

Flener, Matt

From: Andy Blunt <ablunt@hbstrategies.us>
Sent: Friday, February 1, 2019 9:43 AM
To: Brown, Nicole
Subject: HBS Legislative News



MISSOURI LEGISLATIVE NEWS FEBRUARY 1, 2019

The calendar has now removed the month of January from the 2019 legislative session. As it happens annually in the January/February timeframe, the pace of committee hearings and their consideration of bills picks up, portending the consideration of bills on the House and Senate floors. The revenue situation continues to be troublesome and murky, as the Fiscal Year 2019 clock continues to tick with negative year to date revenues. Sadly, a few friends of many in the Capitol passed away recently and will be missed. Budget committees are beginning their work in earnest.

A FRIEND TO MANY PASSES

We learned in the past week of the passing of Brett Berri, a friend to many in the Missouri Capitol. While licensed as a lawyer, Brett made his living for many years as a Governmental Relations Director for statewide officials and the Office of Administration, until Governor Nixon

appointed him as an Administrative Law Judge to the Missouri Administrative Hearing Commission.

Brett was a good guy and an inspiration. Lobbyists consider the first task of a good lobbyist is to show up and represent your client. In spite of a disability that kept him from walking the halls, Brett Berri was a guy who always showed up for work and was a diligent advocate for his clients. RIP Brett.

JOE FRAPPIER PASSES

Former State Senator Joe Frappier also recently passed away. Joe was a State Representative and State Senator from St. Charles in the late 1970s through early 1980, at which time he became the Director of the Department of Economic Development for Governor Kit Bond. In the mid-1980's Frappier became Legislative Director for Governor John Ashcroft. He then became the head of the Missouri Chamber of Commerce from 1990 through 1998, when he retired.

GUBERNATORIAL APPOINTMENTS

Amongst the appointments by Governor Parson that were considered by the Senate Gubernatorial Appointments Committee this week were:

- Former Governor Matt Blunt's Deputy Chief of Staff John Russell as Commissioner of the Greene County Eastern District. Russell is the grandson of former State Senator John T. Russell.
- Former State Senator Jay Wasson as a member of the Missouri Tourism Commission.
- Cheryl Walker as a member of the Missouri Ethics Commission.
- Mark Elliff as a member of the Missouri Housing Development Commission.
- Rick McDowell as a member of the Missouri Housing Development Commission.
- James Limbaugh as a member of the Board of Regents of Southeast Missouri State University.
- Peter Herschend as a member of the State Board of Education.

While Peter Herschend, who has served on the State Board of Education since the 1980's received some opposition in the Gubernatorial Appointments Committee, ultimately he was approved in the Committee and by the entire Senate.

GLENN FITZGERALD NAMED HOUSE APPROPRIATIONS STAFF DIRECTOR

Glenn Fitzgerald, who had been named the Acting Staff Director of the House Appropriations Committee in late 2018, was named the permanent Staff Director this week. Fitzgerald replaces former Director Mike Price, who is now the Deputy State Treasurer.

TAX BILLS AGAIN

Bills to address the issue of sales taxes on internet sales, coupled with reductions in the top individual income tax rate were heard in both the Senate Ways and Means Committee (on Tuesday) and the House Ways and Means Committee (on Wednesday). These hearings came as state revenue collections, which include the effects of prior tax cuts, were in the tank through January 2019 (seven months of the Fiscal Year 2019 collection period).

The two Senate Bills that were considered in the Ways and Means Committee were Senate Bill 46 by Ways and Means Chairman Andrew Koenig, and Senate Bill 50 by Senator Bill Eigel. The House version is House Bill 548 which was filed by Representative J. Eggleston.

The general consensus of the hearings was that the Wayfair case decided by the United States Supreme Court on internet taxation needs enabling legislation, and the changes when implemented will produce additional tax revenue for both the State and local governments that impose sales taxes. The current estimate for General Revenue is in the \$80 million to \$100 million range in new collections.

However, all three bills spend more than the new General Revenue collections in reduced taxes, thereby making them negative for the already shaky General Fund. (See discussion below). Yet tax cut bills in a conservative General Assembly always seem to have some life.

FAST-TRACK WORKFORCE TRAINING PROGRAM A GOVERNOR PARSON PRIORITY

On Monday of this week the House Workforce Development Committee heard House Bill 225, legislation that is sponsored by Representative Kathy Swan (R-Cape Girardeau). In a bit of a surprise, Governor Parson briefly attended the hearing, underlining his support for this new program.

As we have previously mentioned after the release of the FY 2020 budget, Governor Parson focused on the policy issue of job training, preparedness, and retention by recommending \$22.2 million for grants to adults with adjusted household income under \$80,000 who are working toward a degree that fills a high-need skills gap, which is the Fast-Track program.

This legislation looks like it will be on a fast track itself.

