



# **Bright and Carpenter Consulting, Inc.**

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## **January 19, 2019 Legislative Update**

The Kansas Legislature gaveled in for the 2019 Legislative Session at 2:00 p.m. on Monday and took off running. Typically, the first few days are slow as legislators settle into their offices. This week, however, saw glimpses of fireworks that could set the tone for a complicated legislative session.

### **New Administration, New Legislature**

Former Democrat State Senator Laura Kelly was sworn in as Kansas' 48<sup>th</sup> Governor on Monday. Kansas has elected four Democratic governors in the past 50 years, most recently Kathleen Sebelius in 2006. Needless to say, people are eagerly watching to see how Governor Kelly and her administration lead during their first few months in office.

She completed her final cabinet appointments last week:

*Duane Goossen*, Interim Secretary of Administration

*Laura Howard*, Interim Secretary Aging and Disability & Children and Families

*Mike Beam*, Acting Secretary of Agriculture

*Roger Werholtz*, Interim Secretary of Corrections

*Dr. Lee Norman*, Interim Secretary of Health and Environment

*Delia Garcia*, Acting Secretary of Labor

*Brad Loveless*, Acting Secretary of Kansas Wildlife, Parks and Tourism

*Mark Beshears*, Interim Secretary of Revenue

*Julie Lorenz*, Interim Secretary of Transportation

*David Toland*, Acting Secretary of Commerce

A more conservative House of Representatives is also in place for the 2019 Session. Republicans maintained their 85-40 majority in the House after the 2018 elections, but conservatives picked up a handful of seats from more moderate incumbents. Nearly all leadership posts in both the House and Senate are held by conservative Republicans as well.

### **State of State Address**

Governor Laura Kelly presented her first State of the State address to a joint session of the House and Senate on Wednesday night. There were not too many surprises in her speech. Kelly promises to comply with the Kansas Supreme Court's order for more money toward K-12 education, expand Medicaid, and strengthen mental health and children's services – all within a balanced budget and without raising taxes. There was a consistent thread of compromise and middle ground in her message that resonated with some legislators on both sides of the aisle.

## **Budget**

The Governor's proposal includes an adjustment for inflation for K-12 school finance, which she believes will fully answer the Kansas Supreme Court's ruling on school finance last year and will end the school finance law suit. She also wants this portion of the budget passed by the end of February so the Attorney General can have time to get ready to defend the State's school finance budget before the Court.

The budget also starts to phase out the transfers from the State Highway Fund to the State General Fund. In recent years legislators have been filling budget gaps with highway funds.

The Governor also proposes to expand Medicaid in the budget, saying this will allow for health care coverage of 150,000 low income Kansans, as well as help sustain rural hospitals. This is one of the most politically charged issues in Topeka.

The foster care system could see more funding. Candidate Kelly spoke often about the child welfare system during the campaign, and Kansas foster care has had a number of bad headlines in recent years. The budget proposal will increase funding for family preservation services, more child welfare staff, and new IT systems to allow for better tracking of cases and sharing of needed information.

The Kansas Public Employees Retirement System, KPERS, has a long and somewhat troubled past. Recently legislators have been able to start to pay down the accumulated debt of KPERS over the years. The Governor's budget has a proposal to amortize some of that debt, saying it will save the State millions of dollars. Republican Leadership in the Legislature were quick to oppose this proposal, saying it will cost the state millions. This will also be a politically charged issue.

There is also a 2.5% pay raise for some state employees. Part of this is targeting Dept. of Corrections positions which have trouble being filled. There is a higher vacancy and turn over for prison guards and other positions throughout the state.

The budget committees will soon begin their hearings on the different state agency budgets. It's uncertain what form school funding will take, some legislators want to scrap the current system and start over. It's possible that if the budget committees don't fund Medicaid expansion there could be a fight to do that with amendments on the floor during debate.

A new Democrat Governor dealing with a Republican led Legislature will naturally have differences. But these budget issues could amplify those differences, leading to political uncertainty for other issues as well.

## **Federal Tax Windfall**

A storm is already brewing in the Senate Tax Committee over a bill that would allow Kansans to itemize on their state tax return and increases the standard deduction to 25%. The bill also reinstates small business expensing and includes other income and sales tax credit provisions. Introduced by the Committee Chair, [Senate Bill 13](#) is a new version of the Conference Committee Report on House Bill 2228 that failed on the last day of the 2018 legislative session, only without any of the corporate provisions that decouple from the Trump tax reform bill of 2017. Three hearings were already held this week on SB 13.

The two controversial pieces deal with taxing foreign-earned income made by Kansas' international corporations. Some lawmakers are calling those provisions a "tax cut" while others persist that those funds have never been taxed in Kansas and are just preventing a tax increase on businesses. And until the Kansas Department of Revenue can provide guidance and fiscal data proving that there will be no unintended consequences on the state budget, it appears the discussions have been halted for now. In fact, Senate leadership called a Senate Select Committee on Federal Tax Code to study the effects of the federal income tax cuts and how other states are responding. [Senate Bill 22](#) was introduced on Thursday and includes the corporate provisions along with the individual itemized deduction piece.

### **Sports Wagering**

After the U.S. Supreme Court struck down a 1992 federal ban on sports wagering, the Legislature is taking another look at legalizing sports betting in Kansas. [Senate Bill 23](#) was introduced on Wednesday in the Senate Federal and State Affairs Committee and creates the Kansas Sports Wagering Act. State-owned casinos, lottery retailers, sports leagues, and state regulators are continuing to work toward a compromise. A similar bill was introduced last year, but the issue was tabled.

### **New Lottery Director**

Governor Kelly announced on Wednesday that Stephen Durrell will serve as the Executive Director of the Kansas Lottery. Durrell has served as the Chief Counsel and Assistant Attorney General to the Kansas Lottery since 2007. At the Lottery, Durrell wrote all rules and regulations with regards to all games sold, drafted and negotiated contracts by the agency, and oversaw day to day legal operations. He was directly involved in negotiation and drafting contracts with potential casino managers under the Kansas Expanded Lottery Act.

### **Association Health Plans**

Several bills were introduced in the Senate Financial Institutions and Insurance Committee this week dealing with Association Health Plans. This summer, the Trump administration rolled back regulations to encourage health insurance coverage outside of the Affordable Care Act. One of those options is association health plans offered to certain professions and small businesses by trade groups. Kansas law still has some restrictions around association health plans, so groups like the Kansas Farm Bureau and others have been in ongoing discussions with the Insurance Department in the interim and plan to pursue legislation this year.

### **Utility Rate Studies**

The Senate Utilities Committee spent Tuesday and Wednesday receiving a report from the Kansas Corporation Commission (KCC) on a study comparing energy rates in Kansas to surrounding states. The report provided findings as to why energy costs in Kansas have increased between 2008 and 2017. Representatives from the KCC testified that increased cost of coal production, new transmission line expenses, compliance with the federal Clean Air Act (environmental infrastructure), and reduction in industrial sales, are just some of the reasons for the rate increases.

### **Looking Ahead**

The Legislature will not be in session on Monday for the Martin Luther King holiday. Beginning Tuesday, agency presentations will continue in many of the key committees. Bill introductions are picking up with several hearings on the calendar. We also expect to see more analysis of the Governor's proposed budget and potential new revenue streams (internet sales tax, KPERS refinancing, etc.) to make it all work.