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Paul Johnson – May 22, 2015

TAX DEBATE DELAYED

The Senate and House floor debates on tax policy have been delayed until next week as the 2015 Kansas Legislative session moves further into overtime. The Senate Taxation committee finally passed a tax package from the committee – 6 votes to 4 - without a recommendation. The plan was to debate this tax bill – **House Bill 2109** – yesterday but there were some many requests for amendments that the decision was made to put off the floor debate until next Wednesday. The House Taxation committee is back writing a new bill after the House floor defeat of – **H. Sub. for SB 270** – last Friday. The debate over eliminating the income tax and substituting consumption taxes is far from over. The State budget for 2016 and 2017 is pretty locked in with just a few million susceptible to further budget cuts. The deficit stands at \$400 million plus a need to establish a working ending balance.

House Bill 2109 – that passed out of the Senate Taxation committee – generates about \$495 million overall leaving the state a projected ending balance of \$89.5 million. This bill lowers the state sales tax on food from 6.15% to 6% while raising the rate on all other purchases to 6.5% thus generating \$134 million in new revenues. This bill adds 5 cents per dollar to the gasoline tax generating nearly \$82 million. This bill replaces the zero tax on the non-wage business income of 333,000 business filers with a tax credit based on their payroll thus generating \$82 million. Income tax rates for wage earners would be frozen at current levels thus generating \$20 million. This bill speeds up the ongoing process of eliminating income-tax deductions and nets \$97 million. Cigarette taxes are increased 50 cents generating \$40 million. The Governor's tax amnesty program is projected to net \$30 million. There is a freeze on other tax rates. There will be a long and contentious Senate floor debate on each provision of this bill and several amendments offered to change this bill.

The House Taxation committee continues on debating their next tax package. **House Bill 2434** would exempt the first \$150,000 of business owners' income and tax it after that in 2016 thus generating \$55 million in new revenues. In 2017, this \$150,000 drops to \$100,000 and generates \$67 million. **Senate Bill 31** - from Rep. Gene Sullentrop – raises the sales tax to 6.5% but keeps food purchases at 5.9% thus generating \$128 million. This bill increases the cigarette tax by 75 cents and the liquor tax from 8 to 10 % thus raising \$68 million. This bill adds 5 cents per dollar to the gasoline tax. This bill reduces itemized deductions by \$97 million and establishes a fee on insurance providers that raises \$48 million. Overall this tax package balances the budget in 2016 and leaves a \$70 million ending balance but by 2018 the shortfall is more than \$200 million. House Taxation committee chair Rep. Marvin Kleeb said he had no time line for when his committee would pass out a new bill.

As Kansas moves away from the income tax - that provided almost 30% of state revenues – towards consumption taxes there is little debate over the economic expansion needed to cover the revenue loss and the economic volatility of this change. When a dollar of income tax is lost, it will take a long time to plug that hole with 7 cents of sales tax. Job growth would have to be phenomenal to exponentially expand consumption taxes. Consumption/sales taxes are especially responsive to economic cycles of the market economy. If Kansas faces another great recession as in 2009, vital state service programs of education, social services and public safety would be threatened. Kansas had it right with the balance of income, sales and property taxes to give our tax system a resilience to withstand fluctuating economic times. Facts may not matter anymore in our 'pay-to-play' democracy. The 2,274 business filers with business incomes over \$500,000 and federally adjusted gross incomes of \$2 million are now exempt from \$87 million in income taxes yearly. A sales tax increase of .2% will be needed to cover this loss. Which political voice will be heard under the Dome next week? 2016 is an election year for all legislators so whatever tax package is passed this year will probably be large enough to avoid having to raise taxes in an election year.

JUDICIAL BRANCH BRINKSMANSHIP

The budget for the Judicial Branch for 2016 and 2017 has been separated from the rest of the State budget and put in **House Bill 2005**. For the last two years, policy reforms have been paired with the financing of the Judiciary. If the courts want to be funded, they have to accept the policy reforms. This bill has been in conference and the latest recommendation is to add \$14 million more over the next two years in return for a Senate demand of a 'non-severability clause'. This clause states that if the Courts strike down the policy reforms - the entire Judicial Branch budget is also struck down thus forcing a special legislative session to re-instate the budget.