BETTER TOGETHER INITIATIVE ON ST. LOUIS CITY/COUNTY MERGER

Better Together, a non-profit funded by Rex Sinquefield, this week announced a plan to support an initiative petition that would place the issue of merging the governments of the City of St. Louis and St. Louis County to a statewide vote. The group indicated that the budget for that issue may be as much as \$25 million, which is an enormous amount of money for an initiative petition effort.

The proposal was immediately criticized by local officials in St. Louis County, where there are nearly 90 cities that have their own governing powers. Some opponents have suggested that the state of Missouri has no business making a local decision such as this and believe the issue should instead be voted on by the residents of St. Louis and St. Louis County which are directly impacted.

While going the initiative route removes the need for legislation to do this, there is talk in the halls that if this issue passes, what will be the next local government that faces an initiative to change their local powers?

This will be an issue of some controversy through the 2020 elections.

THE STRANGE BUDGET/REVENUE SITUATION

While the collecting of revenues for January 2019 has ended, the final report of those revenue collections is not available until next week, a more informed opinion can be developed when those numbers can be examined further.

Through the end of business on January 29, 2019, General Revenue receipts were -7.59% for Fiscal Year 2019, which ends on June 30, 2019. The dollar amount of negative growth through January 29, 2019 compared to the same period a year ago is negative \$415 million.

The consensus revenue estimate is for growth of +1.7% in revenues over what was collected a year ago, or approximately \$165 million. Thus, in order to meet the consensus revenue estimate for the fiscal year, a gap of about \$580 million needs to be covered (\$415 million plus \$165 million).

Many think that receipts from the earlier error in the 2018 withholding tables will require taxpayers to remit additional payments in April 2019. However, data from the Department of Revenue suggests that those additional remittances might not exceed \$150 million.

Look for a follow up next week into what Governor Parson/State Budget Director Dan Haug has to

say when the monthly revenue report is released early next week. The situation currently does not look good.

STATE OF THE JUDICIARY

Chief Justice of the Missouri Supreme Court Zel Fischer gave the State of the Judiciary speech on Wednesday of this week. The highlight of Judge Fischer's address was his announcement of a plan to reduce the amount of bail that can be set by a local court for offenses that are non-violent or considered minor in nature. Fischer noted that many of those affected cannot make bail and therefore dig themselves further into poverty.

"Though presumed innocent, they lose their jobs, cannot support their families and are more likely to reoffend," he said.

The changes advocated by Judge Fischer appear targeted at courts that are viewed as using the court process as a revenue source, which is keeping minor offenders incarcerated unnecessarily.

PRESCRIPTION DRUG MONITORING PROGRAM

House Bill 188, sponsored by Representative Holly Rehder, was heard by the House Insurance Policy Committee on Wednesday evening, and then was voted out on a 13-3 vote. Representative Rehder has been a consistent advocate for the Prescription Drug Monitoring Program (PDMP), but her bills have consistently been sidelined by former Senator Rob Schaaf, a physician who was term limited after 2018. A hearing was also conducted this week by the Senate Committee on Seniors, Children & Families on the Senate version of the legislation (SB 155), which is sponsored by freshmen Senator Tony Luetkemeyer.

This bill looks likely to receive early consideration and likely passage in the Missouri House, but while one obstacle has been removed in the Missouri Senate, a number of Senators remain concerned about privacy issues associated with any governmental database. Time will tell if that remains an obstacle.

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From: Andy Blunt <ablunt@hbstrategies.us>
Sent: Friday, February 8, 2019 10:16 AM
To: Brown, Nicole
Subject: HBS Legislative News



MISSOURI LEGISLATIVE NEWS FEBRUARY 8, 2019

It was a hot and cold week for early February both inside and outside of the Capitol. Temperatures ranged from the 60's last weekend to ice storms throughout the State on Wednesday and Thursday. Inside the Capitol most of the hot action was still in the committee process, although a few bills were passed on the House and Senate floors. The committee process prepares issues for a growing calendar of future floor debate. There are a lot of whispers and growing concern in the halls of the Capitol about the severity of the budget/revenue situation. Also, a couple of talented elected officials changed their jobs this week.

COMINGS AND GOINGS

Former Republican State Representative Marsha Haefner, who was term-limited at the end of 2018, has joined the staff of Governor Parson as the Director of his St. Louis office. It is widely assumed

that Haefner may seek the 1st Senatorial District seat currently held by Democratic Senator Scott Sifton when he is term-limited in 2020.

State Representative Jean Evans, a second-term State Representative from St. Louis County, was recently named to be the Chairman of the House Economic Development Committee. Evans was perceived as a real force for present and future activity in the Capitol. However, this week Representative Evans resigned her legislative position to become the Executive Director of the Missouri Republican Party.

