

KASEA Legislative Update
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Roller Coaster Week Marks Legislative Turnaround

One sure thing may be said about this past week: it was a roller coaster of a ride! One of these rides was on [HB 2178](#)*, a comprehensive tax package that would have netted \$590 million in its first year. The House and Senate easily passed it and sent it on to the governor. Governor Brownback, at a dinner of the Kansas Chamber of Commerce – notorious for opposing any business taxes – announced that he was vetoing HB 2178.

The next day the House voted to override the governor's veto by a two-thirds margin of [85-40](#). The Senate, though, failed to muster the needed 27 votes and the veto was sustained, [24-16](#).

The House quickly communicated that it would look to the Senate to devise the next tax plan, one that could muster the support of that body's GOP leadership. On Thursday morning, the Senate Assessment and Taxation Committee held a brief meeting and put tax bills in play, which likely will be similar to HB 2178, but without the retroactive-to-January 1, 2017 provision that some there found particularly objectionable.

Without the retroactivity piece, however, the legislature is left with how to manage the revenue shortfall until the new tax structure kicks in. Senate GOP leaders have been adamant that any solution must include a mix of budget cuts, a smaller amount of PMIB borrowing, and revenue increases.

Key to any tax plan is that it must be comprehensive enough to set up a structurally sound revenue foundation for coming years and still garner a veto-proof margin in both chambers, as the governor has indicated he will veto any bills aimed at rolling back his 2012 tax cuts.

The Senate plans to quickly get to work on such a plan when they return from their turnaround break on March 6, 2017.

KanCare/Medicaid Expansion

Another issue that went from low to high within a couple of days was a measure to expand the state's Medicaid health coverage to adults up to 133% of the federal poverty level. The expansion was a key piece of the federal Affordable Care Act that Kansas has yet to pass. Many other states – including those with GOP governors and chambers, such as Indiana, Ohio, Arkansas and Montana – have already passed the measure and continue to hail its benefits.

It is estimated 150,000 working Kansans could benefit from the expansion, with most of the funding coming from money already set aside by the federal government. A key issue for some is its potential cost and sustainability.

The Kansas Hospital Association, along with numerous other provider and health advocacy groups, have led the effort and shown how the expansion can be achieved in a budget-neutral manner for the state.

The issue became more heated when the House Health and Human Services Committee voted to table [HB 2064](#), the enacting legislation, on Monday, thereby killing the bill. However, on Wednesday, the House amended the language of that bill into another health-related bill, [HB 2044](#)*, leading to a four-hour debate on the House floor. In the end, the bill passed on a solid

[81-44](#) vote. The bill now moves on to the Senate, where the Senate president has promised hearings and open debate.

Teacher Due Process

Last, but not least, was a bill that would restore due process rights to teachers. Many will recall that this was stricken from the law in an overnight, backroom agreement, without public hearings or debate. The way it occurred added what some might consider “insult to injury.”

This year a bipartisan bill, [HB 2179](#), was introduced and had a hearing in the House Education Committee. Many of the bill’s sponsors also sit on that committee and were dismayed when the chairman, Rep. Clay Aurand, Belleville, announced that he did not intend to allow the bill to be worked in committee.

That angst led to that bill’s language being amended into [HB 2186](#)* and passed, 72-53, in House debate. It now moves on to the Senate Judiciary Committee.

*Connects to the Supplemental Note on the bill, which provides a clear description of the bill and the action it has received by the Legislature.

School Finance

Most of the work of the legislature, so far, has been on structurally fixing the state’s fiscal crisis. Leaders have said they want to see what legislators are willing to do on the budget and revenue policies, before they act on a new school finance formula.

The House Education Budget Committee has held hearings on a number of school finance bills and those bills remain alive for action in coming weeks. The Senate has not put any school finance bills in play, but the Senate Education Committee has been holding presentations on various elements of school finance.

