

This Week **in Topeka**

Overland Park Chamber

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

Written by Tom Robinett, Vice President of Public Policy and Advocacy

The Fifth Week of the 2018 session saw an uptick in activity at the Capitol. Contributing to this change included the swearing in the previous week of Dr. Jeff Colyer as the state's new governor; legislators now know who our governor is and will be throughout the session, thus eliminating much uncertainty that dampened the legislative process. Also keep in mind that **Turnaround**, the date on which all bills (except those "blessed" by having been introduced by, or referred to, one of the exempt committees in the House or Senate), is February 22, now less than two weeks away.

As he had previously announced, Governor Colyer did address a joint session of the legislature on Wednesday, February 7. His stated willingness to work with the Legislature in addressing the challenges currently facing the state was both welcome and refreshing, although there was little in the way of substantive initiatives or solutions offered in the speech. He did mention K-12 education specifically, asking for the Legislature's support of four key goals when dealing with what he referred to as "the elephant in the room." Those goals are:

- Keep our schools open.
- Implement a solution that will end the school finance litigation.
- Increase funding of K-12 education through a phased-in approach that will not increase taxes on Kansans while allowing school districts to effectively assimilate the new money into their budgets.
- Improve administrative accountability and student outcomes.

To say that satisfying these goals is a monumental task may be the understatement of the session.

K-12 Education and School Finance. The House K-12 Education Budget Committee got a new chairman as Speaker Ron Ryckman appointed current committee member Rep. Fred

Patton (R-Topeka) to replace Rep. Larry Campbell (R-Olathe) who was tapped as Governor Colyer's new Budget Director and resigned his seat in the Legislature. The Speaker also appointed Rep. Steven Johnson (R-Assaria) to fill the newly opened spot on the committee. Rep. Johnson who chairs the House Taxation Committee and is a member of the House Appropriations Committee will bring a valuable financial insight to the K-12 Committee. With these changes now completed, the Committee is again ready to attack the heavy workload it faces.

The school finance study commissioned by the Legislature is due to be completed on March 15 with a preview meeting being set for the House and Senate education committees later this month. The representative of the Attorney General, who will represent the state before the Supreme Court, told the Special Committee on a Comprehensive Response to the School Finance Decision at its meeting in mid-December that they would like to have a new law in place by March 1 to complete its brief and be ready for oral arguments.

The K-12 Education Budget Committee continues to meet and receive briefings on various aspects of the school finance law (for example, this week the Committee was briefed by the Department of Education on the bonding process used by school districts for capital improvements with an emphasis on how the statutory cap impacts district requests and a hearing is set for next week on how new money is being used and plans for new money to be received in the future). Most of what could be considered substantive work on the school finance issue, however, is going on behind the scenes and it's clear the time line has been significantly compressed to get a new statute in place and meet the Court's deadline of April 30.

Economic Development. The Senate Commerce Committee held hearings on two bills of interest. The first, **SB334**, would extend the time limit for using tax credits granted under the High Performance Incentive Program (HPIP). Under this program, companies making qualified investments in their business facilities and employees can earn credits against their state income tax liabilities. Currently, those credits must be used within a 16-year period following qualification, and that period is about to expire for some Kansas companies and they will lose those credits. **SB334** would allow qualified companies to carry forward and claim up to 75% of their tax credits for an additional 10 years, only being permitted to claim 25% of any remaining credit in any one year.

The proposal was generally well received by the Committee, recognizing that the required investments actually had been made and the state had made a commitment to those companies, and the 25% "haircut" on the amount to be carried forward was a reasonable compromise. The concern is that there is approximately \$600 million in HPIP credits on the

books, a large number particularly when the state is still struggling to find ways to balance the budget. However, it was pointed out that its likely only about half of the earned credits actually will be claimed, and that the \$600 million represented over \$6 billion invested in Kansas business. The Committee should work the bill soon with the likely result that it will be sent on to the full Senate for debate and a vote.

Also on the Senate Commerce agenda was **HB2168**. This bill establishes the Ad Astra Rural Jobs Act which encourages private investment in rural economic development by authorizing dollar-for-dollar nonrefundable tax credits to investors in qualified rural businesses. The program is limited to a total of \$100 million, with up to \$20 million available in each year beginning in 2020. The tax credit would sunset at the end of the sixth year following the effective date of the new law. The Ad Astra Rural Jobs Act is seen as a needed incentive program focused on rural Kansas. This bill originated last year in the House where it passed on final action by a vote of 97-22.

