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## 2016 Utah Legislative Session - February 3

### Insight — February 3, 2016

Dear Colleagues-

As I contemplated what to say in my weekly “Dispatch from the Hill” at the close of Week 1, I decided my dominant impression of the week is that the pace of this year’s session is already faster than any Week 1 I have experienced. The total number of bill requests (already over 1,200) has exceeded last year’s total requests, and there is still time for legislators to squeeze in a few more requests before the deadline! Since the length of the session doesn’t ever change, it just means the work must progress faster.

More bills have been numbered and made public this week. Please review this list of bills that I have put together that might be of interest for various firm clients. If there are any bills that you believe clients ought to be actively monitoring, please feel free to pass on the list, or make them aware of our government affairs practice.

Our government affairs practice has already been very busy this week. Here are a few highlights on bills our team acted on this week:

#### HB 23 Privilege Tax Amendments, Rep. Stanard

A privilege tax is paid in place of property tax when a for-profit entity is leasing property from a government landlord. There is an exclusive-use test that determines whether an entity must pay this tax. This bill changes the exclusive-use test, possibly requiring more entities to pay a privilege tax. This is a tax that is not well known or widely used; however, Mark Buchi is an expert on this issue and has been engaged with the sponsor and the Utah State Tax Commission to ensure previous taxpayer wins at the Utah Supreme Court are understood and honored by the Legislature.

#### SB 49 Statute of Limitations on Environmental Code Violations, Sen. Escamilla

#### SB 66 Environmental Code Fines, Sen. Escamilla ([link bill](#))

These are companion bills that Sen. Escamilla has previously proposed in one bill rather than two. The first bill attempted to increase the statute of limitations for environmental code violations from one year to five years. The second bill attempts to increase environmental code fines from \$10,000 per day to \$26,000 per day for civil penalties and from \$25,000 per day to \$65,000 per day for criminal penalties. Amanda Smith and I have been engaged on this bill on behalf of EENR firm clients. We were able to amend SB49 in committee from an increase of five years to only two years, which keeps Utah in line with Idaho and Nevada. SB66 was held by the committee and prevented from advancing to the Senate floor. We will be actively watching the bills to ensure SB49 isn’t amended and

that SB66 continues to be held by the committee.

SB 17 Revenue and Taxation Amendments, Sen. Van Tassell

This is a bill we have been actively engaged in supporting for our oil and gas clients since early last fall. In January 2015, Steve Young won a significant Utah Supreme Court victory for a client that involved the method of calculating processing and transportation cost deductions before applying the severance tax rate. After the court victory, an attempt was made by the auditing division of the Utah State Tax Commission to undermine the win and issue tax deficiencies to oil and gas companies. Steve proposed a legislative fix to codify the court win and ensure a clear understanding by the taxpayer and Tax Commission on the rules of the game. Steve Young, Amanda Smith, and I have been actively guiding this bill first through the interim committee bill process and now through the legislative process. We have had to deal with some interesting and unprecedented fiscal note procedures that nearly derailed our bill this week, but we were able to get everything back on track, and on Thursday afternoon the bill advanced unanimously through the Senate Revenue & Taxation Committee.

Week 2 is sure to bring more interesting issues and legislative battles to fight. Please let me know if there are issues on which we can provide expertise or assistance to firm clients.

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