Representative Derek Grier was named by House Speaker Elijah Haahr to replace Representative Evans as the Chairman of the Economic Development Committee.

THE WORSENING REVENUE SITUATION

January 2019 revenue collections were a major disappointment, and placed year to date revenues at a very disappointing -6.96%. With the nearly 7% shortfall, revenues are about \$382 million below the revenue taken in at the end of January 2018. In addition, the consensus revenue estimate assumes growth of +1.7% for the fiscal year ending June 30, 2019. Growth of +1.7% would be another \$165 million.

Between the current revenue shortfall and revenue growth assumed in the consensus estimate, revenues need to recoup nearly \$550 million of additional revenue over collections from a year ago in the next five months in order to hit the estimate, which is a tall hill to climb. It is getting late in the fiscal year for budget restrictions on spending to yield much savings.

MISSOURI SUPREME COURT HEARS SO-CALLED DEBTOR PRISON CASES

On Wednesday of this week the Missouri Supreme Court heard two cases that deal with the issue of whether indigent persons placed in jail can be re-jailed for not repaying the cost of their original incarceration and after re-incarceration they develop yet another bill for their incarceration. The persons bringing the cases to the Supreme Court are named Richey and Wright.

Published reports after the hearing indicated that the Supreme Court appeared to be leaning against the practice of requiring indigents to pay for their incarceration, and the decision by one Court of Appeals ruled in favor of the incarcerated person. As the State looks to change the laws regarding mandatory incarceration, this case is also very important to that discussion.

The St. Louis Post Dispatch reported that the Public Defender for both Wright and Richey argued that the state statute did not authorize counties to assess the "board bills" as court costs, which carry the threat of more jail time for failure to pay.

In the Missouri House of Representatives, the Special Committee on Criminal Justice on Thursday heard House Bill 192, sponsored by Representative Bruce DeGroot, which would change the current statute that allows a prosecuting attorney to file a show cause motion for payment of the cost of incarceration.

It appears that House Bill 192 will be a central part of the ongoing rewrite of the punishment statutes in the Missouri criminal code.

The Missouri House this week also third read and passed House Bill 67, sponsored by Representative Dean Plocher, which deals with the laws pertaining to traffic violations and municipal courts and how fines can be imposed.

SENATE ACTS ON SENATE BILL 17

On Thursday, the Missouri Senate took up and passed Senate Bill 17, sponsored by Senator Gary Romine. Senate Bill 17 corrects an inadvertent error in a 2018 bill that dealt with the Public School Retirement System that impacted retired teachers working for community colleges after retirement. It is likely that the House will also be dealing with this issue in the near future.

SENATE COMMITTEE HEARING ON TRANSPORTATION BOND AUTHORIZATION RESOLUTION

The hearing on Senate Concurrent Resolution 14, sponsored by Senate President Pro-Tem Dave Schatz, was held this week in the Senate Rules and Resolutions Committee. The resolution would be the vehicle to authorize the Office of Administration to enter a financing agreement with the Department of Transportation to provide the debt service for paying off the bonds after their issuance.

The hearing was pretty much a lovefest for the idea, with many advocates supporting the resolution and no opposition. It is reasonable to assume that this issue may run into some challenges when it hits the Senate floor. As previously noted, there will be probable opposition from those that dislike debt of any sort, and also probable opposition from those opposed to funding highway and bridge needs from General Revenue Funds.

LOCAL GOVERNMENT ETHICS BILL BECOMES LOCAL “CLEAN MISSOURI” BILL

The Missouri House also this week took up, perfected, and third read House Bill 445, sponsored by Representative Shamed Dogan. House Bill 445 began as a restriction bill for meals or gifts for local governmental officials but was later amended on the House floor to mirror the restrictions from the so-called Clean Missouri ballot initiative (passed by the voters in November 2018) for local governmental entities.

The Clean Missouri provisions would place campaign finance contribution limitations on local governments, a two-year ban on local officials becoming lobbyists, and the same gift limitations on local officials that Clean Missouri placed on members of the Missouri General Assembly.

While the legislation was third read by the House on Thursday, the Clean Missouri aspects that were added are likely to draw opposition as the bill advances through the Missouri Senate.

An amendment by Representative Nick Schroer also adopts the House Rules on the Missouri Sunshine Law as the standard for local governments. The House Rule on the Sunshine Law is very unpopular with the established media that covers the Missouri Capitol, as it is viewed as changing the standards adopted by Clean Missouri. Look for the path on HB 445 to become more difficult as it moves to the Missouri Senate.

PRESCRIPTION DRUG MONITORING LEGISLATION

The Missouri House this week also took up and perfected House Bill 188, the Prescription Drug Monitoring Program (PDMP) sponsored by Representative Holly Rehder. Missouri is the only state in the country that has not adopted this PDMP requirement.

