This Week in Topeka

Overland Park Chamber

Business, Economic Development & Local Government News
from the Legislative Session Week of January 14-18, 2019

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2019 Session Opens. Despite cold temperatures, the south side of the capitol steps was the place to be on Monday, January 14 as Laura Kelly was sworn into office as our state's 48th governor. Her inauguration started off a day of activities that included the swearing in of other state officers, members of the House of Representatives and five new members of the Kansas Senate. With formalities out of the way, the remainder of the week focused on committee organization and introduction of bills. Next week legislative committee work will ramp up into full action as bills get assigned and hearings begin on those bills.

The good news is that lawmakers start the session with a projected $900 million budget surplus. However, that enthusiasm is tempered as there are a host of competing priorities with price tags dwarfing the expected surplus. Among priorities are complying with the Supreme Court order on school finance; creating a long-term transportation plan; tax relief; fixing serious challenges with our foster care system; paying down debt and Medicaid expansion. The cost to address these issues far outstrips the projected surplus and finding consensus will be a major challenge.

State of the State. Governor Laura Kelly used her State of the State address to share her vision for Kansas under her leadership. That vision included emphasis on four key areas: high quality public schools; revitalization of rural Kansas, expanded access to health care and protection of our most vulnerable residents. The tone of her message was one of optimism mixed with recognition that a lot of work lies ahead.

While Republicans echoed support for many of the broad themes raised by Governor Kelly, they also expressed concern knowing there may be vast differences in the approach to accomplish the broad themes of her speech. Those differences in approach will be the focus of many debates over the next few months as legislators and the Governor wrestle with possible conflicts while working toward common ground.

Budget Briefing. Governor Kelly's first budget was unveiled on January 17. Breaking with recent tradition of two-year budgets, the Governor proposed a one-year budget for all agencies except K-12 where she retained the two-year budget concept. Citing recent years of unreliable projections, instability and dogged tax fights, Governor Kelly sought to provide stability and sustainability in her proposal. Key elements of the budget as outlined by her budget director included:

- A structurally balanced budget – revenues exceeding expenditures with no tax increase;
- An additional $521 million from FY 2020-FY 2023 for State Foundation Aid for K-12 education;
- Reduction and ultimate elimination of State Highway Fund transfers to the State General Fund (SGF) by FY 2023;
- SGF ending balances in FY 2019- 9.5% and FY 2020 – 9.1%;
- Restoration of the remaining FY 2017 SGF allotment for higher education;
- Expansion of Medicaid; and,
- Increased support, services and staffing to improve child welfare outcomes.

Taxation. As promised, legislative leaders cued up a tax bill (SB13) in the opening days of the session to tackle tax law changes that narrowly failed to pass in the waning days of the 2018 session. The bill is a reaction to the federal Tax Cut and Jobs Act of 2017. The sweeping federal changes created tax consequences for Kansans because our state doesn't automatically adjust or "decouple" from corresponding federal changes. Despite several days of hearings, the Senate Assessment and Taxation Committee wasn't ready to send a bill to the full senate so deliberations will continue into next week.

While SB 13 doesn't include all of the provisions below, lawmakers are considering a broad array of personal and business income tax provisions that ultimately could wind up being included in this or other bills in order to address the tax consequences of the federal changes. These provisions generally include:

- Repatriation. Kansas would continue its policy of not taxing deferred foreign income, as defined in IRC Section 965(a) – certain repatriation income. Kansas has not historically taxed foreign income, but with changes to the federal tax code, at least a portion of that income would be subject to Kansas income tax without this proposed decoupling.

- Global Intangible Low-Taxed Income (GILTI). GILTI, as defined in IRC Section 250(b)(1), would not be subject to Kansas income tax. Federal law uses foreign tax credits to accomplish this low tax category; however, Kansas does not currently apply foreign tax credits, so failure to decouple could result in taxing more than income earned in low-tax jurisdictions.
- Interest expense. Certain disallowed business interest under IRC Section 163(j) of the federal tax code in effect prior to passage of the Act.
- Capital contributions. Certain capital contributions under IRC Section 118 would be excluded from Kansas income tax liability.
- FDIC premiums. Amounts attributable to the disallowance of FDIC premiums paid by certain financial institutions would be excluded from Kansas income tax liability.

The major individual income tax provisions may include the following:

- Allowing taxpayers to elect to itemize deductions on their state income tax returns even if they take the standard deduction on their federal return. Under current state law, taxpayers are prohibited from itemizing deductions on their state return unless they also itemize on their federal return. With the significant increase in the federal standard deduction under the Act, it is expected more taxpayers will not itemize (current estimates put the percentage of taxpayers who itemize deductions at around 20%), thus closing that option on the state returns for more taxpayers.
- Accelerating the timeline for restoring certain itemized deductions eliminated or reduced in 2017. Under current law, deductions for medical expenses, mortgage interest and property taxes paid are allowed up to 50% of the permitted federal amounts in tax year 2018, increasing to 75% in tax year 2019 and 100% in tax year 2020. Under this bill, those percentages would be changed to 75% in tax year 2018 and 100% in tax year 2019.
- Allowing certain individual taxpayers (e.g., those owning pass-through businesses, such as LLCs, subchapter S corporations, partnerships and sole proprietorships) would become eligible to claim the expensing deduction for the costs of placing certain tangible property and computer software into service in the state; this is essentially the expensing option currently available for C corporations and was lost under the state tax cuts enacted in 2012.

Upcoming Events

Legislative Breakfast Series. Breakfast #1 in our series held in conjunction with the Johnson County Public Policy Council begins at 7:30 a.m. on Saturday, January 26. Panelists will be: Senate Majority Leader Jim Denning; Senator Molly Baumgardner; Representative Chris Croft; Representative Cindy Neighbor and Representative Brett Parker. For more information or to make reservations, click here.

Public Policy Committee Meeting. The next meeting of the **Public Policy and Advocacy Committee** will be noon-1:30 p.m. on **Friday, February 8** at the Chamber. To register, click here.