

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

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**Overland Park Chamber**

*Business, Economic Development & Local Government News  
from the Legislative Session Week of March 5-9, 2018*

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The second half of the 2018 session began and the activity seems to be picking up. There are really only two full weeks left for committee meetings as both chambers are scheduled to be on the floor all day beginning on Monday, March 26, leading up to taking the day off on Good Friday. The week following Easter is blocked off for meetings of conference committees and more floor action, with First Adjournment on April 6.

Here is a brief recap of what happened this past week at the Capitol.

**School Finance.** The **House K-12 Education Budget Committee** worked on its recommendation to the House Appropriations Committee for adjustments to the FY18 and FY19 budgets for the Department of Education (i.e., K-12 school finance). The Committee voted to tweak the FY18 budget by approximately \$100,000, and it decided to lapse (or eliminate) the entire FY19 budget request. The FY19 recommendation is largely in response to the Supreme Court's April 30 deadline in its most recent ruling in *Gannon* that the amount of K-12 funding was constitutionally inadequate, and the resulting need to speed up the process. Their plan is to develop a separate K-12 budget bill for FY19 and move it through the legislature before First Adjournment on April 6 to facilitate the state's timely response to the Supreme Court.

Also taking place last week was a conference call in the **Senate Education Committee** with Dr. Jesse Levin of the American Institute for Research, who was commissioned by the legislature to conduct a peer review of the Augenblick & Myers (A&M) school finance study done in 2002 and the Legislative Post Audit study done in 2006. In discussing his review, Dr. Levin generally discounted both studies because of their age and specifically mentioned the "successful schools" funding model used in the A&M as not being a credible method, further minimizing the value of the study.

The legislature also is waiting for the study being done by Dr. Lori Taylor from Texas A&M University that will provide a suggested foundation for determination of what would constitute an appropriate level of K-12 school funding in Kansas. An overview of that study will be presented to a joint meeting of the **Senate Select Committee on Education Finance** and the **House K-12 Education Budget Committee** on Friday, March 16<sup>th</sup> by Jeff King and Curt Tideman, the attorneys hired by the Senate and House, respectively, to advise them on K-12 finance and *Gannon*. That overview will be followed on Monday, March 19<sup>th</sup> by Dr. Taylor's presentation in person of her study.

In an interesting, and at least indirectly related development, the Students' Advisory Committee, comprising the respective student body presidents of the Regents universities, filed a motion with the Kansas Supreme Court requesting permission to file an *amicus* brief in the *Gannon* school finance lawsuit. The students want the Court to make a ruling on whether Article 6 of the Kansas Constitution (requiring that "the legislature make suitable provision for finance of the educational interests of the state") is not limited to K-12 schools but should apply to all Kansas public education, including the Regents universities. Just a wild guess, but it seems unlikely the Court will want to expand the reaches of *Gannon* at this point in the process by adding the Regents universities to the mix.

**Economic Development.** The House passed **Sub for HB2572** on a vote of 114-7 and sent it on to the Senate. The bill requires the **Department of Commerce** to disclose information on economic development incentive programs on a searchable database to be established and maintained by the Department and available to the public.

The **Senate Commerce Committee** spent much of the week conducting hearings on two bills dealing with STAR bonds, **SB432** and **SB434**.

**SB432** deals in large part with clarifying the data required to be submitted with an application for approval of a STAR bond district and making that information available to the public. It also would establish a new three-member commission for conducting the initial review of applications, having the power to reject an application, while its approval would only be preliminary, requiring the application to also obtain the approval of the **Secretary of Commerce**.

**SB434** would limit the focus of STAR bond financing to tourist attractions only and defines who would be deemed a "tourist" for purposes of such attractions. It also materially would limit the type of retail businesses included in the district, prohibiting competition with similar businesses already operating within a 25-mile radius of the district.

The Chamber, along with many other chambers and business organizations, opposed both bills, generally not opposing the requirements for more and better information to be

submitted with a STAR bond application, clarifying what data must be provided by the developer relating to the operating performance of the district or making that information available to the public. The Chamber and others based opposition on the belief that several of the proposed changes contained within these bills were either unnecessary (e.g., adding the additional level of bureaucracy of the proposed new commission) or excessive and over-restrictive in nature (e.g., the 25-mile radius restriction). Sen. Julia Lynn (R-Olathe), Chair of the Senate Commerce Committee, has indicated a willingness to consider suggested revisions to the bills to improve the bills and strengthen the STAR bond program.