Rehder has been a tireless advocate for PDMP in past legislative sessions, even in the face of many of her more conservative Republican colleagues who rail against the idea of any government database that collects information on Missouri citizens. Rehder heard a lot of that criticism during floor debate this week. House leadership let the debate continue on for nearly five hours on Wednesday. House Bill 188 was perfected on a roll call vote of 107 to 40 Wednesday afternoon.

In a surprising defeat in the Senate Seniors, Children and Families Committee also on Wednesday morning, Senate Bill 155, also a PDMP bill, was defeated on a 3-3 vote that kept the legislation from leaving the committee. It is likely that this bill will be reconsidered in the near future, but the committee vote also shows the disdain that many conservative members of both chambers have for any legislation with governmental databases.

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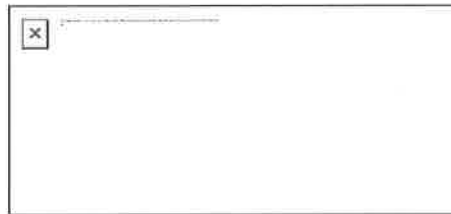
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From: Andy Blunt <ablunt@hbstrategies.us>
Sent: Friday, February 22, 2019 7:57 AM
To: Brown, Nicole
Subject: Missouri Legislative Update



MISSOURI LEGISLATIVE UPDATE FEBRUARY 22, 2019

The Missouri General Assembly is now within a month of the annual legislative spring break. The initial steps in the passage of key parts of Governor Parson's economic development and workforce training package hit some significant speed bumps in the Missouri Senate, which came as a surprise to many. The Senate Conservative Caucus successfully flexed their muscle on the economic development bills. Implementation of the Wayfair decision continues to receive attention in both legislative chambers, but that path might also be bumpy. Speaking of bumpy, the Department of Revenue once again got a difficult reception from the committee looking into errors in the withholding tables issued in March 2018.

COMINGS AND GOINGS

Brandon Alexander, a former House staffer and then a political consultant, has joined the staff of State Treasurer Scott Fitzpatrick as Assistant Deputy State Treasurer.

MORE ON ISSUES AND THE WAYFAIR DECISION

It seems like everyone in the Missouri Capitol has some idea on how to implement the *Wayfair* decision by the United States Supreme Court, and many also think they know how to spend any revenue that is generated by that decision. But this week made it clear that the devil is in the details.

On Wednesday of this week, Representative Jay Eggleston, the sponsor of the primary *Wayfair* legislation in the House, held an informational hearing that primarily featured Revenue Director Joel Walters, and his Legislative Director, Mark Siettmann, outlining how they see the implementation possibilities for *Wayfair*. The hearing focused on the mechanics of how *Wayfair* would work with joining the Streamlined Sales Tax group, and in particular focused on how collections of local taxes would be made. By the end of the hearing it was clear that this is a complicated subject with no simple solution.

When Revenue completed their presentation, Richard Sheets from the Missouri Municipal League testified that their group wants any legislation to make clear that the taxes collected through any agreement is a use tax, which is a tax on out of state sales where the product comes into Missouri. This issue is complicated by the fact that many cities do not have authorization to collect a use tax, because their voters have not adopted such a local tax.

Steven Conway, representing the City of St. Louis, testified to a concern that the collection mechanism would not be able to collect taxes for special taxing districts, such as transportation development districts, commercial improvement districts, and a port authority tax.

In the Missouri Senate on the same day, Senator Sandy Crawford heard her use tax bill, Senate Bill 189, in her Local Government and Elections Committee. The problem for Crawford is that it is apparent that the primary bill to be heard first in the Senate (currently on the Senate Perfection Calendar) is the Senate Committee Substitute for Senate Bills 46 (Koenig) and 50 (Eigel), which are focused on both implementing Streamlined Sales Tax but also on using the funds to cut the top rate for the individual income tax.

While it seems that passing implementing legislation for *Wayfair* makes a lot of sense, it is going to take a great deal of work to find the path that balances the competing interests. Whether that balance can be found is probably going to take much of the legislative session.

SPORTS BETTING/VIDEO LOTTERY TERMINALS

On Thursday morning the House Budget Committee met to consider two bills relating to video lottery terminals. The two bills are House Bill 423, introduced by Representative Dan Shaul, and House Bill 682, introduced by Representative Rocky Miller.

Both bills would establish a structure for the introduction of video lottery terminals to truck stops, bars and restaurants amongst other possible locations. The proponents include companies that operate video lottery terminals in states such as Illinois. The opposition primarily comes from the existing Missouri casino industry.

The hearing was recessed by the Committee when session started on Thursday morning and then continued afterward. This topic has proven to be a pretty contentious issue so far this legislative session and took its first steps toward full debate last week in the Missouri Senate on the merits of one or both ideas to expand the use of video lottery terminals, and to authorize sports betting. At this time Senator Denny Hoskins plans to link the two issues legislatively, but in debate a week ago there was opposition to the idea of attempting to pass both as a package.