Transportation Task Force. **SB285**, a bill mentioned in last week's report, which establishes a joint legislative task force to begin work on a new long-range highway/transportation program, was passed 33-5 by the full Senate on Thursday. The bill now goes to the House where it should get a favorable reception.

Senate Elections. This week saw hearings in the House Elections Committee on two proposed constitutional amendments. **HCR5017** is the simpler of the two; it would stagger the terms of the Senate, with half of the Senate (20 senators) standing for election every two years. The proposal would not change the 4-year term for senators except that one half of the Senate (those 20 senators in odd numbered Senate districts) elected at the general election in 2020 would be elected for a 2-year term for only that term, thereby effecting the staggering of Senate terms.

HCR5022 would similarly stagger the terms of the state senators; however, it would go further by reducing the number of state representatives from 125 to 123 and adding one senate district for a total of 41. With this change, there would be established three House districts within each Senate district.

Of the two proposals, the simpler **HCR5017** would appear to have the better possibility of passing, each needing a two-thirds majority in both the House and Senate to be put on the ballot at the next general election.

Transparency in State Government. There's that word again; the supply has not been completely exhausted yet, so the subject was again front and center in the House Federal and State Affairs Committee where **HB2562** had a hearing. This bill would create the Kansas Transparency Act and mandate that all legislative committee meeting rooms would have live

audio-streaming capability by January 1, 2019, and have live video-streaming capability as well by January 1, 2020. Several of the committee rooms currently have audio-streaming and one also has video-streaming capability. This proposal is a good idea, making the legislative process more readily available to anyone who is interested.

Taxation. On Thursday afternoon, the House Taxation Committee held a hearing on **HB2489**, a bill dealing with the Multistate Tax Compact and corporate income taxation. Kansas adopted the Compact in 1967, although it is not mandatory and, in the event of any differences, state statute prevails. In 2008 Kansas amended its statutory definitions of “business income” and “sales” as they relate to corporate taxation, but that amendment did not reference or address the Compact. Concern has been raised that the bill’s retroactive effective date of 2008 has the potential to open some corporations to additional tax liability. According to the Department of Revenue (DOR), who requested the bill in light of several state court cases dealing with the effect of the Compact on corporate income tax calculations, that is not the case; **HB2489** is intended to proactively clarify that those 2008 statutory amendments will control. This newsletter is not the forum to delve deeply into what is a very technical issue. Suffice it to say, however, the DOR is working with us and several other business organizations, all led by the Kansas Chamber, to modify the bill’s language to eliminate those concerns.

There were a couple other interesting items last week, also in the tax arena. On Thursday, **HCR5024** was introduced by Rep. Tim Hodge (D-Newton) and referred to the House Taxation Committee. This resolution would amend Article 11 of the Kansas Constitution by adding a new section that would impose an additional annual permanent property tax of 10 mills on residential real estate with an assessed valuation of \$1 million or more; the proceeds of this new tax would go into the state general fund. Where do you suppose most of that property is located? I will admit to not making the effort to actually look it up, but my guess would be Johnson County.

And, finally, the chairman of the House Taxation Committee, Rep. Steven Johnson (R-Assaria), introduced a bill (drafting has not been completed, so details will come later) that would raise statewide property taxes with the new revenue dedicated to K-12 school funding. In fairness, Chairman Johnson said that his real intent was to provide a vehicle to begin a necessary discussion regarding increased revenues, and he made it clear that he wanted to hear testimony on alternatives, including the basic need for any tax increases and/or how much is needed as well as possible sources of that additional revenue.

Thank You. I want to extend our thanks to Sen. Molly Baumgardner and Rep. Melissa Rooker for being our guests at Friday’s Public Policy and Advocacy Committee meeting. We

know how busy their schedules are, so having them take time to share their insight on the activity at the Capitol is much appreciated.

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 second breakfast in the **Johnson County Public Policy Council's legislative breakfast series** is 7:30-9:00 a.m. on **February 17** at the DoubleTree by Hilton. Guest legislators scheduled 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 any of these breakfasts, [click here](#).**