**Internet Sales Tax.** The **House Tax Committee** sent **HB2576** to the full House where it remains on General Orders (coming from the Tax Committee, this bill is exempt and remains alive and subject to consideration by the House). This bill would eliminate the current requirement that an out-of-state retail operator must have a “physical presence” within a state to be required by that state to collect and remit sales tax on the goods it sells in that state. Generally, retailers with at least \$50,000 in gross annual sales in Kansas and 100 or more Kansas transactions and who have online nexus in Kansas would be required to collect and remit sales tax.

The underlying key to this bill is the outcome of the pending *South Dakota v. Wayfair*, to be heard by the United States Supreme Court in April of this year. If Kansas enacts **HB2576** and the Court finds in favor of South Dakota (and most experts believe it will), thus eliminating the “physical presence” requirement that is current law, the new Kansas law will take effect on July 1, 2018. The **Department of Revenue** estimates that this change could mean almost \$100 million in additional revenue to Kansas.

**Guns.** Two bills regarding guns continued to move through the legislature, although in somewhat of an altered form. As introduced and passed by the full House 122-0, **HB2145** prohibits the possession of a gun by a person (a) convicted of domestic abuse within the past five years; (b) subject to a restraining order pertaining to an intimate partner, child, or child of an intimate partner; (c) who is a fugitive from justice; or (d) who is an illegal alien. There were a couple of generally clarifying amendments added to the bill in the **Senate Federal and State Affairs Committee**, and it is now on General Orders in the Senate.

**HB2042**, which was passed by the House on a vote of 76-44, requires Kansas to recognize concealed carry permits issued by other states, thus permitting a holder of such a license to carry only concealed handguns in Kansas, provided such holder complied with Kansas law. As passed by the House, the bill also would have lowered the Kansas minimum age for obtaining a concealed carry permit from 21 to 18, and it would have allowed postsecondary institutions to prohibit the carrying of a concealed handgun on campus without having a

permit; both of those provisions were stripped from the bill by the **Senate Federal and State Affairs Committee** before referring it on to the full Senate.

**Constitutional Convention.** The Senate rejected, on a 22-16 vote (a 2/3 majority of 27 votes was required), **SCR1611** that called for Kansas to be included in an application to Congress to call a convention of states for the purpose of proposing amendments to the U.S. Constitution that would impose limits on the federal government. The resolution was viewed as being full of potential problems, not the least of which was the concern that such a convention could lack control and restraint, ending up with proposed amendments that far exceeded the original intent of the application. Other concerns voiced by the Senate included lack of guidelines for establishing a Kansas delegation and the rules under which both the convention and our delegation would operate.

**Taxation.** The **House Tax Committee** held a hearing on **HB2740** which would raise the 20-mill statewide property tax dedicated to K-12 funding in each of the next three years as follows: 26.76 mills for school year 2018-19, 32.83 mills for school year 2019-20, and 38.43 mills for school year 2020-21 and beyond. The proposed increase would raise approximately \$200 million in additional revenue each year, culminating in about \$600 million of new money for K-12 in three years. When introducing the bill, Chairman Steven Johnson (R-Assaria) indicated it was his attempt to get the needed discussion on increased school funding started; he had little expectation that this bill would have much support. He was right – the bill had a long line of opponents and no proponents in Committee.

The Committee will be holding hearings on multiple tax bills this week (most introduced by Rep. Tim Hodge [D-Newton]), including, but not limited to, proposals to create a new 10% income tax bracket for incomes over \$500,000/\$1,000,000; doubling the sales tax rate on certain motor vehicles with a selling price over \$100,000; increasing the property tax payable on motor vehicles valued over \$100,000; creating a two-bracket normal corporate income tax of 4% for income up to 10% for income over \$1 million; doubling the Kansas standard deduction to \$6,000/\$15,000; creating an additional \$200 child tax credit; creating an income tax credit for gym memberships, for salary increases given to Kansas employees, and for certain household and dependent care expenses.

While there may be some support for these individual bills, it most likely will be isolated, with opposition being far stronger. Lending support to individual bills that result either in increased taxes or tax cuts for targeted segments is, in the Chamber's opinion, premature at this point. It is more prudent to wait for a more comprehensive approach to revenue and budget, and this is the likely course that Chairman Johnson intends to pursue.

**Upcoming Events.** The next meeting of the **Public Policy and Advocacy Committee** will be noon-1:30 p.m. on **Friday, April 13** at the Chamber. **Registration information** for the meeting can be found at [www.opchamber.org](http://www.opchamber.org).

The third breakfast in the **Johnson County Public Policy Council's legislative breakfast series** is 7:30-9:00 a.m. **March 24** at the DoubleTree by Hilton. Guest legislators scheduled are **Senator Julia Lynn** and **Representatives Cindy Holscher, Jan Kessinger, Cindy Neighbor, Jarrod Ousley and Sean Tarwater**. The fourth and final breakfast will be **May 19**. To register for either or both breakfasts, [click here](#).