



Kate Bradshaw

Director of Government Affairs
 801.799.5711
 Salt Lake City
kabradshaw@hollandhart.com

Utah Legislative Update: February 2020

Insight — February 18, 2020

As we reach the midpoint of the 2020 Utah Legislative Session, the state budget has emerged as this year's theme. In early December 2019, the Legislature met in a Special Session to pass comprehensive tax reform that included several income tax cut measures, an expansion of sales tax to a few services, and restoration of the full state sales tax rate on food. The resulting tax reform bill ended a nearly year-long tax reform effort. However, a ragtag group filed a citizen referendum shortly after the bill was passed to ensure the tax bill appears on the November 2020 ballot. Despite the holiday season, the group managed to meet the signature threshold by using the return of sales tax on food as the rallying cry. Faced with the inability to craft a 2020 state budget while the awaiting a final voter decision in November 2020, legislative leadership made the decision to open the 2020 General Session with a repeal of the Special Session tax bill to return the state budget to the status quo. The repeal bill (HB185) was passed on the second day of the session and signed by the Governor on the third day.

The failure of tax reform efforts means Utah's budget in the 2020 session will again feature significant revenue growth in the Education Fund (state income tax) while the General Fund (sales tax) revenue growth remains modest. There is nearly \$726 million in revenue growth in the Education Fund, which is constitutionally earmarked for Public and Higher Education. The General Fund has only \$128 million in revenue growth, yet is tasked with funding transportation, Medicaid, criminal justice, state parks, environmental quality, and economic development. The imbalance between the two funds means that while teachers will likely see raises, Highway Patrol Troopers and state employees will likely see only modest cost of living increases in a booming economy with 2.5% unemployment. The imbalance between the two budget funds also has led creative legislators and lobbyists to convert any spending bills or tax incentives to income tax credits rather than sales tax exemptions.

Many components of the comprehensive tax bill have been introduced as individual components bills, such as an exemption on social security income and an income tax cut for low income families. Governor Gary Herbert is retiring at the end of his term and has indicated that he views the next try at tax reform as a job for the winner of the 2020 Gubernatorial race. The sentiments of State Senate Leadership seem to signal agreement with the Governor that no tax reform efforts will be undertaken in the 2020 session. However, State House Leadership has cautioned that the structural imbalance between the Education and General Funds is likely to grow and waiting for a solution that rebalances revenue should not

be delayed until the 2021 session.

Final revenue estimates to be released at the end of February may be the deciding factor on whether the sales tax growth in the wake of the 2018 Main Street Fairness and Marketplace Facilitator reforms can provide enough growth in the General Fund to prop up the bulk of state spending without other tax interventions. Either way, the rain cloud of tax reform and budget hangs over the 2020 session, dampening its mood and pace.

This publication is designed to provide general information on pertinent legal topics. The statements made are provided for educational purposes only. They do not constitute legal or financial advice nor do they necessarily reflect the views of Holland & Hart LLP or any of its attorneys other than the author(s). This publication is not intended to create an attorney-client relationship between you and Holland & Hart LLP. Substantive changes in the law subsequent to the date of this publication might affect the analysis or commentary. Similarly, the analysis may differ depending on the jurisdiction or circumstances. If you have specific questions as to the application of the law to your activities, you should seek the advice of your legal counsel.