

This Week **in Topeka**

Overland Park Chamber

*Business, Economic Development & Local Government News
from the Legislative Session Week of February 19-23, 2018*

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Thursday was **Turnaround**, the date considered to mark the halfway point in the legislative session. This is when bills not otherwise exempt from this deadline must have been considered and passed out of their respective house of origin (i.e., House bills out of the House and sent to the Senate, and Senate bills out of the Senate and sent to the House); otherwise, those bills not “blessed” by leadership referring them to an exempt committee (i.e., either of the Tax or Federal and State Affairs Committees, House Appropriations or Senate Ways and Means), are considered dead. Both the House and the Senate were on the floor all day Tuesday, Wednesday and Thursday working bills on General Orders and Final Action; however, as far as actual progress is concerned, unfortunately it does not appear the legislature is halfway finished with the issues that need to be addressed in 2018. The major impediment to progress continues to be the need to address K-12 school finance and the Supreme Court’s *Gannon V* decision. The legislature will finish its short break and be back at the Capitol on Wednesday, February 28, to begin the second half of the session.

Here is a brief recap of what happened this past week as the two chambers debated and voted on bills.

First, on the House floor:

- **HB2539** would require that candidates for statewide office (e.g., Governor, Lieutenant Governor, Secretary of State, Attorney General, Treasurer and Insurance Commissioner) be a qualified elector, that is, they would have to be at least 18 years of age. The bill also adds the requirement that a candidate for Attorney General be licensed to practice law in Kansas. To the consternation of some legislators, that requirement was not also placed on candidates for Secretary of State since the legislature recently gave that official prosecutorial authority regarding voter fraud. The bill passed the House on a vote of 94-28 and was sent to the Senate.

- **HB2509** deals with the Budget Stabilization Fund (Fund), also recently established by the legislature. The bill requires the Director of the Budget to certify the amount of actual estimated tax revenue receipts at the end of the state's fiscal year that exceeds the average estimated tax revenue receipts for the preceding three fiscal years. That certified amount then would be transferred to the Fund provided that (1) the amount certified exceeds the previous 3-year average, (2) the transfer does not result in State General Fund (SGF) receipts that are lower than the immediately preceding fiscal year, and (3) the balance in the Fund is not greater than 8% of the immediately preceding fiscal year's SGF tax receipts. The bill passed the House, 117-0 and moves on to the Senate.
- **HB2509** would require the Election Commissioner's office in each of the four counties where the position is appointed by the Secretary of State (Johnson, Wyandotte, Sedgwick and Shawnee) to continue to operate under the general supervision of the Secretary of State, but would require the Commissioners to comply with the same budgeting, personnel, compensation and benefits, purchasing, financial and auditing policies and procedures applicable to all other county agencies, departments and officials. This change gives the elected County Commission in those four counties ultimate responsibility for, and authority over, the general operation of the Election Commissioner in their county. The bill passed on a vote of 77-40 in the House and was sent on to the Senate.
- **HB2361** is a rather non-controversial bill that would simply move the administration of the Workers Compensation Self-Insurance Fund from the Department of Health and Environment to the Department of Administration. However, when presented on the House floor, it was a couple of proposed amendments that drew some significant attention and general opposition from business. The first amendment offered by Rep. Pam Curtis was to go back to using the AMA's 4th edition guidelines, from the 6th edition currently in use, for evaluating permanent impairment injuries; that amendment was defeated 41-77. Rep. Tim Hodge offered the second amendment that would have allowed injured employees to choose their doctors in workers compensation cases. This amendment was also defeated, 43-75. After that, the original bill sailed through on a vote of 119-3 and was delivered to the Senate.
- **HB2581** is a bill of likely general interest and certainly worth reporting, even though it may not be considered to be directly business related; further, Rep. Patty Markley was one of its three original sponsors. This bill addresses "swatting" episodes recently seen in Wichita (which resulted in an innocent individual's death) and Overland Park (fortunately without injury or death involved) where an individual makes a 911 call to

law enforcement giving false information that violent criminal activity or immediate threat to a person's life or safety has or is taking place at a random address, resulting in law enforcement response. The bill amends current law by renaming the crime of "giving a false alarm" to "making an unlawful request for emergency service assistance," and significantly increasing the penalties where bodily harm or death results. The bill passed the House 117-0 and was sent to the Senate.

