

State Representative

Don Hineman

Don's Legislative Update

May 3, 2016

Legislature Adjourns

The 2016 Kansas legislative session concluded early Monday morning, when both chambers agreed on a budget and left town. The ceremonial end of the session, known as Sine Die, will take place on June 1. Coincidentally that is also the filing deadline for anyone wishing to run for either the Kansas House or Senate. That could make for an interesting day in Topeka.

The legislature had come back to Topeka for the final wrap-up session just last Wednesday, and finished work in only five days. That made the 2016 session only 73 days long... one of the shortest in recent memory. However we may not be finished for the year, as many observers expect a special summer session if the Kansas Supreme Court rules that current school funding is unconstitutional.

The two most important issues to come before the legislature this past week were an attempt to repeal the income tax exemption for business and the final passage of a budget. Before I discuss the issues, however, I want to talk about the process. All of us learned about the legislative process in junior high, and we assume it still works the way we were taught, with full and open debate and ample opportunity to amend proposals in order to achieve the best final product. And one would certainly expect that approach with issues of such great importance as state tax policy and crafting of a budget. Wrong. In both cases the issues were brought to the House and Senate as conference committee reports. That means the final product was crafted not in a full committee, but rather by a select group of only six individuals. And conference committee reports cannot be amended, merely accepted or rejected. In both instances (budget and tax) this produced less than optimal results, and the interests and objectives of 159 senators and representatives were largely stifled.

The issues of budget and tax are closely intertwined because in recent years the state has been spending more than it has been bringing in via tax receipts. Though the recent downturn in ag prices and oil and gas is partly to blame, the primary reason for the structural imbalance is the tax cut enacted in 2012. That plan reduced individual income tax rates and also completely eliminated the state income tax on "pass-through" business income. Although it has been termed the "LLC tax exemption", it is really much broader than that. Any income which gets reported on federal schedules C, E, and F became exempt from Kansas income tax. That means sole proprietorships, rents and royalties, farmers, partnerships, limited partnerships, subchapter S corporations, and LLCs instantly became exempt from the tax. Recently some folks have been referring to the exemption as the LLC loophole, implying that it went farther and



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exempted more income than was intended. I would term that characterization as a bit of revisionist history. Many of us clearly understood in 2012 what was being exempted and what the impact would be. Documentation from that debate would confirm it.

Now, however, there has been a groundswell of support for reversing the business tax exemption, and even some legislators who voted for it in 2012 are joining the push to repeal. In fact, the bill which the House voted on last Friday would have done exactly that. But the problem is that many people think if we merely put business back on the tax rolls, all will be well. That is not true. When the bill was passed in 2012 it was estimated that 29% of the revenue the state would lose would be due to the business exemption. The other 71% of the lost revenue would be due to the cuts in the individual rates. That is still true today. Restoring the tax on business would increase revenues a little over \$200 million per year, but the magnitude of the structural deficit is more in the range of \$400 million to \$600 million per year, and some would claim it is closer to \$800 million.

So restoring the business tax alone is inadequate. We must also consider adjusting at least the top individual income tax rate, not as high as pre-2012 rates, but upward enough to close the structural imbalance. Additionally, the 2012 bill put in statute a formula to continue the march to zero on state income tax. Many of us have become convinced that we cannot put our financial house in order so long as that statute is on the books. I was among those who advocated for a true structural fix, addressing all three of these components. However the authors of the bill rejected that option and they only wished to restore the business tax. That attempt was made in the House on Friday, even though there was strong evidence that the Senate was uninterested. Governor Brownback had continued to make it plain that he did not support the bill so it was highly likely he would have vetoed the measure. The bill failed, and I joined with the majority of my colleagues in voting no because it would not have fixed the problem. Many of my close friends and legislative allies worked for and supported the bill and I truly understand and appreciate their efforts. However others appeared more interested in advancing the measure as an election year gimmick than as a serious effort at true revenue reform. Though this proposal was inadequate and did not succeed, we must continue to work for tax reform which returns Kansas to a broad-based, stable and equitable tax policy.

Once it was evident that the legislature was uninterested in addressing revenue reform in a responsible and meaningful way, the next major order of business was adopting a final omnibus budget. Again the plan was crafted by conference committee, and I must compliment the House conferees of Ron Ryckman Jr., Sharon Schwartz, and Jerry Henry for working hard to make the best of a very bad situation. They successfully protected public education from further cuts, and they included additional funding to address the dreadful staffing issues at our state hospitals. But with a major shortage of funds, some really bad choices had to be made.

Once again funds will be transferred from KDOT, and this prompted an announcement by Secretary of Transportation Mike King of the cancellation of 25 highway modernization and expansion projects worth nearly \$600 million. All of the projects would directly affect rural Kansas, once again illustrating who gets hurt the most when state government is downsized. And this is on top of nearly \$300 million in preservation projects which were previously postponed. A quarterly payment of nearly \$100 million to KPERS will be delayed, and possibly not be paid until fiscal year 2018. Higher education will receive additional cuts, most likely triggering increases in student tuition.

But one of the most troubling aspects of the budget agreement is a

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provision directing Governor Brownback to make another \$82 million of cuts during the new fiscal year beginning July 1. Without those cuts the budget doesn't balance, so the governor is forced into a position of finding a way to further downsize state government. That is a great concern, and some have even raised the possibility that the legislature has in effect abandoned its key constitutional responsibility. The Kansas Constitution Article 11 Section 4 states: The legislature shall provide, at each regular session, for raising sufficient revenue to defray the current expenses of the state for two years.

With public education off-limits to further cuts by the governor and KDOT truly being depleted of any excess funds, the options are limited. Whatever decisions Governor Brownback makes regarding those future cuts, the effects will be felt by many Kansans in the form of less responsive governmental agencies, staffing shortages, or elimination of needed programs.

The Future of Public Education in Kansas

I have written and distributed to the press an op-ed piece regarding public education in Kansas. It now [available on my blog](#).

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This newsletter is primarily intended for the residents of the 118th District (all of Wichita, Scott, Lane, Logan, Gove, Trego, and Sheridan Counties and portions of Thomas and Graham Counties). However it is available to anyone who finds it of interest. Please forward to your friends, or if you are not now receiving a FREE subscription to my newsletter, [click here to sign up](#).

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Cowboy Logic

Life is simpler when you plow around the stump.

Quote of the day

"All men make mistakes, but a good man yields when he knows his course is wrong, and repairs the evil. The only crime is pride." – **Sophocles**

Sermon in a sentence

One is not old until regret replaces dreams.

Representative Don Hineman

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