

This Week **in Topeka**

Overland Park Chamber

*Business, Economic Development & Local Government News
from the Legislative Session Week of February 8-12, 2016*

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Important issues started to move last week; most notably, both the House and Senate passed their respective versions of the necessary budget adjustments for FY2016 and FY2017. The Kansas Supreme Court also released its opinion on the “equity” part of the *Gannon* school finance law suit. The talk of moving the Turnaround date up a few days from February 26th possibly to February 23rd continues; however, the *Gannon* decision creates a new wrinkle in that plan as well as others for the remainder of the 2016 session.

Budget. As mentioned, both chambers passed their budget bills which will end up being further negotiated in a conference committee to resolve the differences in the two versions. On Wednesday, the House debated **H Sub for SB161** and, on Thursday morning, passed it on a vote of 68-56 and sent it to the Senate where the vote was to non-concur and appoint a conference committee.

The Senate debated its budget bill, **S Sub for HB2365**, on Thursday evening before voting 24-15 to pass it and send it to the House. The House was without a quorum on Friday morning, so it did not vote on the Senate version of the bill, that vote is currently set to take place when the House reconvenes on Monday and will certainly be to non-concur.

Based on comments made on the floor during debate and various explanations of vote by both Senators and Representatives who voted against their budget bills, the primary objection was the idea that sweeps of agency funds and other one-time fund sources were again being used to balance the budget, the belief being that is not a financially sound approach.

Both bills contain “all funds” spending of approximately \$15.5 billion in FY2016 and \$16.1 billion in FY2017. Neither bill addresses the *Gannon* decision. In fact, motions were made during floor debate to re-refer their respective bills to committee in order to consider

education funding; however, both were unsuccessful. It has been estimated that something on the order of \$54 – \$70 million dollars of additional funding in the current fiscal year is needed to satisfy the constitutional equity requirements pertaining to local option budgets and capital outlay expenditures. Both chambers would (i) allow an additional \$3 million to be spent at the Osawatomie and Larned State Hospitals, (ii) provide an additional \$2.4 million for a 2.5% pay raise for uniformed officers in the Department of Corrections, (iii) sweep an additional \$25 million from KDOT's highway fund in FY2017, and (iv) reject the Governor's proposal to take the \$50 million currently in the Children's Initiative Fund (tobacco settlement money generally used for children's programs as recommended by the Children's Cabinet) and move it to the State General Fund (SGF) (but with a "promise" that those funds would continue to be used for those children's programs as before.

Highlights of the House bill and debate include:

- A floor amendment that would allow the Governor to delay all or a portion of the final state KPERS contribution for the current fiscal year (\$100 million) if, as expected, the state's ending balance is less than \$0, with the requirement that the delayed contribution be repaid by the end of the first quarter of FY2017 (i.e., September 30, 2016) together with interest at the rate of 8%. Recognizing the fact that such a plan would only occur in the event that the state was out of money, and the revenue projections are not particularly optimistic, the question being asked is where will the funds needed to make the delayed contribution and interest come from.
- A provision in response to the University of Kansas' use of a public-private financing plan, including the issuance of \$327 million in bonds through a Wisconsin agency, to fund its Central District redevelopment project that would prohibit KU from using any tuition or state funds to make payments related to the bonds without prior legislative approval. Legislators believe that KU's financing plan circumvented the appropriate review and approval by the legislature.
- An amendment that would expand Medicaid in Kansas was proposed but was challenged on a procedural basis that it violated the "pay-go" requirement that an amendment that included the expenditure of funds must include a corresponding source for those funds. The House Rules Committee ruled in favor of the challenge; a subsequent motion to overturn the Committee's decision failed 37-85. Most deem that vote to be an indication of the extent of the support in the House for Medicaid expansion, with at least most of the 37 members voting against the Rules Committee favoring expansion.

- A proposed amendment to reinstate the 18% cap on KDOT bonding that was temporarily removed last session failed on a voice vote on the House floor.