Certain policy issues have already been challenged by a Kingman County change. These policy issues have to do with election of chief judges in the state's 31 district court regions and the authority of the chief judges to make the budget for each district court region. A constitutional crisis could be in the making if the courts found that the 'non-severability clause' was unconstitutional. This battle is over defining powers of the three co-equal branches of government. This also comes as the Kansas Supreme Court is debating the adequacy and equity of Kansas' public school funding formula. A constitutional amendment to have the Governor appoint Kansas Supreme Court justices - with Kansas Senate confirmation - has been on the House calendar for months but no vote taken. The Kansas Senate has already approved this constitutional change. **Senate Bill 297** has been introduced to establish grounds for the impeachment of Kansas Supreme Court justices. If the Kansas Supreme Court would order more spending on public schools as happened in 2006, a political firestorm would be in the making. A resolution of this school funding case is probably a year away given the certain appeals.

ELECTION LAW CHANGES

House Bill 2104 passed the Senate 22 to 13 and the House 64 to 58 and will be signed by the Governor. Local spring elections for municipalities and school boards starting in 2017 will be moved to the first Tuesday in August and the first Tuesday following the first Monday in November. These elections will remain non-partisan except when a city selects partisan elections. If notified by January 1, school districts will be required to make school buildings available for polling sites. Bonding and property tax increases by school districts can be held at any time not just in August or November. This bill also mandates that candidates can only get off a general election ballot if they have moved from the state or have a serious medical condition or died. Political parties will be required to find a replacement. This bill also eliminates the presidential preference primary statute. Kansas has not held such a primary since 1996.

Senate Bill 34 creates and amends laws related to election crimes, prosecution of those crimes and election definitions. This bill increases the penalty for election fraud. The bill allows the Attorney General or the Kansas Secretary of State to prosecute these election crimes. SB 34 passed the Senate 23 to 17 and the House 67 to 55.

CLEAN POWER PLAN LEGISLATION

House Bill 2233 passed the Senate 35 to 1 and the House 121 to 1. This bill establishes the procedure for developing and submitting a state plan to the federal Environmental Protection Agency to comply with the proposed federal Clean Power Plan rule. The Kansas Secretary of Health & Environment will be authorized to implement the Plan through flexible regulatory mechanisms; including the averaging of emissions, emissions trading, or other alternative implementation measures that is in the best interest of Kansas. The Secretary and the Kansas Corporation Commission are required to enter into a memorandum of understanding concerning implementation of the requirements and responsibilities under the Kansas Air Quality Act. This bill creates the Clean Power Plan Implementation Study Committee consisting of five members from the Senate Utilities committee and six members from the House Committee on Energy and Environment. A Plan must be submitted to this Committee by the first week of November. The Attorney General will be required to review the Plan and could block the submission of the Plan to EPA if it would adversely impact the State's legal position any current or pending litigation relating to the federal Clean Power Plan rule.

COUNTRY-OF-ORIGIN (COOL) MEAT LABELLING DECISION

"When a popular, commonsense law like COOL is declared trade illegal by an anonymous tribunal of the World Trade Organization, you have to wonder what U.S. law is next.

Today's WTO ruling on COOL aims to prevent American consumers from knowing where their meat was born, raised and processed. This is a sad day for consumer choice and the independent livestock producers of this country. As one neighbor put it: 'This is fraud, what do the meat packers have to hide?'

When trade agreements like the North American Free Trade Agreement (NAFTA) and the WTO undermine U.S. laws like COOL, it becomes very clear how the rights of citizens to govern themselves have been traded away. This WTO ruling shows the degree to which international corporations now control our economy and political process through undemocratic non-transparent trade agreements.

If Congress 'fast tracks' the Trans-Pacific Partnership trade deal that is currently in negotiation, we will see even more actions by trans-national corporations to use the WTO to overturn democratically enacted laws like COOL."

(Grass Range, Montana, rancher Gilles Stockton statement on behalf of the Western Organization of Resource Councils. Stockton also serves on the USDA Secretary of Agriculture's Animal Health Advisory Committee – May 18, 2015.)