It is uncertain if one or both could pass as separate single-issue bills. Last week, Hoskins had to lay over the bill and it remains on the Informal Calendar, but this issue has and should continue to get a great deal of attention during the legislative session.

SENATE ACTION ON GOVERNOR'S ECONOMIC DEVELOPMENT PACKAGE

While Governor Parson's first two bills of his economic development package sailed through the Missouri House with little controversy, the Missouri Senate this week signaled that things are not going to be quite as easy in that Chamber.

On Monday the Missouri Senate took up Senate Bill 56, sponsored by Senator Mike Cierpiot, the Chairman of the Senate Economic Development Committee. This bill had been passed quickly out of that Committee with little opposition, but it received a rough reception on the Senate floor. There was conversation about government giveaways to corporations that should be training workers on their own dime. This line of reasoning primarily was coming from members of the Senate Conservative Caucus, which comprises of six conservative Republican Senators.

The big problem for the bill was an amendment offered by Senator Bill Eigel, that would have exempted any corporation that took advantage of these training credits from the Missouri prevailing wage law. A point of order was raised on the relevance of the amendment to the underlying bill, but the amendment was ruled "in order" by President Pro Tem Dave Schatz, thereby opening the door for debate, which was going to take a long time. That bill was then laid over.

A second bill on economic development was taken up on Tuesday and had the same problems with conservative opposition. There is a lot of ball yet to be played on this issue.

NO ACTION ON TRANSPORTATION BONDING AUTHORIZATION

Many believed that this week would be the first discussion of Senate Concurrent Resolution 14, which is the authorization for the Office of Administration to negotiate a funding agreement with MODOT that would be the basis of MODOT issuing \$351 million of bonds for bridge projects. The SCR, however, was not taken up this week, and many hallway observers thought that the difficulty incurred with the Governor's economic development package was the reason.

The perceived rationale is that the Senate Conservative Caucus, which does not like the economic development bills, is also not a fan of the transportation bonding issue, so just let that issue sit for a while.

PROVIDER TAX BILL IS HEARD

On Thursday morning the House Budget Committee, led by Chairman Senator Dan Hegeman, met to consider Hegeman's Senate Bill 29, which is a two-year extension of the state provider taxes (the so-called FRA) that helps provide significant state match for the \$11 billion Medicaid program. The hearing was uneventful, and testimony actually came in support from the provider groups that are taxed.

This is a must-pass piece of legislation for this session.

HOUSE BUDGET SUB-COMMITTEE MARK-UP

The mark-up process in the five House sub-committees on appropriations this week was relatively mundane. While most Chairmen of these sub-committees made some changes to the Governor's recommendations, there was nothing noteworthy that moved a significant amount of money.

That may change when the House Budget Committee begins its work in earnest in the next few weeks when the Budget Chairman drops his House Committee Substitutes reflecting the House priorities. It seems unlikely at this time that the Budget committee will make any changes due to concerns related to the potential for sagging revenues, but not accounting for them may set them up for modifications in the Senate as the revenue picture becomes more clear (this happens each year to some degree because the House does their budget work first) or withholdings by the Governor should actual revenues fail to meet projections.

DEPARTMENT OF REVENUE BEFORE HOUSE GOVERNMENT OVERSIGHT AGAIN

On Wednesday, the House Special Committee on Governmental Oversight met again to hear from Department of Revenue Director Joel Walters and Legislative Director Mark Siettmann. For those who attended the first hearing a week ago, both were grilled pretty hard, and it was difficult to believe that Hearing 2 would be any different than the first hearing.

The hearing began with Director Walters talking about some examples of simulations at various income levels that reflect calendar year 2017 versus calendar year 2018 tax liability and the withholdings that occurred related to that tax liability. That part of the hearing went fairly well for DOR but that was about it for the good news.

In the hearing last week, DOR had talked about their communication strategy using Twitter and Facebook as being central to advising taxpayers of the issues going on with withholdings and possible make-up payments required in April 2019. Chairman Robert Ross inquired about how many individual income tax payers there were in Missouri. DOR responded about 3.6 million, but that number included joint returns, which may have two taxpayers on them.

Chairman Ross then said he had checked and that DOR only had about 2,000 followers on Twitter, and less than 1,000 on Facebook. He queried the Director on how they were communicating on social media with taxpayers when virtually none of the taxpayers were following them.

Additionally, House Democrats were clearly irritated with Director Walters when he gave the Committee a different answer on whether DOR could waive penalties than they thought Walters had given in two private meetings with their leadership.

The meeting began late due to floor action in the House going well past noon, and the committee had to vacate the hearing room at 2 p.m., and so the same committee plans on convening at 12:30 p.m. next Wednesday.