Senate Majority Leader Jim Denning has said they will begin work on a school finance formula when they return to work on March 6. The Legislature, along with education leaders across the state, are rather anxiously awaiting a decision on the adequacy of state funding for education to provide more certain guidance on a new formula.

To date, the most interest of education leaders has surrounded the bipartisan, bi-chamber [HB 2270](#), which was authored by Rep. Melissa Rooker, R-Fairway, and Sen. Laura Kelly, D-Topeka. It retains many features of the former formula, but changes the poverty proxy from free and reduced lunch to U.S. Census Bureau data. Most important to most, it increases foundational (base) aid by more than \$800 million over a four-year period and funds full-day kindergarten.

There are certain to be more bills ahead, especially when the Senate dedicates itself to the work of school finance. *Now is the time for K-12 education leaders to be speaking with their legislative delegations regarding finance factors particularly important to them.*

KPERS, Working After Retirement

On Wednesday, the House passed [HB 2268](#) on a vote of [116-9](#). The bill will now go to the Senate Committee on Financial Institutions and Insurance. Key provisions of the bill include:

- Combining current special exemptions for emergency vacancy, special education, and hard-to-fill positions into a single special working-after-retirement exemption.
- Starting on July 1, 2017, individuals who retire at age 62 or older and who are subsequently re-employed by a participating school district also would be exempt from

the earnings cap. The school district would make a contribution to KPERs equal to 30 percent of the retiree's compensation.

- Excluding retirees from the earnings cap who are either independent contractors or employees of a third party if the following three conditions are met:
 - The contractual relationship was not created to allow the retiree to continue employment in a position similar to the one the individual held prior to retirement;
 - The activities performed by the independent contractor or third party are not normally performed exclusively by the participating employer's employees; and
 - The retiree meets the classification of an independent contractor as provided by the State's labor law or the third party's activities are performed on a limited-term basis and the third party is not covered by KPERs.

The House subcommittee on WAR is expected to meet again after turnaround to consider other related issues, including provisions for substitute teachers.

Senate Education Committee hears from Special Education Administrators

On Monday, the Senate Education Committee held an informational hearing on special education. KSDE Attorney Mark Ward gave an overview of federal and state laws governing special education and Deputy Commissioner Dale Dennis explained special education funding.

Three special education service directors from across the state presented testimony* to the committee:

- [Kathy Kersenbrock-Ostmeyer](#), NW Kansas Education Service Center;
- [Bert Moore](#), Chautauqua and Elk County Special Education Services; and
- [Mike Lowers](#), Central Kansas Cooperative in Education.

Administrators shared information about programs and services provided for special education students, the diverse needs they service and advocated for full fund of excess costs. There were questions about the definition of "meaningful educational progress," gifted education and ELL services for special education students. However, most of the questions focused on transitional programs and services to help prepare special education students for the workforce.

Sen. Molly Baumgardner (R-Louisburg) stayed afterwards to talk with special education administrators and expressed appreciation for their work. Since the meeting, Terry Collins has shared KASEA's "Changing Face of Special Education" document with the committee.

*Click on the conferees name to read testimony.

Halfway Through and What do we Know?

Beyond the mere committee workings and vote counts, the action in recent weeks has provided key clues about the 2017 Legislature:

- Those who ran on a platform of fixing the state's budget picture and supporting education have followed through on that commitment. They are serious-minded and committed to taking the hard tax votes in an effort to restore fiscal responsibility and sustainability to our state.
- In both chambers, when moderate Republicans and Democrats coalesce on legislation, they have the needed votes to pass anything they want. In recent years, that hasn't been the case. The House is fairly pronounced, with recent votes showing about 40 hardline "conservative-right" members. That leaves 75 members who can come together and get most things passed.

