

- We urge the **creation of an Independent Redistricting Commission**, either by statute or by initiative petition.<sup>18</sup> If the latter, we urge creation of a broad coalition with the necessary funds, organizing strategies, and volunteers to mount an initiative in time for placement on the 2018 ballot.
- The Legislature should **allow SB 54 sufficient years of implementation to properly evaluate its impact prior to making more than technical, clarifying modifications to the legislation.**
- The Legislature should **require “social welfare” nonprofits** (so-called 501(c)(4) organizations) **to disclose their electioneering expenditures** above a certain amount, as well as donors who give more than a minimum amount to electioneering activities.<sup>19</sup>
- **The Legislature should adopt campaign contribution limits, using as a framework the recommendations of the 2009 Governor’s Commission on Strengthening Democracy.**
- We urge an **independent, nonpartisan examination of campaign finance reform alternatives**, including various kinds of public financing of political campaigns.<sup>20</sup>

---

## Notes

<sup>1</sup> At least three states—Florida, North Carolina, and Virginia, currently are subject to ongoing court cases challenging the fairness of their most recent redistricting plans. None of these states has an independent redistricting commission.

<sup>2</sup> Thirteen states have redistricting commissions with exclusive authority to redistrict. Iowa is a fourteenth state with a special form of redistricting authority. Two more states have advisory commissions and seven have backup commissions if legislative redistricting fails. See "Redistricting Commission," *Wikipedia*, accessed October 17, 2015, [https://en.wikipedia.org/wiki/Redistricting\\_commission](https://en.wikipedia.org/wiki/Redistricting_commission).

Ohio has now joined the above states. In the November 2015 election, 71% of Ohio voters supported an amendment to the state constitution that prohibits partisan gerrymandering and creates a bipartisan redistricting commission for state legislative districts. Katrina vanden Heuvel, "Democracy beats Oligarchy," *The Washington Post*, November 10, 2015, accessed November 11, 2015, [https://www.washingtonpost.com/opinions/democracy-beats-oligarchy/2015/11/10/6dbff3c4-8701-11e5-be39-0034bb576eee\\_story.html](https://www.washingtonpost.com/opinions/democracy-beats-oligarchy/2015/11/10/6dbff3c4-8701-11e5-be39-0034bb576eee_story.html). Jim Siegel, "Voters approve issue to reform Ohio's redistricting process," *The Columbus Dispatch*, November 4, 2015, accessed November 15, 2015, <http://www.dispatch.com/content/stories/public/2015/election/ohio-state-issue-1-redistricting.html>. The reform had bipartisan support.

<sup>3</sup> Arizona's redistricting mechanism, adopted by popular initiative in 2000, created a five-member independent redistricting commission. From a slate of 25 candidates nominated by a judicial commission, the majority leaders of the Arizona House and Senate appoint two members. The minority leaders also appoint two members, and these four choose an independent, unaffiliated chairperson. Arizona Constitution, Article 4, pt. 2, § 1.

California has a 14-person redistricting commission, adopted by California voters in 2008 and 2010 initiatives, with power to redistrict state and federal legislative districts. The selection process is more complicated than Arizona's. The state legislature winnows candidates from a prior screening process conducted by the state auditor to a minimum of 12 Republicans, 12 Democrats, and 12 from neither party, with the state auditor then randomly selecting 3 from each major party and 2 others. These eight then select the final six from candidates remaining in the pool. California Constitution, Article XXI and "Legal Handbook for the Citizens Redistricting Commission," accessed November 16, 2015, [http://wedrawthelines.ca.gov/downloads/legal\\_guide.pdf](http://wedrawthelines.ca.gov/downloads/legal_guide.pdf)

Iowa gives its nonpartisan Legislative Services Agency (LSA), a professional staff of the Legislature, the responsibility to prepare proposed maps of the state and federal legislative districts after each census. The Legislature itself then must approve or disapprove the maps. If they are disapproved, the LSA revises the maps and resubmits them. A third disapproval of revised maps allows the legislature to *modify* the maps. Since adoption of this process in 1990, the Iowa Legislature has never rejected all three sets of maps. Iowa Constitution Article III, § 37, and Article III, § 34, § 35, § 36 & § 38.