Senate highlights include:

- An amendment that places a moratorium on any new STAR bond projects, as well as the expansion of any existing projects, during the remainder of FY2016 and all of FY2017. The expressed concern, and rationale for the amendment, was that there is no legislative oversight of the use of STAR bonds as some projects and proposals appear to at least be exceeding the intent and scope of this financing method, potentially costing the state as much as \$100 million during a period of time in which the state is struggling to balance its budget. The obvious question seems to be “why deal with the concern over lack of oversight with the draconian approach of just completely shutting the door on STAR bond projects instead of developing additional guidelines and requirements for new and expanded projects, including legislative approval?” This approach seems to disregard the several STAR bond projects that have already been proposed and discounts any good faith intent and economic development benefits.
- The KDOT highway fund cap was reinstated at 18% on a voice vote during debate on the Senate floor.
- Counter to the House’s approach, an amendment was passed that was intended to simply prohibit use of the state’s KPERS contribution due in the fourth quarter of FY2016 to balance the budget. However, a drafting error has the prohibition applying to FY2017. The error has been explained and assurances made that the intent of the offeror of the amendment and resulting action by the full Senate will be carried out when the budget bills are considered in conference committee.
- KU’s financing was also addressed, and the resulting restriction contained in the Senate’s bill goes farther than the House provision. The Senate simply prohibits use of any University funds to make any lease payments, resulting in a default under the lease-purchase arrangement of the financing.

Judicial Selection. After failing to achieve the necessary 2/3 vote to pass **HCR5005** (this is the resolution proposing to amend the state’s constitution to change the process for selecting Kansas Supreme Court justices to the federal system model; needing 84 votes, the total on final action was 68-54), a hearing on **HCR5013** has been set for Tuesday in the House Judiciary Committee. Another constitutional amendment, this would put the Court of Appeals into the constitution and, more significantly, expand the nominating committee for

judicial appointments from the current nine (five attorneys selected by the Kansas Bar Association and four appointed by the Governor) to fifteen (four attorneys from the Bar Association, five appointed by the Governor and six additional members appointed by legislative leadership).

The Chamber continues to oppose these suggested changes in judicial selection from the current system, in place since our constitution was amended in 1958 and recognized nationally as resulting in a well-qualified, non-political and appropriately business-friendly judiciary, to systems that threaten to politicize our judicial system. It remains to be seen if this proposal has the needed votes, the guess here is that it will be closer but still short of the needed 84; however, should **HCR5013** clear the House, it would appear that the Senate would likely have the necessary 27 votes to pass it. If so, the proposal would then be subject to a popular vote, where a 2/3 margin is also required to effect the constitutional amendment.

Committee Shuffle. As you have probably read, the President of the Senate, Sen. Susan Wagle, removed Sen. Mary Pilcher-Cook from her chairmanship of the Senate Public Health and Welfare Committee. That action was prompted by Sen. Pilcher-Cook's offering of an amendment on the Senate floor to expand Medicaid in Kansas, an amendment that was ruled "not germane" to the underlying bill by the Senate Rules Committee. President Wagle asserted that offering this amendment circumvented the Senate process. It appears that Sen. Pilcher-Cook, an opponent of Medicaid expansion, wanted an opportunity to send a clear message of strong Senate opposition to expansion, notwithstanding the competing concern of other Senators of having a recorded vote on expansion in an election year, particularly in view of the fact that Medicaid expansion is an issue believed to not have a chance of passing in this legislative session.

Upcoming Events. The next **Public Policy and Advocacy Committee (formerly the Government Affairs Committee)** meeting on March 11 will feature Congressman Kevin Yoder with an update on the happenings in DC. Note that this meeting will be a breakfast meeting, beginning at 7:30 am here at the Chamber; we will conclude by 9:00 am. Please register by 5:00 p.m. on Tuesday, March 8 – [click here](#). Partners and sponsors may register with Julie Hakan at jhakan@opchamber.org.