

# **This Week** **in Topeka**

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**Overland Park Chamber**

*Business, Economic Development & Local Government News  
from the Legislative Session Week of January 15-19, 2018*

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**The second week** of the 2018 session began with a day off to observe Martin Luther King Day, with members returning to work on Tuesday. Informational briefings by agency heads and legislative staff continued to take up much of the committee time, although there were a number of bill introductions and a few bill hearings. The Senate took time to confirm several of Governor Brownback's appointments and reappointments; otherwise, most of the work consisted of behind the scenes discussions and conversations about many of the issues to be addressed over the next several weeks.

**Transportation, Highways and Infrastructure.** The House and Senate transportation committees both received briefings from Richard Carlson, Secretary of the Kansas Department of Transportation (KDOT), and Steve Hewitt, CEO of the Kansas Authority. The most interesting information concerned the annual revenue stream to KDOT. While KDOT receives about \$900 million yearly, approximately \$525 million of that comes from sales tax collections and is swept into the state general fund. Secretary Carlson told the committees that by 2021, Kansas may begin losing available federal funds because the state will not be able to fulfill the matching funds requirements.

With T-WORKS, the state's current ten-year highway program, set to expire in 2020, Sen. John Skubal introduced SB285 in the Senate Ways and Means Committee that would establish a joint legislative task force to begin work toward creating a successor long range highway/transportation program for Kansas. The task force would consist of the following 24 members:

- Two members of the House to be appointed by the Speaker of the House (at least one must also be a member of the House Appropriations Committee), one of whom shall be designated as co-chair of the task force;
- One member of the House to be appointed by the House Minority Leader;
- Two members of the Senate to be appointed by the Senate President (at least one must

also be a member of the Senate Ways and Means Committee), one of whom shall be designated as co-chair of the task force;

- One member of the Senate to be appointed by the Senate Minority Leader;
- Two county commissioners to be appointed by the Kansas Association of Counties;
- Two city representatives to be appointed by the Kansas League of Municipalities;
- One member to be appointed by Economic Lifelines;
- One member to be appointed by the Kansas Contractors Association;
- One member to be appointed by the Heavy Constructors Association;
- One member to be appointed by the Kansas Aggregate Producers Association-Kansas Ready-Mix Association;
- One member to be appointed by the Greater Kansas City Building and Construction Trades Council;
- One member to be appointed by the AFL-CIO;
- One member to be appointed by the American Council of Engineering Companies-Kansas;
- One member to be appointed by the Kansas Public Transit Authority;
- One member from a Class I railroad company to be appointed by Economic Lifelines;
- One member from a short line railroad company to be appointed by Economic Lifelines;
- One member to be appointed by the Kansas Motor Carriers Association; and
- Three members at large, one each to be appointed by the Speaker of the House, the Senate President and the Governor.

There also shall be three *ex officio*, non-voting members, one each to be appointed by the Secretary of Transportation, Secretary of Commerce and Secretary of Agriculture.

The charge to the task force shall include:

1. Evaluating the progress of the 2010 Kansas transportation program;
2. Evaluating the current condition of the state transportation system, including roads and bridges;
3. Evaluating the current uses of the state highway fund revenue;
4. Evaluating the sufficiency of current transportation funding in Kansas to maintain the current transportation system and the future transportation needs;
5. Identifying additional needed transportation projects and system needs, especially those with a direct economic effect on the state;
6. Making recommendations on the future structure of the state highway fund as it relates to maintaining the state infrastructure system; and
7. Submitting reports to the legislature by January 31, 2019, regarding the task force's work and recommendations.

**Tax Credits and Exemptions.** The House Tax Committee reviewed an October 2017 Legislative Post Audit report on “How Other States Inventory and Evaluate Tax Credits and Exemptions.” The overview disclosed that during each of the tax years studied (2012-2016), tax credits and exemptions resulted in approximately \$6 billion foregone revenue for the state. However, two things are important to realize before attributing this foregone revenue to economic development tax incentive programs. One, most of the foregone revenue is a result of credits and exemptions at the federal level, contained in the state constitution, or to avoid double taxation. And, two, while a material number of tax credits and exemptions are actually incentives intended to motivate taxpayer behavior and achieve policy goals (including the promotion of economic development), this study did not include the analysis of what benefits the state and local communities derived from the economic development projects facilitated and often made possible by incentives granted.

There were important conclusions from this report. Among them are:

- That while Kansas does maintain a comprehensive inventory of its tax credits and exemptions, it does not follow accepted best practices for evaluating and assessing the true economic impact of those incentives; and
- Kansas does not have a formal process in place to ensure that legislators appropriately consider the results of tax incentives, while many surrounding states do have such a process in place.

The information from this study will be important to consider during the session as the legislature evaluates the economic development incentive programs currently offered by the state, such as STAR bonds, PEAK, and HPIP, with a goal of improving those programs by taking a critical look at the requirements for the underlying incentives and implementing a more formal oversight and evaluation process without taking away or overly limiting these important tools in the competitive world of economic development.

**K-12 School Finance.** Briefings on the work of the 2017 Special Committee on a Comprehensive Response to the School Finance Decision (the “Special Committee”) were given by staff to several key committees including the House Appropriations Committee. The Committee was told it would take an 18% across the board cut in the FY2019 state budget to find the additional \$600 million being mentioned (including by the Governor in his State of the State Address) as the target for additional funding needed to satisfy the Supreme Court’s adequacy test in *Gannon*. The mention of that method for “solving” the constitutional funding issue is more for effect and context than as a realistic proposal; there is no way that state agencies, programs and services could withstand an 18% across the board cut in their

funding, but it does give one a sense of the magnitude of the school finance issue and the need for realistic and creative thinking to solve it.

Another interesting, or maybe just complicating, issue with respect to K-12 funding is that of timing. Under the Supreme Court's decision, the legislature has until April 30 of this year to provide a solution that meets both the adequacy and equity requirements as seen by the Court. While the equity requirements are pretty straight forward, the Special Committee was told by a representative of the State Attorney General's office that they wanted new legislation to be in place (passed by the legislature and signed by the Governor) by about March 1 to allow sufficient time for the state to prepare its briefs for the Court. It now appears the consultants retained by the legislature to analyze and report on past funding studies and school finance legislation as well as the costs and methods of providing a solution that is constitutionally adequate will not be completed until mid-March. Not sure how this is all going to work out, so stay tuned.

### **Upcoming Events.**

The second breakfast in the **Johnson County Public Policy Council's legislative breakfast series** is set for **February 17** from 7:30-9:00 a.m. at the DoubleTree by Hilton. Guest legislators scheduled for the panel that morning are Senator Pat Pettey and Representatives Linda Gallagher, Patty Markley, John Resman, and Jerry Stogsdill. Other breakfasts will be **March 24** and **May 19**. To register for this or any of the other breakfasts, [click here](#).