

# **2016 LEAGUE OF WOMEN VOTERS OF KANSAS E-REPORT #1**

Paul Johnson – December 18, 2015

## **2016 KANSAS LEGISLATIVE PREVIEW**

The political scramble known as the Kansas Legislature begins January 11. Budgetary priorities and revenue uncertainties will predominate. The State's checking account is almost zero. Monthly revenue receipts will be examined in detail. Revenue projections for 2017 have been lowered \$170 million so some action to further cut budgets or find new revenues will be the number one priority for the 2016 session. The Governor has announced that the State of the State will be at 5:30 pm on January 12 just ahead of the nation's State of the Union from Washington at 8:00 pm. The Governor's budget to balance the 2016 and the 2017 budget will be electronically available on January 13.

As we all know, 2016 is an important election year involving all 125 House seats and 40 members of the Senate. Election year politics will dictate what issues can and cannot be debated. The leadership of the House and Senate - through their committee chairs - will decide what bills will move from committees and what bills or budgets will be allowed to be debated on the floor. Issues and budgets will again be bundled together and probably passed in the final days. Protecting incumbents is of greatest importance so floor debates will be carefully managed to keep members from taking controversial votes. While last session set a record for its length, the 2016 session may be the opposite by limiting the tough floor votes and getting out of the Capitol to campaign.

## **REVENUE AND BUDGET CHALLENGES**

In a recent report to the Legislative Budget committee, the State budget's ending balance on June 30 will be \$5 million. \$100 million is considered a necessary minimum balance to pay all bills. By law, the ending balance should be 7.5% - \$450 million – but lawmakers conveniently waive this requirement. For the 2017 budget, there is now a projected \$170 million deficit that must be rectified. The Governor has instituted two year budgets so the budget passed last session contained the budgets for 2016 and 2017. The Governor's budget to be released on January 13 will detail a plan to cover the deficit for 2017 while building an ending balance. After six years of budget cuts caused by the great recession and the Governor's tax cuts, expect further arbitrary budget cuts and more revenue sweeps – such as from the Highway fund - for 2017.

In numerous end-of-the year press interviews, the Governor has been very clear that he wants no further tax increases or changes. The Governor has delivered on the tax cuts benefitting 'dark money' donors that funded his re-election campaign. From 2013

income tax information provided by the Kansas Department of Revenue, 2,274 'small businesses' - with business income starting at \$500,000 and going into the millions - reaped income tax savings of \$87 million that year, this year and forever if tax laws are unchanged. At the same time, Kansas residents had their sales tax increased to cover the income tax loss to Kansas while a vast majority of property owners across Kansas have had their property taxes increased to stabilize budgets for schools and local government. Kansas now has the second highest sales tax on groceries in the country only behind Mississippi. A recent report from the Kansas Health Institute <khi.org> documents that in 2013 - one in six Kansas' households were food-insecure in 2013 - and that more than one in five Kansas children (22.5%) lived in households that were food-insecure. The State's revenue picture remains very uncertain. Monthly revenue receipts could well keep falling. New revenue projections will be developed in April and could further lower estimates as oil/gas severance taxes falter, agriculture income sinks and the Governor's income tax cut experiment is fully calculated.

## **SCHOOL FUNDING**

School funding is most uncertain. The fixed block grant passed last session is for 2016 and 2017. If the revenue picture continues to falter for the State and budget cuts across the board are implemented, it is hard to see how 50% of the State budget - that goes to K-12 public education - can be exempted. There are now two court cases before the Kansas Supreme Court that could change the funding picture. The first case deals with equity of funding poorer school districts versus more wealthy districts. The Kansas Legislature withheld \$54 million in funding to equalize support among districts so the Court could order this funding and this could happen this spring. The second case is the larger case over adequacy of funding for all school districts. A lower court has ruled that the Kansas Legislature has not adequately funded the existing school funding formula to the tune of roughly \$450 million. This is similar to a case in 2006 where the Court did order an increase of over \$400 million in school funding that was instituted in 2007-08 but reduced in 2009 by the great recession and remains underfunded today.

There is now a K-12 Student Success Special committee debating the development of a new public school funding formula. Research data shows that the Kansas public school system ranks around 9<sup>th</sup> of all 50 states in results but spends far fewer dollars per student than the states ahead of Kansas. Many conservatives are intent on blowing up the public system and simply putting whatever tax dollars available in the hands of parents to spend on any public or private school of their choice. The plan is to turn the concept of 'public schools' into 'public housing' coupled with the associated negative stereotypes of poor people. With no new taxes, existing inadequate revenues will be

divided among parents with a simple voucher. It is possible - but very doubtful - that a substantive school funding formula debate will be allowed in this election year.

