

This Week **in Topeka**

Overland Park Chamber

*Business, Economic Development & Local Government News
from the Legislative Session Week of January 9-13, 2017*

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The 2017 Legislative Session opened on January 9 with new faces and new leadership, ready to tackle what is certain to be a difficult and, most likely, long session. After the 2016 elections, Republicans maintained significant majorities in both chambers with margins of 31-9 in the Senate and 85-40 in the House; however, ideologically, there is a noticeable shift toward the center within the Republican caucus. Additionally, the Democrats picked up a number of seats, particularly in the House, so overall the Legislature is not being seen as much in line with the Governor as it was in past several years. Leadership in both chambers has indicated a willingness to have a more open and inclusive process and the session begins with some sense of optimism on that front.

Equally important is the change in the legislative leadership, and Johnson County is well represented. The Senate retained Susan Wagle (R-Wichita) as its President, while the other key majority positions of Senate Vice President and Senate Majority Leader turned over as Jeff Longbine (R-Emporia) and Jim Denning (R-Overland Park), respectively, were elected. Sen. Anthony Hensley (D-Topeka) was re-elected as the Senate Minority Leader.

On the House side, Ron Ryckman, Jr. (R-Olathe) is the new Speaker, being chosen to succeed Ray Merrick who retired. Also elected to leadership positions were Scott Schwab (R-Olathe), Speaker Pro Tem; and Don Hineman (R-Lakin), Majority Leader. In a bit of a surprise, House Democrats elected Jim Ward (D-Wichita) as Minority Leader.

Legislators returned to the Capitol faced with a revenue shortfall of approximately \$350 million in the current FY 2017 budget that ends June 30 while preparing budgets for FY 2018 and 2019, with revenue deficits in those fiscal years currently estimated at \$582 million and \$172 million, respectively. Many predict the legislature will get its work done in less than 90 days. The Governor gave his annual State of the State address last Tuesday, January 12; his budget message for the current and next fiscal years was delivered to the legislature the next

day, January 13; representatives of Alvarez & Marsal (A & M) provided a review of its interim efficiency report and recommendations to the Senate Ways & Means and House Appropriations committees; and legislative committees began their work with briefings and discussions on other issues to be addressed this session.

State of the State Address. Governor Brownback gave the annual State of the State address on Tuesday evening and, at least most conceded, it received a lukewarm reception. For those looking for direction insofar as a long term budget/revenue solution, it really was not there. Included in the Governor's address were statements that:

- He wants the legislature to send him a bill fixing the \$350 million FY2017 budget shortfall by the end of January;
- The legislature needs to develop a new K-12 school finance plan that will replace the block grants set to expire at the end of June, hopefully a plan that will include merit pay for teachers;
- He still supports 2012 tax cuts, including the now so-called "LLC loophole" that exempted 330,000 business owners and farmers from paying state income taxes to the tune of approximately \$250 million per year; and
- It was fortunate that Kansas has not succumbed to the lure of Medicaid expansion.

Budget. The Governor's much anticipated budget report for the current fiscal year, FY 2017, as well as FY2018 and FY2019 in anticipation of the legislature's work on a new two-year budget was presented to the Senate Ways & Means Committee and a joint meeting of the House Appropriations and House Taxation committees by Budget Director Shawn Sullivan last Wednesday. It appears that for the most part the Governor's proposal depends on temporary one-time sources of funds that do not really end up with structurally balanced and sound budgets; it seems to have little support among legislators. The real level of support in the legislature will begin to emerge next week when a rescission bill begins to be discussed in the Senate Ways and Means Committee.

To address the immediate shortfall, estimated at almost \$350 million, the Governor would (1) sell the State Treasurer's Unclaimed Property Fund with the proceeds going to the Pooled Money Investment Board who would then transfer \$317 million to the state general fund, making up most of the deficit (with an agreement to repay the PMIB over seven years), (2) push the June 30 school funding payment of approximately \$86 million to FY2018 (presumably on July 1), and (3) do some other internal shuffling (mostly borrowing of idle funds), resulting in an ending balance of about \$99 million to begin FY2018.

