



2016 KANSAS LEGISLATIVE E-REPORT #16

Paul Johnson – May 6, 2016

LATE NIGHT LAWMAKING

It is telling that the 2016 Kansas Legislature would slink out of Topeka in the dark of night having left the State's systemic revenue and budget crisis unresolved. The destruction and dismemberment of state services continues on with another round of arbitrary budget reductions. The transportation system is again raided to cover the ongoing revenue shortfalls. The solvency of the Kansas Public Employees Retirement System (KPERs) is put further at risk to help stop the budgetary bleeding. The threat of another downgrade of Kansas' bond rating had no discernable impact on legislators who gave out a 'free lunch' of unaffordable tax cuts. The Governor now turns his sights to undermining the Medicaid program and funding for public schools as the revenue hole deepens. What judgement will the Kansas electorate have for legislators on the ballot?

Plugging holes was the best the 2016 Kansas Legislature could do with the 2016 and 2017 State budget. For 2016 - to fix a \$137 million deficit - \$70 million was taken from highways, a \$95 million payment delayed for KPERs and \$17 million (3%) taken from higher education which leaves the State with a \$27 million ending balance on total State General Fund (SGF) expenditures of \$6.187 billion. For 2017 - to fix a \$174 million deficit - \$115 million is taken from highways, the 2016 delayed KPERs payment is put off till 2018, a 3% reduction in state programs (excluding K-12 school funding) and a hypothetical \$10 million in efficiency savings appears. This 3% cut is special allotment authority given to the Governor. There is a constitutional question whether the Governor has to first make these allotments before signing a budget that is not in deficit? This budgetary puzzle assumes that the April consensus revenue estimates will actually materialize as income from the petroleum industry and agriculture fluctuates.

While the highway fund is raided for \$185 million over two years, 25 new projects - totaling almost \$550 million - are put on hold for at least three years. Not a single major metro area is impacted by these new project delays while southeastern Kansas is

hit particularly hard with seven lost projects. The 2010 ten-year highway program - known as T-Works - was to be an \$8 billion program but \$2.42 billion has now been diverted. For higher education, the 3% cut from 2016 is continued on for 2017 but the budget bill had a proviso removing the restrictions on tuition increases so students and parents will be struggling with more debt to afford college. KU and KSU will take a larger reduction than the other regent schools. While funding was added to fill staff positions and increase some salaries at Larned and Osawatomie, any new staff hired at these state hospitals must be unclassified and work at the whim of the superintendent and program managers. Fees for driver registrations were raised to help fund hiring more Highway patrol officers. The vast majority - of the 38,000 state employees - have not had a raise since 2009 and are paying more dollars for their contributions to KPERS and for health insurance. Overall the State budget is limping along hoping for no more emergencies of less revenues or mandates of greater spending on public education by the courts. The ending balances have been spent. There is a limit to transfers and delayed payments. The one time budgetary gimmicks - like spending down ending balances - have been exhausted. The newly elected 2017 Kansas Legislature will face a stark reality come January. If the only solution is further budget cuts, public education and medical programs will have to be on the chopping block.

TOPEKA KNOWS BEST

With the mistrust and disgust of federal governmental power over the states at an all time high, the conservatives in state government in Kansas have a better answer – Topeka knows best. Topeka should be the supreme ruling power dictating to counties and cities that Topeka always knows better. This supremacy started twenty years ago dictating to the counties that only Topeka had the intelligence to regulate and site large confined feeding animal operations (CAFO's). Large CAFO's of thousands of pigs or cattle need only be 5,000 feet from adjoining landowners. There is no regulation of odor and so the property rights of neighbors are sacrificed for industrial agriculture. Only Topeka should have the right to regulate the planting of genetically modified crops. There is no definition of genetic drift that can damage organic crops.

With Topeka controlling the regulation of factory farms, it was time to strip the counties and cities of any control over guns. Concealed carry - with some modicum of training and regulation - was tossed out threatening the public safety of local communities. Unregulated concealed carry and open carry of guns and knives is beyond county or city regulation. College campuses along with most public buildings will be forced to allow concealed carry unless entrances have security measures. Now with the passage of Senate Bill 366, cities, counties and other political subdivisions are prohibited from enacting or enforcing policies pertaining to price control of real estate, labor work

schedules, and nutrition labeling. This bill also restricts cities and counties from administering residential rental property inspections if certain conditions are not met.

Constitutional 'home rule' power for cities was enacted in 1961. The loophole in this power is that if the State passes legislation that is uniform and applies to all cities the constitutional 'home rule' power is negated. Counties have a similar 'home rule' power but it is only in statute – not the Kansas Constitution. There are now over 30 some provisions in this 'home rule' statute limiting counties from regulating or enacting certain activities. For example, a county could not enact a local income or earnings tax. This is where the State stepped in to limit the counties from regulating CAFO's and certain other agricultural operations. Does Topeka always know best? Where is that proper balance of governance between the State and local units of government?