## **COURT BATTLES**

The Kansas courts are in the crosshairs. Conservatives are intent on controlling the independence of the judiciary. Beyond the aforementioned school funding cases, the Kansas Supreme court is confronting a case over the administration and funding of the entire district court system in Kansas along with a case over the constitutionality of a new abortion law passed last session. In the first case, the Kansas Legislature passed legislation moving the administration of the 31 district courts from the Kansas Supreme Court to the individual district courts. The new law allows the district court judges in each region to select their own chief judge and give that judge more budgetary authority. Opponents to this law claim that the 1966 Kansas Constitution amendment gave this authority for selecting district court chief judges and budgets to the Kansas Supreme Court Chief Justice. This case has been heard by the Kansas Supreme Court and will be decided by December 31 in time to clarify selection of district court chief judges by January 1. A second part of this legislation stated that if the Kansas courts overturned this new selection of district court chief judges, the entire judicial budget would be negated. At the request of the Attorney General, a lower court has stayed this provision of negating the entire court's budget till March 15 thus giving the Kansas Legislature time to consider all options.

The abortion law case was heard recently by the entire 14 member Kansas Court of Appeals. A district court judge ruled that this new abortion law - limiting certain medical abortion procedures - was unconstitutional. It seems certain that whatever decision is rendered this case will be appealed to the Kansas Supreme Court. The Governor has been successful in changing law to give him the authority to appoint Kansas Court of Appeals justices subject to confirmation by the Kansas Senate. The Governor proposes to amend the Kansas Constitution to have the same selection power with Supreme Court justices but there have not been 84 votes in the Kansas House to put such a constitutional amendment on the ballot. Sitting Supreme Court and Appeals Court justices must appear on the general election ballot every four years for a vote of retention to stay on the court. In 2014, two Supreme Court justices were on the ballot and were retained with only a 53% voter approval. In 2016, five of the seven Supreme Court justices and six of the fourteen Appeals Court justices will be on the general election ballot in November. Special interest money is already pouring into Kansas to influence voters to reject these justices giving the Governor unprecedented power to reshape and control the judiciary.

## **SOCIAL SERVICE STRUGGLES**

The Medicaid (KanCare) expansion debate continues on. Recent research reports funded by several non-profits document that expanding KanCare – now covering 420,000 Kansans - to provide coverage to an additional 150,000 low income Kansans could be self-funded by provider fees and cost savings in existing programs for the mentally ill and the prison population. One rural hospital in Independence has already closed and several others are in danger of closure. 30 states have expanded Medicaid. Kansas stands to draw down hundreds of millions in federal dollars with expansion while creating several thousand new jobs. The Kansas House Speaker has shuffled members off the health care committee to control the debate and stop any legislation expanding KanCare. This may be one issue where the Speaker cannot fully control House floor debate and action. The Kansas Health Institute <khi.org> is covering and will cover this debate in detail.

The Legislative Post Audit committee is preparing in January to authorize an audit of the foster care system in Kansas. Recent media reports have raised questions whether the Department of Children and Families has been discriminating against same sex couples that want to adopt foster children these couples have had in their custody. District court judges have raised concerns over the staff turnover at the private firms that operate the entire foster care system in Kansas. Kansas privatized the entire foster care system in 1996 – the first state to completely privatize the foster care system. Today Kansas has roughly 6,600 children in foster care – an all-time high. Costs continue to climb. The private firms are considering employing less skilled attendants to interview families and write reports. The proposed audit could well be a thorough analysis of how the foster system care system is actually working. The contract to administer the foster care system by the existing two private organizations ends next year so Kansas may consider all options going forward.

The most important public assistance program for our poorest families – Temporary Assistance for Needy Families (TANF) – continues to decline. When the Governor took office, there were 38,963 TANF clients (12,963 adults/25,981 children). Today there are only 13,592 clients (3,478 adults/10,114 children). Over 15,000 children have lost TANF benefits and Kansas has no idea the economic plight of these children. The TANF block grant is funded with \$101.5 million from federal funds and \$62.5 million from state funds. With such a dramatic drop in TANF caseloads, there is now an ending balance of over \$40 million. The TANF per person cash grant - \$116.15 – has not been increased since 2006. With the existing State budget travails, the Governor will try to redirect this fund. Since 2011, Kansas has employed a new eligibility computer system known as the Kansas Eligibility Enforcement System (KEES). Medicaid eligibility was the first task and

workers have to now employ 40 work arounds to make the system work. TANF and food stamps applications are supposed to be added next year.