Highlights of the Governor's budget report include:

- Securitizing the state's tobacco settlement payments, resulting in giving up the thirty years of \$55-60 million annual payments in return for a lump sum of somewhere between \$530 and \$775 million to be received over the next two years (with the children's programs currently funded by those annual payments being supported by the state general fund);
- Restoring the state income tax on passive income (largely rents and royalties) projected to raise about \$40 million annually, but leaving the LLC loophole in place;
- Freezing the bottom personal state income tax rate at 2.7% for taxpayers making less than \$30,000 per year (otherwise set to be reduced to 2.6%), saving an estimated \$5 million in FY2018 and \$16 million in FY2019;
- Increasing the annual filing fee payable by for-profit entities from \$40 to \$200, raising about \$33 each year;
- Increasing cigarette taxes by \$1.00 per pack, resulting in an increase in revenue of approximately \$41 million in FY2018 and \$46 million in FY2019, and increasing the other tobacco products tax from 10% to 20%, raising \$6-8 million per year;
- Doubling the liquor enforcement tax, going from 8% to 16% bringing in an additional \$50 million or so each year (assuming that folks don't decide to simply go across the state line to buy liquor);
- Continuing to take from KDOT's highway fund's sales tax revenue to the tune of \$288 million in FY2018 and \$293 million the following year;
- Adopting the Alvarez & Marsal Efficiency Study recommendation to consolidate all of the school districts health insurance plans to save additional funds;
- Including funding for the start up of new medical and dentistry residency programs and development of a school of dentistry at the University of Kansas Medical Center;
- Restoring the 4% cut in healthcare provider reimbursements by increasing the privilege fee from 3.31% to 5.77% and the hospital provider assessment from 1.83% to 4.65% as of January 1, 2018; and
- Freezing the state's contributions to KPERS at their current levels, delaying the projected pay-off of the unfunded liability (the funded level currently sits at 67%) to FY2034.

Taxation. HB2023 was introduced to simply repeal the so-called LLC loophole and is scheduled to have a hearing in House Taxation Committee. As you recall, the loophole was part of the massive 2012 tax cut package and exempts about 330,000 limited liability companies, partnerships and sole proprietorships from paying state income tax on their

earnings, costing Kansas approximately \$250 million annually. The repeal of this provision has gained favor as a necessary piece to solving the state's revenue shortfalls. It will be interesting to see how what is billed as a standalone tax increase will fare with most legislators wanting to keep their votes on any tax increases to a minimum, preferably just one on a comprehensive package. Driving the urgency is the fact that, if enacted, HB2023 would take effect retroactively as of January 1, 2017 so that the state could realize the revenue increase more quickly.

Other items of interest:

Congressional Vacancies. The House passed HB2017 that updates Kansas law dictating how Congressional vacancies are to be filled, prompted by the nomination of Congressman Mike Pompeo to be the Director of the CIA. Among the bill's provisions are:

- Reducing the number of signatures needed on a petition to place an independent candidate on the ballot from 17,000 to 3,000, and
- Extending the time period for the selection process from 60 to 90 days.

Property Tax Lid. A bill was introduced in the House Taxation Committee to repeal the 2015 property tax lid. The legislation imposing the lid was amended during the 2016 session and most expected there to be additional amendments proposed (and, hopefully, implemented) this session, adding exemptions to the statute, so the idea of a complete repeal is somewhat of a surprise (and probably a real long shot).

K-12 School Funding. A new committee, K-12 Education Budget Committee, has been created by Speaker Ryckman to facilitate the work on a new school funding formula and is being chaired by Rep. Larry Campbell. The Committee has been receiving briefings and other updates in preparation for the heavy lifting that will be required to create a new formula. And, on a related note, still no decision from the Kansas Supreme Court on the adequacy portion of *Gannon*.

Upcoming Events. The **Johnson County Public Policy Council's legislative breakfast series** resumes this year, with the first breakfast, 7:30-9:00 a.m. this Saturday, **January 21** at the DoubleTree by Hilton. Guest legislators on the panel are the Speaker of the House Ron Ryckman, Jr.; Sen. John Skubal; and Representatives Shelee Brim, Stephanie Clayton and Melissa Rooker. Other breakfasts will be **February 18** and **March 25**.

To register for this breakfast or the 2017 series of three breakfasts, [click here](#).