In a quick update, on Thursday morning Governor Parson criticized the committee in a St. Louis Post Dispatch article of "political grandstanding." Chairman Ross himself is a Republican, the same party as the Governor, but his nature from our observation is to fight back when publicly confronted. He will have plenty of support from his Democratic members, who are also clearly frustrated with Walters.

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Flener, Matt

From: Andy Blunt <ablunt@hbstrategies.us>
Sent: Friday, March 1, 2019 8:46 AM
To: Brown, Nicole
Subject: Missouri Legislative Update



LEGISLATIVE NEWSLETTER MARCH 1, 2019

How time flies. There are just two weeks remaining before Legislative Spring Break, and things are heating up at the Missouri Capitol. As floor activity picks up, the complexity of the Republican factions in the Missouri Senate has been manifesting itself on certain issues. But the Senate did spend all night working on tort reform beginning Tuesday evening and working through the night until around 7:00 AM Wednesday morning and finally came to an agreement. The Governor's transportation initiative found an alternative plan that appears problematic for the Governor's plan. The abortion issue took center stage in the Missouri House. Revenue collections continue to lag amid increasing scrutiny of the Department of Revenue.

BORDER WAR BILL ADVANCES

Senate Bill 182, sponsored by Republican Senator Mike Cierpiot, was perfected and third read this week by the Senate. Senate Bill 182 would set the table for a mutual "cease-fire" in the ongoing

border war between Kansas and Missouri in the race for each state to offer incentives to attract the relocation of existing businesses. The bill itself does not negotiate the deal, but rather sets the table for Governor Parson in Missouri and Governor Kelly in Kansas to sit down and attempt to reach a deal. The bill requires that certain state incentive programs not be allowed for businesses that simply move existing jobs across the state line if an agreement with Kansas is reached.

The passage by the Missouri Senate sends this measure to the House with the potential of final passage being high. However, whether a deal can occur is highly dependent upon the willingness and ability of the two Governors to cut a deal. While early overtures appear positive, the devil is in the details.

CONSERVATIVE CAUCUS OPPOSES GOVERNOR PARSON'S BONDING PLAN

As has been widely assumed, the Senate Conservative Caucus this week unveiled their alternative ideas regarding Governor Parson's proposed bonding plan for bridges. Senator Bill Eigel introduced Senate Joint Resolution 27, which would transfer 50% of the ending balance of General Revenue to a Bridge and Road Authorization Trust Fund (created by the SJR) at the end of each fiscal year. The introduction of this legislation potentially creates problems for the package endorsed by Governor Parson.

Let's examine what those might be. First, the package endorsed by the Governor requires only passage of a concurrent resolution and the subsequent execution of a financing agreement between the Office of Administration and MODOT. MODOT would then issue the bonds and pay for them with a General Revenue appropriation called for by the financing agreement.

An alternative that Governor Parson could have offered to this path would have been to ask the voters to approve general obligation bonds by a vote of the people. Since that path was not taken, it is proper to assume the Governor does not want to wait for the difficult task of voter approval.

Senator Eigel's offer of an SJR (an SJR is a measure that sends the issue to a vote of the people) for his proposal implicitly calls for a vote of the people. Thus, the Eigel proposal offers the Governor a solution that he does not appear to want.

By funding his proposal with 50% of the GR ending balance, this bill also creates what some would suggest is a "death spiral" for the General Revenue Fund. If 50% of the balance is taken every year, the ending balance will eventually approach zero.

JOHNSON & JOHNSON V BURLISON AND SB 7

The Missouri Senate took action this week on Senate Bill 7, which gives Missouri courts direction as to where a plaintiff can bring actions against a defendant and who can join in that lawsuit (venue and joinder). The bill is sponsored by Senator Ed Emery. This bill, among other things, codifies provisions of a recent Missouri Supreme Court decision in the case of *Johnson & Johnson v. Burlison*, which was handed down on February 13, 2019.

This decision addressed the issue of venue and joinder resulting from a specific case against Johnson & Johnson that was filed in St. Louis City. Many of the tort cases being brought in Missouri involve out of state plaintiffs who were joined with other cases filed in the plaintiff's preferred venue. In a number of cases, plaintiffs prefer to bring the case in the City of St. Louis or another preferred venue where large verdicts have been previously handed down.

The Missouri Supreme Court decision sets the stage for the denial of joinder and venue and is a major shift in the discussion of tort reform outside of the Missouri Capitol. In the case decided by the Supreme Court, the Court ruled that the lead plaintiff, who was a Missouri resident, should have filed the case in a court in St. Louis County, where he lived, rather than in the City of St. Louis. Against the backdrop of the decision by the Missouri Supreme Court on joinder and venue, the Missouri Senate went in on Tuesday afternoon and stayed until 7:00 AM Wednesday morning debating Senate Bill 7, which as noted above is sponsored by Senator Ed Emery.