And on the Senate floor:

- **SB303** would allow individuals (mostly those involved in pass-through businesses) to claim the expensing deduction currently available under state statute for the costs of placing certain tangible property and computer software into service in the state. The change would fix what was presented as an oversight in the 2017 session when much of the 2012 tax cut package was repealed; the change would be retroactive to January 1, 2017. This expensing deduction is available to C corporations and financial institutions, so fairness was also an argument of the bill's proponents. There was no objection to the underlying bill; however, several senators thought that consideration of an action that would reduce the state's expected tax revenue in FY2019 by \$21.1 million and nearly \$10 million in subsequent fiscal years would best be postponed until more information was available concerning school finance and there was a broader picture of the state's revenue projections and budget requirements. It was also suggested that the lack of consideration of other bills on other issues supported by Kansans (Medicaid expansion was the primary example) represented disparate treatment by Senate leadership. Notwithstanding those concerns, the bill passed the Senate, 31-8 and goes to the House.

- **SB334** would extend the time period by nine years during which companies that had unused HPIP tax credits could claim up to 75% of those credits; the bill was discussed in more detail in last week's report. Although the bill was recommended for passage by the Senate Commerce Committee and appeared on General Orders for the week, it was re-referred to the Commerce Committee by Senate leadership before it could be debated by the full Senate, effectively killing the bill since Senate Commerce is not an exempt committee. All is not lost for the supporters of the HPIP extension as SB430, an almost identical bill, was introduced and referred to the Senate Ways and Means Committee, an exempt committee. That approach would seem to indicate that leadership would like to get the concept back on the Senate floor before the session ends.

- **HB2482** is a bill that passed the House last month on final action, 75-45, and as reported then would allow appropriately licensed businesses to begin the sale of liquor by the drink at 6:00 a.m. (from 9:00 a.m. under current law). The Senate Commerce Committee

extended the hours of sale to include farm wineries, microbreweries and micro distilleries and allowed farm winery outlets to sell their own wine by the glass. The bill passed the Senate, 35-5. Since it now includes different provisions than when it was passed by the House, the House will have an opportunity to concur with the Senate amendments or send the bill to conference committee to discuss the changes. Either way, here's betting you early birds will be able to begin your day a little earlier than before.

Other "deaths" to report. As I mentioned above, bills not out of their house of origin by Turnaround are considered dead for the remainder of the session and, since this is an election/even-numbered year, no bills will be carried over from this session to next. There is one bill and one concurrent resolution (essentially the same as a bill although since it proposes a constitutional amendment, it is referred to as a concurrent resolution and requires a 2/3 vote in each chamber to pass).

- **SB38** would have extended Medicaid eligibility to those with incomes not exceeding 133% of the federal poverty level. It had hearings before an overflow crowd of conferees (mostly proponents of the bill) in the Senate Public Health and Welfare Committee, where the bill was unanimously voted out favorably to the full Senate where it remains on General Orders. Senate leadership chose not to move the bill above the line where it would have been debated and voted on by the full Senate, effectively killing the bill. Nevertheless, the concept and contents could very well reappear, either as a new bill introduced in an exempt committee, as a "gut and go" bill, or offered as an amendment to another bill dealing with Medicaid/KanCare and that reaches the floor of either chamber.
- **HCR5017** is the resolution that proposes an amendment to the Kansas Constitution to stagger the terms of the Kansas Senators. It received a hearing in the House Elections Committee, but the Committee chair chose not to work the bill, effectively killing it for this session.

Committee meetings. There were a couple of committee meetings to mention. On Monday, the **House Tax Committee** held a hearing on **HB2572** that would create a joint legislative task force to study economic development incentive programs. The bill also specifically sets out the data regarding those programs, most of which is already required to be developed and compiled, and requires that data to be made available on the state's KanView website. The committee has not worked the bill yet, but it remains alive in the exempt **Tax Committee**.

And on Friday, the first day of the legislative break, the **House K-12 Budget Committee** and the **Senate Select Committee on Education Finance** held a joint meeting to receive a preliminary report from Dr. Lori Taylor, the school finance expert from Texas A&M who was

retained by the legislature to analyze previous studies on Kansas school finance and offer recommendations on an appropriate legislative response to the *Gannon V* ruling that state funding of K-12 schools is constitutionally inadequate. That final report is due to the legislature on March 15 and should help break the logjam created by the uncertainty over school finance as the Supreme Court's April 30 deadline looms, not only with respect to school finance but many other major revenue and budget decisions as well. Whatever the legislature decides to do in response to the Court needs to be done in time for the state's attorneys to prepare their filings with the Court, a timeline already shorter than what the attorneys said they would need.

Thank You. I want to thank Sen. Molly Baumgardner and Rep. Melissa Rooker for being our guests at the Public Policy and Advocacy Committee meeting on February 9. It was good to hear their comments about the activity at the Capitol as well as their responses to questions from committee members.

Upcoming Events. The next meeting of the **Public Policy and Advocacy Committee** will be noon-1:30 p.m. on **Friday, March 9** at the Chamber. **Registration information** for the meeting can be found at 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](#).