- The House can fairly easily muster needed votes for a veto override. This is key, as the governor has openly stated his opposition to restoring the non-wage pass through business income tax, to expanding Medicaid and other key items of interest to this legislature.
- The Senate President, Susan Wagle, Wichita, and Majority Leader, Jim Denning, Overland Park, will be key to any veto override in that chamber. The Senate came just three votes shy of overriding the veto on HB 2178, with Senators Wagle and Denning representing two of those needed votes. If they voted for an override, it is highly likely one or two other votes would be added as well.
- Both chambers have moderated from recent years. In the House, most of the committee chairmen tend to be more conservative, but the overall membership is definitely more moderate. The Senate has moderated, as well, but the override action has shown it to be less so than in the House.

There is more, of course, most notably that the entire process is more open and transparent than it has been in recent years. This starts with leaders in both chambers being committed to an open, public process, but certainly includes more committees being live-streamed so people may listen into key proceedings online.

For most, though, it means issues important to them have, at the least, a fighting chance of being realized. The legislative process, with its numerous steps, is set up so that most bills will fail. While this process is burdensome at times, it better ensures appropriate vetting and that the best ideas will prevail.

A&M Efficiency Recommendations

The House introduced two bills relating to recommendations of last year's Alvarez & Marsal Efficiency Study and included in the Governor's Budget, earlier in the session. [HB2142](#) contains the recommendation on employee health insurance benefits consolidation and [HB2143](#) the recommendation on school districts purchasing certain goods and services through the Kansas Department of Administration.

The governor, in his FY2018 budget recommendation, cuts funding to schools by \$47 million and another \$89 million to account for the A&M "efficiency savings" for health insurance and state purchasing, respectively.

The House Education Budget Committee is studying these, but has been fairly cool to the notions so far. There are many issues with both of these recommendations, the chief is which it is highly unlikely most school districts would achieve real savings from implementation.

In many purchasing markets, competition is likely greater than that which could be achieved by a statewide system. The Dept. of Administration has admitted that it does not current have the needed vendors, staffing or information system to implement the procurement recommendation. Further, the state's savings would be offset by the cost of getting the Department up to speed to actually fulfill the obligation.

As for the health insurance plan consolidation, the savings is even more dubious. Boiled down, most school district employees would pay more for less in their health benefit plans and that would be the case for many of the larger school districts across the state.

Bill Tracking Report

We have prepared a bill tracking report that includes budget, tax and education bills that may be of interest to KASEA members. Click [here](#) to access that report. If you have additional questions about a specific bill, please feel free to contact us.

Committee Schedule for the Week of March 6, 2017

This is a list of committee meetings that may be of interest to KASEA. The calendar is subject to change.

Monday, March 6

12:00 p.m., S-Ways and Means Subcommittee on Education, 548-S*

- Consideration of KSDE agency budget

1:30 p.m., H-K-12 Education Budget, 346-S*

Informational Briefing:

- At-Risk Funding – Scott Frank, LPA & Dale Dennis, Deputy Commissioner, KSDE

Tuesday, March 7

1:30 p.m., Joint S-Education and H-K-12 Education Budget, 346-S*

Informational briefing:

- National Student Clearinghouse Data – Dr. Randy Watson, Commissioner, KSDE

Wednesday, March 8

9:00 a.m., H-Appropriations, 112-N*

Update:

- A&M Efficiency Recommendations (K-12 Health & Procurement) – Rep. Campbell

1:30 p.m., H-K-12 Education Budget, 346-S*

Informational briefing:

- Procurement and Health Care – Sarah Shipman, Secretary, Dept. of Administration

Thursday, March 9

12:00 p.m., S-Ways and Means Subcommittee on Education, 548-S*

- Deliberation and possible recommendations on KSDE agency budget

Friday, March 10

10:30 a.m., S-Ways and Means, 548-S*

- Subcommittee Reports on KSDE agency budget

*Live-streaming audio available. To access these committee online, click here

http://www.kslegislature.org/li/b2017_18/committees/, select the committee you want to listen to and click on the link for “audio stream.”