Cutting to the final act of this play, at the end of debate on Wednesday morning there was an amendment to Senate Bill 7 that would (among other things), in statute, adopt the findings of *Johnson & Johnson v. Burlison* as the law on joinder and venue. The court decision, if this bill is finally passed, would in effect be the new law on the issue.

ABORTION RESTRICTION BILL PASSES THE MISSOURI HOUSE

The Missouri House this week on Tuesday perfected House Bill 126, sponsored by Republican Representative Nick Schroer from St. Charles County. The bill was then overwhelmingly third read and sent to the Senate on Wednesday.

The title of the bill is a pretty strong indicator of what the legislation intends to do. The title states: "To establish the Missouri Stands for the Unborn Act that places new limits on abortion." Proponents of this legislation have publicly and openly expressed their desire to make Missouri the most abortion restrictive state in the United States.

The legislation as amended would ban a woman bearing a child with possible Downs Syndrome from having an abortion, and the legislation would also require both parents to be advised before a minor could obtain an abortion.

The Senate Democrats, the super-minority party in the Missouri Senate, have vowed a tenacious fight if/when the bill reaches the Senate floor. But abortion is an issue where in the past the majority of Senate Republicans have been willing to use their clout to cut off debate and pass a bill. Cutting

off debate is referred to as "moving the previous question, or PQing a bill." A PQ is generally viewed as a nuclear option that can destroy the willingness of scorned Senators to work with leadership and stall legislation for the remainder of session.

Governor Parson has endorsed this bill, and it will be interesting to see in the coming weeks how much political capital key policy-makers are willing to invest in this contentious issue.

BUDGET CONSIDERED AS REVENUES LAG

The House budget process continued this week in the House Budget Committee, as the Appropriations sub-committee chairs presented their committee recommendations before the entire Budget Committee. It is anticipated (as of Thursday afternoon) that the House Committee Substitute versions of the budget will be dropped by Chairman Cody Smith (R-Carthage) on Wednesday, March 6. Budget Committee will vote the budget bills out of committee before the beginning of Spring Break on March 14, and then Chairman Smith will take up the bills on the House floor the week following Spring Break.

In the background of this discussion is the continued lagging revenue situation, which could put a damper on the FY 2020 budget that is under consideration. One person involved in the House budget process this week opined that while things are going well on the FY 2020 budget, it is possible that all of the activity could be a waste of time if the revenue collections don't improve and withholdings and/or line item vetoes are necessary to bring the budget into balance.

For better or for worse, the answers to these questions will be known within sixty to ninety days.

REVENUE AND WALTERS APPEAR AGAIN BEFORE HOUSE SPECIAL COMMITTEE ON GOVERNMENTAL OVERSIGHT

This might sound like a broken record but for the third consecutive Wednesday Revenue Director Joel Walters appeared before the House Special Committee on Governmental Oversight to discuss revenues and problems with the state withholding tables. February has been a challenging month for Director Walters and the Department of Revenue.

The Wednesday meeting came on the heels of a private meeting on Tuesday afternoon that included the minority House Democrats, State Treasurer Scott Fitzpatrick (the former Republican House Budget Chairman), and Deputy State Treasurer Mike Price (the former Staff Director for House Appropriations).

For the first two hearings before the Oversight Committee chaired by Representative Robert Ross, Walters had asserted that the errors made in the original individual income tax withholding tables

were a longstanding calculation error.

There has been discussion in the halls that in the Tuesday meeting Fitzpatrick and Price called Walters on the fact that this was a calculation error and pointed out this was the result of double counting the federal standard deduction, which is also the Missouri standard deduction. Walters apparently admitted in the Tuesday meeting, and again in the Wednesday public hearing, that he was incorrect when he told people it was a calculation error. In essence, the federal tables allow the federal standard deduction, and that calculation becomes the basis for carrying federal adjusted gross income onto the Missouri tax calculation. The original 2018 Missouri tax withholding tables then, in error, allowed the standard deduction a second time. This action created under-withholding of taxes due for many taxpayers.

The admission by Director Walters was the key headline by the media coming out of this third Oversight hearing. Chairman Ross plans at least one additional meeting before legislative Spring Break in two weeks.

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Flener, Matt

From: Andy Blunt <ablunt@hbstrategies.us>
Sent: Friday, March 8, 2019 9:01 AM
To: Brown, Nicole
Subject: Missouri Legislative Update



MISSOURI LEGISLATIVE NEWSLETTER MARCH 8, 2019

With a week to go until the legislative Spring Break, both the Missouri House and Senate had originally planned to take up education bills that involve some controversy, but that ultimately did not happen this week. Most Capitol regulars were surprised by the House Budget Chairman's new plan on transportation, which was included in his recommendations to the House Budget Committee. That was a huge curveball in the discussion. Revenue collections continue to lag and are a major concern. The Wayfair decision continues to receive attention in both the House and the Senate, but there is no clear path for a bill to pass at this time.