<sup>4</sup> "The Times, Places and Manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such regulations." Art. I, sec. 4, cl. 1.

<sup>5</sup> Supreme Court of the United States (Slip Opinion), accessed October 24, 2015, [http://www.supremecourt.gov/opinions/14pdf/13-1314\\_kjfl.pdf](http://www.supremecourt.gov/opinions/14pdf/13-1314_kjfl.pdf).

<sup>6</sup> Art. VI, sec 1. "(1) The Legislative power of the State shall be vested in: (a) a Senate and House of Representatives which shall be designated the Legislature of the State of Utah; and (b) the people of the State of Utah as provided in Subsection (2).

(2) (a) (i): The legal voters of the State of Utah, in the numbers, under the conditions, in the manner, and within the time provided by statute, may: (A) initiate any desired legislation and cause it to be submitted to the people for adoption upon a majority of those voting on the legislation, as provided by statute" . . .

<sup>7</sup> Senate Bill 65 (2011), UCA 20A-1-306 and 20A-7-101(17). A subsequent study by the Lieutenant Governor's Office found that the LG's Office could manage a process for validating electronic signatures on ballot propositions. It is possible that legislation to allow such e-signatures could emerge within the next few years.

<sup>8</sup> In litigation challenging SB 54, federal district court judge David Nuffer ruled recently that political parties cannot be forced to open their primary elections to those who are unaffiliated voters. In the same decision, the judge also upheld the right of candidates to have their names on the primary ballot by gathering the requisite number of signatures. Robert Gehrke, "Judge strikes down Utah law requiring parties to open primaries," *Salt Lake Tribune*, November 3, 2015, accessed November 15, 2015, <http://www.sltrib.com/home/3134238-155/judge-strikes-down-utah-law-requiring>. The judge subsequently clarified that his ruling does not affect the open primaries held by the

---

Democratic Party or the ability of Democratic candidates to gather signatures from unaffiliated voters. Robert Gehrke, "Utah Dems will be able to include unaffiliated voters in June primaries," *Salt Lake Tribune*, November 27, 2015, B1. Apparently, signers on a Republican petition, however, must be registered Republicans. The Republican Party chair and the Lieutenant Governor's Office disagree over other implications of the ruling. Some are urging the Legislature to clarify SB 54. It seems likely that another court case will be necessary unless the Legislature deals with remaining ambiguities.

<sup>9</sup> "State Limits on Contributions to Candidates, 2015-2016 Election Cycle," National Council of State Legislators, accessed October 17, 2015,

<http://www.ncsl.org/Portals/1/documents/legismgt/elect/ContributionLimitstoCandidates2015-2016.pdf>. In a report released in November 2015, the Center for Public Integrity gave Utah an overall grade of D- on 13 measures of public transparency and accountability. This placed Utah in the middle of the State pack at 25<sup>th</sup>. The top grades, earned by three states, were in the C range, nothing to brag about. Utah earned an F in the area of political financing. Center for Public Integrity, accessed November 16, 2015, <http://www.publicintegrity.org/2015/11/09/18693/only-three-states-score-higher-d-state-integrity-investigation-11-flunk>.

<sup>10</sup> Lee Davidson, "Special interests give \$8 of every \$10 in donations," *Salt Lake Tribune*, January 4, 2015, A1, A5.

<sup>11</sup> Bryan Schott, "Poll: Big Majority of Utahns Want Campaign Finance Reform," September 14, 2015, posted on *utahpolicy.com*. (The Dan Jones poll revealed that close to 70% of Utahns want more restrictive campaign finance laws.) The problem was highlighted by the saga of former Attorney General John Swallow's unregulated and unchecked campaign contributions from donors who allegedly received legal favors.

