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Paul Johnson – March 21, 2014

SCHOOL FUNDING AND THE KANSAS BUDGET IMPACT

The scramble on school funding continues. The Kansas House has now introduced HB 2773 to fund the shortfalls and make substantive changes to public schools. The Kansas Senate Ways & Means committee is developing its own plan to fund the shortfall that will also contain changes to the existing public school system. The Governor has proposed funding the full \$129 million shortfall to rectify the equity problem identified by the Kansas Supreme Court but the Governor gave no specifics on where this funding will come from. With the power of the purse, the Kansas Legislature may fund the full \$129 million but it will only come with conservative policy demands such as more charter schools, more innovative school districts (that evade any state standards) and more demands that teacher qualifications be lessened. This begs the question on the role of an elected Kansas State Board of Education and who constitutionally should set educational standards?

The Kansas Attorney General (AG) gave the House Appropriations committee a full report on the Supreme Court's school funding decision. The Court was very specific that the Legislature has not properly funded capital outlays and local option budgets that assist poorer school districts with equitable school funding. The Legislature has till July 1 to fully fund these inequities with \$129 million or change the statute and provide adequate information to justify the change. This court case is still in active litigation and the AG will have to defend whatever action the Legislature takes. The AG does believe that the Court has connected the 'equity' issue with the 'adequacy' of funding so what is done with 'equity' will influence the 'adequacy' issue. The AG is pleased that the Court has moved away from demanding specific dollar amounts for the base aid per student school funding formula – as was done in prior Court cases. The adequacy test will now be determined by a set of standards established in a Kentucky court case known as the Rose standards. Most of these standards are already in Kansas statute. The test will be on whether children are being properly educated and less on the total dollars being spent. The Court was very clear that they have the jurisdiction over deciding if 'suitable provision of resources' are being provided for public education and will continue to review what the Legislature enacts.

Now the process begins to comb all budgets to see what can be diverted to spend more on schools. There will be no debate on increasing revenues to fund this \$129 million shortfall. The Kansas Senate Ways and Means committee has started this process by taking \$3 million from the Kansas Adjutant's disaster response fund thus taking the

balance down to \$3 million. (Disaster state matching funds were \$26 million in 2008, \$22 million in 2009, \$19 million in 2011 and \$5.5 million in 2014.) The transfer to the Kansas Bioscience Authority for 2015 was to be \$35 million but \$8 million will now be diverted for school funding. The Senate Ways and Means Subcommittee on the Department of Education deleted \$16.3 million for all-day kindergarten that was proposed by the Governor for 2015. The Governor's proposal to spend \$5.1 million from the State General Fund for a 1.5% salary increase for Executive Branch classified state employees. That is now in doubt. Considering the overall State budget picture, the ending balance for 2014 is \$539 million (8.9% of the State General Fund) and it falls to \$257 million for 2015 (4.1% of SGF). The ending balance could be lowered to \$150 million to fund the shortfall in school funding but the Kansas budget will be in the red for 2016 unless drastic program cuts are made or the income tax cuts revised.

JUDICIAL BRANCH POWER PLAY

Similar to the power play in public education where additional funding is offered if structural program changes are mandated - this is now happening with the Judicial Branch. Having underfunded the Judicial Branch for a few years and facing the prospect of furloughed employees and closed courts, the Kansas Senate has concocted a funding package that bundles higher docket fees with the creation of an e-filing system in exchange for fundamental administrative and budgeting changes. This package of several bills was developed by Senator Jeff King and stuffed in House Bill 2338 before being sent back to the Kansas House for a concurrence by the full body. (Thus - the Kansas House Judiciary committee will not hold proper hearings to vet these changes and understand the full implications.) This bill is quite unusual in that it has the budget for the Judicial Branch including the docket fee increases along with three bills dealing with administration, budgeting and vacancies. The House Speaker could have declared this bill 'materially altered' and it would have been properly vetted by both the Judiciary and Appropriations committees with full hearings for advocates on both sides. Instead, this most important legislation is in the hands of three Senators and three House members to develop a conference committee report that cannot be amended on the floor. (In House Rule 2107, the Speaker has sole authority to define 'materially altered' and it takes a supermajority of 70 votes to challenge that ruling.)

