

**KASEA Legislative Update
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Veto Session, Week One

The Legislature returned May 1st to complete the major tasks of the 2017 session: passing a balanced budget; assembling a revenue package to support budget demands; and crafting a school finance formula that passes Supreme Court muster, as detailed in the *Gannon III* decision.

As of Friday, budget committees in the House and Senate have put finishing touches on their budget proposals, but have yet to debate them in chambers. As it currently stands, legislators will need \$500 – 540 million in additional revenues to simply balance the budget, *not including additional funding for school finance*.

Tax committees in both chambers have been meeting regularly to produce an appropriate revenue package, but little progress has been made on that front. One issue is finding enough votes when legislators are divided on whether each bill has enough or too little new revenue. The real sticky wicket, though, seems to be the number of income tax brackets.

A majority of legislators, generally Democrats and moderate GOP members, would like to see a healthy income tax package that includes at least three tax brackets. The governor has entered the fray again and is saying he will veto anything with more than two brackets. And a small minority, including the chair of the Senate Assessment and Taxation Committee, would like to have a flat tax under five-percent. A vote on a flat tax measure prior to the first adjournment, remember, only garnered three Senate votes.

As for school finance, there was virtually no action. On Thursday, the House K-12 Education Budget Committee hosted lawyer and former Senate vice-president, Jeff King, who has been hired to counsel the Legislature on a school finance formula. His role, as he describes it, is to counsel them on various finance components – what to include and how to strengthen it, so as best to please the Court – and to “package” it for the Court’s consideration.

The House committee plans to meet Monday to make some suggested “tweaks” to HB 2410 and, hopefully, move it out for full House consideration. The Senate Special Committee on Education Finance, chaired by Senate Majority Leader Jim Denning, plans to begin meeting on Monday to consider various aspects of school finance, with particular emphasis on at-risk funding.

The Senate plan is to wait for HB 2410 to come over from the House and amend it, rather than creating a separate bill. All of that will, hopefully, happen by the end of next week, which marks the end of the statutory 90-day session, meaning the session will very likely stretch beyond that.

The order in which the budget, taxes, and school finance are considered has proven to be important in this process, as well. Democratic leaders want to see school finance passed, before taking up budget and tax proposals.

Best guess for ending the session, at this point, seems to be the 100-days the Legislature approved for themselves at the beginning of the year, although long-term followers know it could stretch much longer.

Jeff King's Counsel to the House

In his remarks to the House K-12 Education Budget Committee on Thursday, Jeff King offered his views on HB 2410 against his interpretation of the *Gannon III* opinion. Overall, he said, more money is better. Whether the Legislature added money over time, as in HB 2410, or focused more on a shorter timeline, he wasn't certain, although he noted the difficulty in holding future legislatures to a long-term plan.

Of concern, he said, are the three un-equalized funds in HB 2410, which were also in the old funding formula: ancillary facilities; cost of living adjustment, for areas where the salary market tends to be higher; and declining enrollment. He believes that the focus on *adequacy* in this last opinion makes un-equalized funding more questionable – unless enough funding is put into the formula that it makes it less of an issue.

It was an interesting highlight, because those funds – particularly the COLA and ancillary facilities – have not received much legislative discussion this year and have been included in HB 2410. While not all legislators like those funds, they also recognize their importance to some areas of the state, most of which are not as favored in the overall weightings in the formula.

A final area he recommended providing additional evidence on is how the 25% of under-performing students, identified by the Court, are addressed in a new formula. Originally, HB 2410 contained a mandate that 25% of LOB funds be directed to at-risk students in each district. When amended in committee, that provision was taken out and funding was targeted to particular at-risk and early education programs, such as all-day kindergarten and four-year-old at-risk. King stated he doesn't necessarily oppose that approach, rather he recommended strengthening the rationale for those programs before sending it to the Court.

Moving Ahead

Where do they go from here, especially when there seems to be such a varied clash of opinions, especially on raising revenues? One train of thought that has been shared is as follows: pass an income tax bill, returning non-wage earners back to the rolls and increasing individual income tax rates with two income tax brackets, to cover the \$500 – 540 million needed for balancing the budget over the next two years; establish a tax on utilities - \$3 each for gas, electric, and water each month (\$108/year) for residential and \$10 each for businesses – with the \$150 million collected from that being dedicated to school finance; and, perhaps, passing a cigarette and tobacco products tax, estimated to collect \$111 million in its first year, to support school finance growth in future years.

That's one plan in what seems to be a sea of ideas right now. And none of the plans will be easy, although some will have a greater impact on the poor and those on fixed incomes, and will likely be less popular than others. A growing majority of legislators, though, have expressed a desire to produce one comprehensive tax package that restores the state to fiscal stability. Many of these are newly-elected members, who believe they were elected on a mandate to appropriately fund schools and structurally fix the budget-revenue situation in the state.

School finance in the Senate? There is talk of further expanding the use of Capital Outlay funds to include property and casualty insurance, in addition to utilities, which were added in HB 2410. That is something that benefits all school districts. There is also consideration being given to raising that from 8 mills up to 10.

Some on the Senate committee are also looking into using a "scarcity" model, rather than low enrollment weighting, which some believe is a sounder way to address smaller school districts

in the formula. This has been used in other states, such as Illinois, but would be heavy lift to change in Kansas at this late date.

Some on the Senate committee will also take a hard look at virtual school funding. They have been funded at a higher amount per pupil than have been students in regular public school settings, which has been a point of contention since its inception. This comes out of a Legislative Post Audit study that concluded the funding amount should be greater.

This is an area that even Education Commissioner Randy Watson has weighed in on, saying he has great concerns about performance outcomes in many of the virtual programs. At a minimum, the Senate may choose to require that virtual schools be held to the same performance standards as bricks-and-mortar schools.

If Senate committee members believe they appropriately address the Court's direction on adequacy and at-risk students, there will likely be an attempt to allow an LOB increase of one or two percent too. The LOB is equalized at 81.2% and a number of districts would like to expand local authority in this way.

The Legislature will take the weekend off and return to the proverbial drawing board on Monday, May 8.

Legislative Schedule

During the Veto Session, legislative committees meet on call of the chairs, as needed. Therefore, there is no calendar to share in the coming weeks.