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# Utah Legislative Update: Session Review

## Insight — March 25, 2019

The Utah Legislature adjourned at 11 p.m. on March 14th – a full hour before their hard stop midnight deadline. The Legislature passed a record 574 bills this year, which is a bit of a surprise when several weighty issues like Medicaid Expansion, an increase in alcohol content for beer, and major tax reform took up significant time in the very short, 45-day session. Below are some highlights from the major issues that dominated the 2019 Utah Legislative Session.

### 3.2 to 4.8 to 4.0 Beer

About 61.6 % of Utahns identify as being members of The Church of Jesus Christ of Latter-Day Saints which has doctrinal tenants that forbid the drinking of alcohol by members. Legislators who subscribe to the dominant faith account for a greater percentage than the state population, at 87.5%. This religious/cultural factor means that Utah's relationship with alcohol products is unique. Alcohol laws in Utah are often stricter than in other states, and legislation that involves alcohol is often a very fraught discussion as many legislators don't have firsthand experience with the product. In the list of states by allowable alcohol content of beer sold at grocery and convenience stores, Utah resides at the bottom of the list.

With Oklahoma, Colorado, and Kansas exiting the 3.2 ABW beer market, Utah was left with fewer beer options for consumers because the diminished market demand made producing 3.2 beer uneconomic for many brewers. SB132 was introduced to raise the beer alcohol content in Utah from 3.2% ABW to 4.8% ABW; a level with the same as the ABW in Kansas, still well below 9.8% ABW average alcohol content of states with a cap for grocery and convenience store sales. The bill moved quickly through the State Senate, passing with a vote of 27-2. However, it encountered stronger opposition in the State House due to concerns raised by the LDS Church, underage drinking concerns, advocates against drunk driving, and some in the small brewer community who wanted an 8-9% alcohol level.

Ultimately, a compromise was reached to allow the beer content to rise to 4.0% ABW. The compromise included an increase of the per barrel excise tax to \$13.10/barrel to fund prevention and policing needs related to alcohol; and the creation of a workgroup to review market and social impacts of raising the alcohol content level. The portion of the bill raising the content level to 4.0 ABW will go into effect November 1, 2019, and the workgroup will report on their findings to the Legislature in October 2019 and October 2020.

## **2019 Budget and Tax Reform**

The main duty of the state legislature is to craft the state budget for the upcoming year. The state's fiscal year runs from July 1 to June 30. Lawmakers spend countless hours in appropriations meetings reviewing current budgets, listening to new budget requests, and prioritizing items for the upcoming budget.

With the legislature also digging deep into tax reform, finalizing this year's \$19 billion budget proved to be tricky. Both Governor Gary Herbert and a segment of lawmakers wanted to enact tax cuts while also creating a sales tax for services like haircuts, accountants, and lawyers. Ultimately, the clock ran out on that plan, forcing lawmakers to punt on the proposal for now, but a tax task force has been created to draft tax legislation for a special session later this year.

With tax reform in mind, the legislature finalized a budget that held back \$75 million for a potential tax cut in the future. Lawmakers also allocated more than \$300 million worth of government programs into one-time funding, as opposed to ongoing funding, to allow the budget to have flexibility in what gets funded in future budgets after tax reform is enacted.

Other key items that received funding this year include: \$29 million for air quality projects, \$1 million for the Inland Port Authority, \$1.3 million for Operation Rio Grande, and \$400 million for education-related needs.

### **Education:**

Utah students were major beneficiaries under the 2019 state budget. As the session came to an end, lawmakers budgeted a full 4% increase to the WPU – Weighted Pupil Unit, a basic funding block for students in the education system – and fully funded incoming students for the 2019-2020 school year. The WPU increase totaled \$127 million in new dollars for education this year. Overall, education received \$300 million in new dollars to spend on an ongoing basis and another \$100 million in one-time dollars.

In addition to funding schools, the legislature also approved legislation to improve school safety in the state. House Bill 120 creates a School Safety Center which will develop model policies that promote best practices to ensure student and teacher safety that all state-funded school districts and charter schools will implement and adapt to best fit their needs.

### **Medicaid Expansion:**

In November 2018, Utah voters approved Proposition 3, which expanded Medicaid under the Affordable Care Act to everyone who is at or below 138% of the federal poverty level. State lawmakers had concerns with the implications of Proposition 3, worrying the expansion would cost more than the state budget had available in years to come, despite the tax increase provided in Proposition 2.

In an effort to protect the state budget, the legislature passed Senate Bill 96. The legislation allows for government subsidized healthcare to be

given to those who are at or below 100% of the federal poverty level. Those who fall in the 101% to 138% federal poverty level are left to purchase subsidized health insurance plans on the Affordable Care Act individual marketplace, which include the usual insurance protocols like premiums, copays, deductibles, and other usual costs related to healthcare.

Senate Bill 96 will initially cost the state more money than Proposition 3. But, if the federal government issues waivers to the state to run its own scaled-down version of Medicaid expansion, it is expected that the waivers will help control costs to the state budget instead of increasing beyond what the state is collecting in revenue over time. Lawmakers have signaled that the first of the waivers needed to roll out this legislation may come as early as April.

### **Air Quality:**

Governor Herbert used his budget to issue a big challenge to the Legislature: he proposed that the state spend \$100 million to improve air quality. Many air quality improvements have been made over the last few decades, but winter inversions and summer ozone issues continue to generate a handful of days each year when Utah exceeds federal air standards. While \$100 million may have seemed an unrealistic goal, the challenge did lead the Legislature to dedicate \$28 million to air quality programs. The biggest recipient of funding was electric vehicle charging infrastructure at business, government, and state agency locations which received \$7 million. Another key funded item was \$4 million to replace wood-burning stoves/fireplaces for homes (where that is the sole heat source) with natural gas appliances.

### **Voter Initiatives:**

The 2018 election featured three initiatives on the ballot that were all approved by voters. Two of the ballot initiatives, Prop. 2 on Medical Cannabis and Prop. 3 on Medicaid Expansion, were immediately modified by the legislature before they could go into effect. Prop. 4, which doesn't impact the state until after the 2020 Census, is still not safe from legislative tinkering. The success of the 2018 initiatives at the ballot box inspired legislators to add some additional hurdles to the ballot initiative process and to delay the implementation of any new laws they might enact. The following three bills were passed this year impacting various aspects of the initiative process. The Legislature passed HB133 which delays the effective date of any future ballot initiatives until after the annual legislative session so legislators can modify initiatives without having to go into a Special Session. HB195 would increase the number of signatures an initiative would have to gather in order to appear on the ballot; and shortens up the time window to gather signatures. Finally, HB145 requires county clerks to post online the list of people who sign ballot petitions in an ongoing tally and imposes a rolling deadline for individuals who wish to remove their signatures.

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