While the Governor used \$7 million in additional State General Funds to assist the Judicial Branch with the funding shortfall, Sen Sub for HB 2338 used higher docket fees and an additional \$2 million in SGF to reach a total budget of \$137.5 million (with \$97.7 million from SGF). In regards to docket fees, traffic filing fees increase from \$74 to \$86 plus the \$22 surcharge for a total of \$108 for an estimated 172,729 cases. There will a new 'variable' fee for summary (Chapter 60 only) judgment filings on 32,227 cases

generating \$2.7 million. Divorce/paternity docket fees increase \$19 to a total fee of \$195 on 19,289 cases. There are real questions whether these new docket fees will generate the projected revenues to fully fund the Judicial' budget without furloughs.

On the policy side, HB 2338 changes the judicial branch budgeting procedure. Kansas developed a unified judicial branch consisting of 31 judicial districts across Kansas. The Chief Justice of the Kansas Supreme Court develops a budget for each judicial district and has the latitude to move funds from one district to another. The Office of Judicial Administration assists all 31 districts with proper employment rules and regulations that adhere to federal and state law. Starting in 2016, the Chief Justice would establish a budget for each district but the 'chief judge' in the district could elect to take control of their budget and make all employee decisions. Under current law, the Kansas Supreme Court selects the 'chief judge' for each district and the Court of Appeals. With this law, the district court judges in each district would select their 'chief judge' and the Court of Appeal justices would select their 'chief judge'.

RENEWABLE ENERGY STANDARDS REPEAL

With one day of hearings that had 4 proponents and 22 opponents, the Senate Utilities committee voted to gut House Bill 2014 and vote out the complete repeal of the renewable energy standards that has resulted in almost 20% of electric capacity coming from renewable sources. Far from being the cause of electricity price increases, the Kansas Corporation Commission reported that renewable electric resources account for only .21% (2.2%) of the 9.55 cents per kWh retail electricity cost across the state. Over the last six years, the wind industry has invested \$8 billion and created 13,000 jobs. Utilities in Kansas can contract with wind developers for low, fixed cost electricity for 20 years as opposed to the fuel cost increases with coal and natural gas. The Senate floor debate on **Senate Sub. for HB 2014** will probably come next Tuesday – March 25.

LEGISLATION TO WATCH

Sub 2473 – regulation of weapons and knives such as 'open carry' laws. House floor debate may happen next week.

Sub SB 298 – eliminates the mortgage registration fee over five years and increases certain filing fees but the revenue to counties decreases from \$47 to \$29 million. This bill has passed the Senate and is now in the House.

HB 2227 – this is the House bill that moves non-partisan spring elections to the fall in odd-numbered years. This bill will be debated on the House floor next week.

SB 423 – this bill allows the Governor to sell and lease back the Eisenhower and Landon state office buildings (that have 600,000 square feet). The other part of this plan is to tear down the Docking Office building (140,000 sq. ft) and relocate those state employees by 2016.

Sen. Sub. for Sen. Sub for HB 2141 – this is the Senate’s election bill to move spring elections to the fall in odd-numbered years. There are a few major differences from HB 2227. This Senate bill will be debated on the Senate floor next week.

Sen. Sub for HB 2101 – this is the bill from Senate Utilities that establishes new rules for new ‘net metering’ electric customers. It will be debated on the Senate floor.

SB 412 – this bill establishes bonding authority for water projects at the Kansas Development Finance Authority. This bill has passed committee and will be debated on the Senate floor next week.

Sen. Sub for HB 2118 – this bill repeals the Kansas non-game and Endangered Species Act. There were no committee hearings on this bill. HB 2118 was gutted and the repeal put in the bill without any public notice.

Sen. Sub for HB 2014 – This is the bill that repeals the renewable energy standards. Very possible it will be debated on the Senate floor next Tuesday – March 25.

WEEK OF MARCH 24 – 26

House Appropriations on March 24, 25, & 26 will meet at 8:00 a.m. in Room 112-N to discuss school finance.

(Note: The Senate Federal and State committee may meet on Monday and Tuesday but all other committees are not scheduled to meet. House and Senate floor debate along with numerous House/Senate conference committee meetings will be the order of the day. The plan is to work Monday to Wednesday and take Thursday and Friday off before returning the following Monday – March 31.)