## **WATER, AGRICULTURE AND ENVIRONMENT**

The Governor's 50 year Water Vision has been somewhat delayed, After hundreds of public meetings held by the Kansas Water Office and the Kansas Department of Agriculture plus detailed input from water basin advisory committees, the plan was for the Governor to appoint a Blue Ribbon task force that would provide a detailed legislative agenda for the 2016 session. This task force was just appointed in the fall so recommendations will wait to 2017. State budget woes continue to underfund the State Water Plan. A \$6 million transfer from the State General Fund is not made nor is the \$2 million from lottery funds. The State Water Plan is now funded at \$14 million instead of \$24 million. New revenues will have to be found to start dredging certain federal reservoirs that hold water in storage for municipal water systems. New revenues will have to be found to buy back water rights that are over pumping the Ogallala aquifer. 85% of the water used in Kansas is for crop irrigation primarily in western Kansas. Farmers are now fighting over water rights and which neighbor is over pumping. There is proposed legislation to administratively settle these water disputes.

A seven member 'local food and farm' task force has been meeting in 2015 to write a report for the 2016 session. This report is a statewide analysis of promoting and expanding specialty crop agriculture such as produce and grapes. A healthy diet should include five servings of fruit and vegetables daily but only 10% of Kansans meet that goal. USDA produce data shows that Kansans spend \$770 million a year on produce (\$260 per Kansan per year) but only \$32 million (4%) is grown in Kansas. States such as Iowa, Michigan, and North Carolina have developed detailed 'local food' plans. This Kansas report is a beginning to develop such a comprehensive plan with detailed recommendations for financial incentives, technical support, local food infrastructures and funding needs to make fresh and affordable locally grown foods more accessible.

Senate Bill 134 has been introduced to change Noxious Weed law in Kansas. Today a noxious weed must be listed in statue by passing a bill. There are now 12 noxious weeds in statue such as field bind weed, musk thistle, etc. SB 134 moves this process from statue to a simple administrative rule and regulation process. The Kansas Secretary of Agriculture would become a 'weed czar' with a handpicked 'noxious weed advisory committee' making recommendations. In today's world, farmers have over used glyphosate (Round-Up Ready) on corn and soybeans for twenty years. There are now several 'super weeds' that must be treated with more lethal chemicals such as 2,4-D. These more toxic chemicals would be used by farmers as well as county weed

departments that would be spraying ditches and other right-of-ways. Drift of these chemicals on private lands will be more common. The grape industry is particularly concerned what drift of 2,4-D will do to grapevines. SB 134 was requested by the Kansas Department of Agriculture and held over from last session.

## **ENERGY & UTILITIES**

The Clean Power Plan is federal regulation by the Environmental Protection Agency to cut greenhouse gases - such as carbon dioxide - by 30% through conservation, renewables and more efficient coal power plant operations. The choice was for Kansas to develop our own plan or let the federal government write a plan for Kansas. Kansas chose to pass legislation to develop our own plan. Certain conservatives and committee chairs deny that human-caused climate change is occurring. The Kansas Clean Power Plan is being developed by the Kansas Department of Health & Environment plus the Kansas Corporation Commission (KCC). There is a special Kansas Legislative committee that will review this plan before it is submitted to the EPA. Kansas is now up to 20% of the generated electricity coming from wind farms. Unfortunately the KCC has not fully researched energy efficiency/conservation potential for our state. Kansas has 1.2 million housing units but we have no idea how many are properly insulated? Kansas' greatest use of electricity comes in the summer caused primarily by air conditioning but again we have no idea how efficient the air conditioners are? Investments in insulating homes or upgrading old air conditioners are far cheaper than building a new coal plant or a natural gas peaking unit. Legislation did pass last year at the request of Kansas City Power & Light (KCP&L) to give the KCC more authority to consider and authorize conservation programs. KCP&L has \$60 million in such efficiency programs in Missouri and wants to provide such opportunities in Kansas.

The Citizens Utility Ratepayer Board (CURB) has been the one state agency intervening before the KCC on behalf residential and small business customers. CURB was instrumental in reducing the electric rate increases requested by Westar and KCP&L. CURB has testified numerous times before Kansas Legislative committees to protect residential ratepayers. CURB has fought the KCC over allowing the stockholders of Westar or KCP&L or Kansas Gas Service to earn a 10% return given their natural monopoly over customers. The Governor has now taken complete control of CURB by appointing the entire board of directors of CURB. This board is now debating to completely end CURB or radically change its mission. Pay to influence policy is on full display. The major utilities gave significant campaign contributions to the Governor and they expect a pay back. After re-election, the Governor sent out a fundraising letter to the utilities to cover his \$300,000 campaign debt. Hopefully this is such an egregious abuse of political power that even the media can connect the dots.

