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2017 Utah Legislative Session - Week 5

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With only one week left to go in the Utah Legislative session, the pace is fast and furious on Capitol Hill. All bills must clear the originating chamber by the end of floor time on Monday, March 6th or they will die and fail to advance this session. This deadline provides great inspiration to work quickly and for parties to find compromise as the prospect of having to wait until next year to advance an issue looms large! Below are a few of the issues I'm watching during the penultimate week of the session.

HB153 Uninsured and Underinsured Motorist Coverage Amendments (Rep. Mike Kennedy).

The sponsor of this bill is seeking to address a gap he believes exists in commercial automobile insurance coverage. Under current law, owners of commercial vehicle fleets have the option to accept or reject uninsured and underinsured motorist coverage (UM/UIM) on their insurance policies. This is the portion of auto insurance coverage that kicks in when the driver of the insured vehicle is not at fault in an accident, but the driver who is at fault has no insurance or very low coverage limits.

If an off-duty employee is not at fault in an accident while driving a company car with another vehicle that doesn't have insurance or has low insurance limits, the accident won't be covered by workers' compensation coverage. If UM/UIM coverage was rejected by the employer it effectively leaves the vehicle, and any injured passengers, without insurance coverage. The bill proposed requires that all commercial auto policies in Utah contain UM/UIM coverage. Amendments have carved out sole proprietorships, self-insured companies, and local governments from the bill's requirements. The bill faces opposition from the insurance industry and business community who contend the proposal effectively removes choices in the marketplace and puts a higher burden on small businesses that might be rejecting UM/UIM coverage currently for cost reasons.

SB110 Sales Tax Collection Amendments (Sen. Curt Bramble).

Revenue estimates for sales tax had been fairly flat this session, but a new 2017 agreement with Amazon to collect and remit sales tax on a portion of its Utah sales that they warehouse and ship (estimated to be 40% of Amazon's total Utah sales) boosted sales tax revenue projections by \$13 million. Traditional sales tax collection systems are falling behind the shift in retail purchases to online markets. Black Friday 2016 marked the first time that the National Retail Federation reported that more people shopped the holiday sales online than at brick and mortar stores. With Congress' continued failure to facilitate sales tax collections for online purchases, many states are taking matters into their own hands. Utah's bill redefines "nexus" as a certain level of economic activity conducted in the

state by a retailer (\$100,000 of Utah economic activity). Once that threshold is reached, an online retailer would be required to collect and remit sales tax. This bill follows the model of South Dakota and Alabama, which have enacted similar laws. Several other states have also proposed bills in their 2017 legislative sessions to deal with online sales tax collection, including: Georgia, Idaho, Maryland, Mississippi, New Mexico, North Carolina, North Dakota, South Carolina, Virginia, and Wyoming.

HB272 Regulatory Impact Amendments (Rep. Brad Wilson).

In Utah, every bill is required to have a fiscal note, an independent, non-partisan analysis of the implementation costs to the state, local governments, and businesses/individuals. In addition, legislative rule prohibits any bill with a negative fiscal note greater than \$10,000 from advancing through both chambers until the Executive Appropriations Committee has funded the note.

Rules promulgated by agencies can have significant impacts on local jurisdictions, businesses, and individuals, but new or amended rules do not undergo any fiscal review. Rulemaking typically takes place in venues that aren't quite as transparent to the public as the Legislature, so those financially affected by the rule might not be aware of the potential cost until it is too late. This bill creates a process for agency rulemaking similar to the legislative fiscal note.

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