<sup>12</sup> 558 U.S. 310 (2010).

<sup>13</sup> Katie McKellar, "Pricey mayoral race prompts Salt Lake City Council to consider campaign finance reform," *Deseret News*, November 10, 2015, accessed November 11, 2015,

<http://www.deseretnews.com/article/865641187/Pricey-mayoral-race-prompts-Salt-Lake-City-Council-to-consider-campaign-finance-reform.html?pg=all>.

<sup>14</sup> See, e.g., Lawrence Lessig, "The Only Realistic Way to Fix Campaign Finance," *The New York Times*, July 21, 2015, A27; Zephyr Teachout, "Legalized Bribery," *The New York Times*, January 26, 2015, A21.

<sup>15</sup> Lessig, *ibid*.

<sup>16</sup> Russell Berman, "Seattle's Experiment With Campaign Funding," *The Atlantic*, November 10, 2015, accessed November 15, 2015, <http://www.theatlantic.com/politics/archive/2015/11/seattle-experiments-with-campaign-funding/415026/>. See also Bob Young, "'Democracy vouchers' win in Seattle: first in country," *Seattle Times*, November 3, 2015, accessed November 15, 2015, <http://www.seattletimes.com/seattle-news/politics/democracy-vouchers/>.

<sup>17</sup> The Salt Lake City Council is currently reviewing options for campaign contribution limits. Christopher Smart, "SLC Council takes up campaign finance reform," *Salt Lake Tribune*, November 10, 2015, B1.

<sup>18</sup> A 2015 poll conducted by Dan Jones and Associates found that 65% of Utahns favor removing the authority of the Legislature to redraw lines for Utah's four congressional districts and allowing an independent commission to do the job. Even a majority of Utahns (58%) who describe themselves as "somewhat conservative" preferred the independent commission. See Bryan Schott, "Most Utahns Want Redistricting Done by Independent Commission," posted on *Utah Policy.com*, July 29, 2015.

<sup>19</sup> Cf. UCA 20A-11-701 and 20A-11-702 (HB 43 (2013)), which require corporations to annually disclose political campaign and political issue contributions of \$750 or more (in each category) and list names of donors and their contributions separately, but only if the donor seeks, gives, or knows that their annual gifts of \$50 or more will be used for electioneering purposes. It is being challenged in court by nonprofit corporations who do not wish to disclose their donors. This statute does not cover 501(c)(4) groups unless they are incorporated.

An example of what is happening elsewhere is the 2013 regulation in New York state that requires nonprofit social welfare (501(c)(4)) groups to report election-related expenditures that support or oppose candidates and ballot initiatives or that refer to candidates in so-called issue ads within certain time periods before an election. When a group spends more than \$10,000 on such communications with respect to New York state or local elections, it must both itemize these expenditures and also disclose individual donors who gave \$1000 or more. If a social welfare group creates a segregated bank account and spends for New York election-related communications only from that account, it need disclose only the donors and donations to that account. In announcing the new rules, the New York Attorney General Eric Schneiderman stated: "When people spend money to try to influence our elections, the public needs to know where that money is coming from, and how it is being spent. Nonprofits should not be used to subvert that basic principle. . . . Simply put, transparency reduces the likelihood of corruption." "A.G.

---

Schneiderman Adopts New Disclosure Requirements For Nonprofits That Engage in Electioneering," accessed October 6, 2015, <http://www.ag.ny.gov/press-release/ag-schneiderman-adopts-new-disclosure-requirements-nonprofits-engage-electioneering>.

<sup>20</sup> For a summary of various options currently in use or under consideration, see Brent Ferguson, "State Options for Reform," *Brennan Center*, November 2, 2015, accessed November 8, 2015, <https://www.brennancenter.org/publication/state-options-reform>.