



## **2016 KANSAS LEGISLATIVE E-REPORTS #8**

Paul Johnson – February 26, 2016

### **GOVERNING BLACKHOLES**

While the political and economic challenges to Kansas continue to mount, the Kansas Legislature dithers. While the revenue picture continues to darken, no substantive debate is allowed by legislative leadership. While thousands of low-income working Kansans go without basic health care and the plight of rural hospitals grows more precarious, debate on Medicaid expansion is blocked at every turn. While the future of funding public education is stalled and the Kansas Supreme Court is ordering an equity fix to the block grant, the debate on fixing public education is shoved off to next year. What isn't put off or delayed in the Capitol are the endless free lunches.

When the Governor was elected, he initiated passing two year budgets – a first for Kansas. So last year a two year budget was passed for 2016 and 2017 that begins July 1, 2016. Ideally this would free up the budget committees in the House and the budget sub-committees in the Senate to have the time to drill more deeply into the departments and programs of State government. There would be time to ask if the programs were adequately staffed and what were the challenges to administering the programs? Does Kansas have enough workers at the state mental hospitals to ensure staff safety and care properly for troubled patients? Why is the Highway Patrol having such difficult times in recruiting new patrol officers? With a record number of children in Kansas' privatized foster care system, what are the causes and remedies? In fact most of these budget committees have taken this session off with very few meetings. Benign neglect seems to be the path chosen in an election year to avoid any controversy.

In the past, the Governor and legislative leaders would hold weekly press briefings – usually on Friday – to answer questions on key issues. With this Governor and the conservative leaders in the Legislature, there are no regular press conferences. The tone under the dome is now one of intimidation. There is no middle ground or

acceptance of compromise. The party line is very clear for Republicans. Cross that rigid party line and expect a challenger in the primary. Expect that certain political action committees will recruit an opponent, design the negative post cards and flood the district with multiple mailings and media advertisements. 'Dark money' seems unlimited to buy a House seat for \$15,000 or a Senate seat for \$40,000 this fall. The income tax breaks in the tens of millions for the wealthiest Kansans have already been secured so political contributions in the hundreds of thousands are seen as a good investment.

With such a black hole of political debate by the Republican leadership, there would be the opportunity for the leadership of the minority party – the Democrats – to frame a governing agenda. Unfortunately, the Democrats refuse to identify priorities and offer some solutions to the vexing problems facing Kansas. The operative political logic is to let the Republicans stew in their misguided tax and budget mistakes. Let the Republicans fix this mess with more budget cuts to vital services and a more regressive tax system while the Democrats sit on the sideline praying for electoral victories. This path of political depression and cynicism will only turn off more voters. There needs to be a rallying call for a fairer tax plan, a vibrant public education system, a dynamic statewide health care model, energy conservation programs, a locally-sourced food plan and investments in improving the infrastructure of transportation and public safety.

### **JUDICIAL ADMINISTRATION**

The future of funding the Kansas court system is in question. After the Kansas Supreme Court ruled that administration of the court system is constitutionally bestowed to the Kansas Supreme Court, the Kansas Legislature is clarifying this truth in **Senate Bill 440** that passed the Kansas Senate 28 to 9. The Kansas Supreme Court will clearly have the final say over administering and setting policy for the district courts across Kansas. Now the question of funding arises. Right now the court system has a budget of \$125 million. \$97 million comes from the State General Fund while \$24 million comes various docket/filing fees and \$4 million is grant funded. **Senate Bill 454** is a trailer bill stating that the Supreme Court shall determine the amount of any docket fees to be charged and collected by the court system and may prescribe additional fees and costs to be charged. These additional fees and charges would fund the costs of non-judicial personnel. As the Kansas' budget crisis continues on, will the Supreme Court be forced to increase docket fees and additional fees to avoid furloughs and closing courts on certain days? How will access to the judicial system be impacted by ever increasing filing or docket fees? What is the proper balance of state funding and court fees?

Without a hearing or other action taken, **Senate Bill 439** – regarding grounds for impeachment – was slipped into **Senate Bill 440** and sent to the Senate floor for

debate. On the Senate floor, an amendment was approved to pull **SB 439** from **SB 440** with the promise that committee hearings will be held on **SB 439** early in March. Grounds for impeachment would be expanded from treason, bribery and breach of judicial ethics to include attempting to subvert fundamental laws and introduce arbitrary power plus attempting to usurp the power of the legislative or executive branch. Committee hearings may help clarify the exact meaning of these last two grounds for impeachment. Clearly this is intended to intimidate and punish the Supreme Court for certain rulings on school funding cases or abortion procedures. This debate will set the stage for very contentious judicial retention elections that will happen this fall for five of the seven Supreme Court justices and seven of the fourteen Court of Appeals justices.

### **NOXIOUS WEED LAW**

**House Bill 2479** has now passed the Kansas House 85 to 39. This bill requires the Kansas Secretary of Agriculture to adopt rules and regulations declaring which weeds of the State are to be considered noxious. Once declared noxious, they would be considered to be noxious in every county. A 13 member 'noxious weed advisory committee' is created and the Secretary could not declare any weed to be noxious without a recommendation from this committee, except under new emergency declaration authority granted to the Secretary in this bill. The Board of County Commissioners, with approval of the Secretary, could list additional noxious weeds to be controlled in that county.

There is no legal right for a landowner to post their land as a 'no-spray' zone if noxious weeds are controlled on that land. Kansas now has 37 certified wineries and they have no legal right to 'drift' protection especially by county weed departments. 'Drift' is not defined in this bill. County and state officials have the legal right to enter any private property looking for noxious weeds. There is no definition for 'the best and most practical methods for noxious weed control and eradication'. The fine for noncompliance is increased to \$200 a day with a maximum of \$2500. County commissioners are allowed to develop their own repayment plans of the costs for treating noxious weeds and placing a property tax lien on the private land for repayment. The risk assessment by the advisory committee should be science-based and consider the impact on the natural and agricultural environment, the invasiveness of the species under consideration, and the potential for infestation. If passed, this bill transfers authority over noxious weeds from the legislative branch to the executive branch. If the Legislature disagrees with the rules and regulations from the Secretary, it would take new legislation to change those rules and regulations. Senate Agriculture committee hearings will probably be held by mid-March.

## **REHABILITATION OF ABANDONED PROPERTY BY CITIES**

**Senate Bill 338** passed the Senate 32 to 8. This bill revises provisions of law pertaining to the authority of cities and nonprofit organizations to petition the district court possess abandoned property temporarily for rehabilitation purposes.