## **GUNS AND CORRECTIONS**

The gun law debate may have finally crystalized for many Kansans. When law was passed easing the restrictions on the carrying of concealed weapons, certain public institutions such as cities, college campuses and even libraries were given till July of 2017 to install metal detectors and guards at buildings restricting concealed carry. Practically most cities or colleges cannot afford to install such protections in every building. For example, Kansas City, Kansas has 88 buildings and the cost to install protections in every building would be in the tens of millions of dollars – unaffordable. Colleges are in the same situation. Professors and students are now starting to react. Legislation will be introduced to reconsider these gun laws. In press reports, the Governor has stated he sees no need to deny anyone their second amendment rights. The Board of Regents - that is now entirely composed of the Governor's appointees – believes there will be no change to the gun laws so the universities should prepare.

The prisons in Kansas are now over bed capacity by 100. Capacity is 9,463 beds. In 1980, Kansas had just 3,000 inmates. Half of today's 9,500 inmates are minorities and minorities comprise just 18% of the state's population. While Kansas is passing some law to speed release of non-violent inmates, projections are that the inmate population will grow 1,000 over the next several years. The debate is whether to house these inmates in county jails or add a wing to the El Dorado facility? This debate has already begun before a Corrections interim committee. We will wait for a recommendation.

## **ELECTIONS AND CAMPAIGNS**

The Elections and Local Government interim committee reviewed the new election law that moved local, spring elections to the fall of odd number years starting in 2017 and keeping those elections non-partisan. The conclusion was that this new law did not need any refinements at this time. The committee did recommend increasing campaign contribution limits to candidates since these limits have not been increased for many years. As special dark money comes in to influence more campaigns, these increased campaign contributions would be fully reported and give the candidate more control over the campaign. This committee also reviewed the number of local governmental units from counties to townships. There is interest in reducing the number of governmental units but there is no magic answer to do that without a political backlash. Kansas consolidated the school districts from over 1,000 to 300 in the 1960's and that left many painful political scars from communities who lost schools. A new school funding formula may well force this consolidation debate.

Thanks to the reporting of Martin Hawver in his column in the November 23<sup>rd</sup> Hays Post, 248 candidates for the Kansas House in 2014 spent \$3.6 million on their campaigns and the winning candidates spent \$2.76 million of that \$3.6. The average cost for the winners was \$22,080. Political action committees and out-of-state organizations spent an additional \$1.9 million. Kansas Senators were not on the ballot in 2014 but collected \$500,000 in contributions and now have \$1.78 million in the bank. In 2012, an average Senator spent \$94,000 to win their seat and this does not include the out-of-state and PAC money spent. Breaking down the numbers for the 2014 Kansas House races, out-of-state organizations spent 21% of the money, PAC's spent 32% of the election cycle spending, candidates contributed 5% and individual contributors gave 24% of the money spent on those campaigns. (Not sure about the final 17%?) PAC's and out-of-state organizations spent over 50% of the campaign costs and one has to wonder what they want from their contributions?

## **INFORMATION SOURCES**

**Kansas Center for Economic Growth** [www.realprosperityks.com](http://www.realprosperityks.com) is a nonprofit, nonpartisan organization that conducts research and analysis to promote and advance balance, responsible budget and tax policies that help ensure all Kansans prosper. The Director is Annie McKay with former Kansas Budget director Duane Goossen on staff.

**KC Healthy Kids** [www.kchealthykids.org](http://www.kchealthykids.org) focuses on bolstering change through legislative and policy action to impact healthy eating, active living and food sales tax.

**Kansas Action for Children** [www.kac.org](http://www.kac.org) advocates on health, education and economic policy that will improve the lives of Kansas children and families.

**Kansas Health Institute** [www.khi.org](http://www.khi.org) news service reports continually on health reform, community health, insurance coverage and public health.

**National Sustainable Agriculture Coalition** [www.sustainableagriculture.net](http://www.sustainableagriculture.net) advocates for federal policy reform for the sustainability of food systems, natural resources and rural communities. Topics include food labeling, organic farming, beginning farmer programs, conservation practices and regional food systems.

(Editor's note: It is impossible to predict every key issue that will be debated in the 2016 session beyond fixing the State's budget. Advocates for repealing the death penalty continue to make progress. In-state tuition for undocumented high school graduates is of concern for many conservatives. The raiding of the Highway Fund to fund other state programs will continue to be challenged. There are hundreds of bills in the House and Senate that have been carried over from 2015. It is the prerogative of



the committee chairs to decide which proposed legislation will be set for hearings. The priorities set by the Governor in the State of the State will get serious attention.)