TRANSPORTATION BONDING FOR BRIDGES

As discussed last week, the Senate Conservative Caucus unveiled their plan for funding transportation without using bonded debt, as the Governor had proposed. Many assumed that this would be the week for a discussion of Senate President Dave Schatz's Senate Concurrent

Resolution, that if passed would authorize the execution of a financing agreement between the Office of Administration and MODOT to pay the debt on the bonds.

The plans for possible Senate debate were likely upended on Wednesday when House Budget Chairman Cody Smith released his plan for the Fiscal Year 2020 budget. In his recommendations for MODOT, Chairman Smith eliminated the bond proceeds spending authorization, eliminated the debt service for the bonds, as well as a separate General Revenue appropriation for MODOT cost-sharing projects. In its place his plan would appropriate \$100 million from general revenue for transportation.

As previously discussed, many policymakers in the Capitol are averse to the state of Missouri incurring any debt that requires future interest payments, and that was one of the reasons that Chairman Smith gave as a rationale for his proposal. But \$100 million from the General Fund is a big number for a new purpose, and the recommendation is likely to create consternation from K-12 education, higher education and social services programs that rely on General Revenue funding for some of their state support. The appetite for transportation projects is virtually bottomless.

Another issue in this discussion is whether or not there will be \$100 million to fund a new transportation program, given the potential for lagging revenues.

THE FY 2020 HOUSE BUDGET PLAN

The transportation plan unveiled by House Budget Chairman Cody Smith was a part of a larger rollout of his overall spending plans for all state departments. The House Committee substitute bills and the tracking sheets with changes were released on Wednesday, with the plan that the Budget Committee will entertain amendments to Chairman Smith's recommendations at noon on Monday, and then vote the bills out of committee before Spring Break begins next week. Smith advised committee members that amendments needed to be completed and turned in by this Friday end of business.

The bills would then be debated by the full House and sent to the Senate the week following Spring Break.

JOINDER AND VENUE BILL ADVANCES

On Monday of this week the Missouri Senate third read and passed Senate Bill 7, the bill dealing with venue and joinder that was discussed at some length in last week's report, is now headed to the House for consideration.

FEBRUARY REVENUE UPDATE—ROOM FOR CONCERN?

With only four months remaining in Fiscal Year 2019, it is the time of year to sound the cautionary alarm for a possible shortfall in revenues. At the end of February 2019, revenues were roughly -5% for the fiscal year, as opposed to the consensus revenue estimate for Fiscal Year 2019 of +1.7%. The Governor and his budget staff are standing firm on their estimate, but there may be reason for concern. There are only four months remaining to make up the shortfall of -5% and also achieve the assumed growth rate of +1.7%.

The revenue shortfall looks to be primarily a result of accelerated payments by taxpayers in December 2017 which were received in January 2018. The accelerated payments were made to capture deductibility of state and local taxes paid in 2017, before the limitations on those taxes paid kicked in on January 1, 2018. Collections in January 2018 were very high due to this phenomenon. January 2018 collections were also buttressed by a one-time payment from a trust that was between \$50 and \$60 million.

January 2019 collections were weak when compared to January 2018, and year to date collections fell to -7% at the end of January 2019. While February revenues were strong at +17.9%, that growth simply reduced the year to date deficit to -5.0% at the end of February. It is reasonable for some policymakers to be concerned about whether or not this deficit will be completely made up by the end of the fiscal year.

EDUCATION WEEK DOES NOT HAPPEN

At times the two chambers of the General Assembly will loosely coordinate their floor activity to emphasize issues that are of interest to leadership in the Missouri House and Senate. The word around the halls of the Capitol on Monday was that education reform would be taken up by both bodies. As explained below, by the end of the week the education reform bills had not been taken up.

EDUCATION SAVINGS ACCOUNTS—DEBATE PLAN CHANGES

Senator Andrew Koenig, an avowed advocate for changing the structure of public education in Missouri, had planned this week to take up Senate Bill 160, which is titled the Missouri Empowerment Scholarship Accounts Program. The Scholarship Accounts Program is frequently referred to as a school voucher program by its critics. No one is exactly sure why the plan changed to not take up the bill this week, but instead Senator Koenig was given floor time to discuss his Wayfair/tax cut bill, SCS SB 46 and 50, which was debated but then laid over.

The scholarship bill would authorize a 100% tax credit for donations to scholarship granting organizations, and the fiscal note for the bill is the amount of the cap in the bill, which is \$25 million annually, adjusted for inflation. The program is generally viewed as providing assistance from public funds to private or possibly denominational schools. Look for this bill to get Senate floor time in the near future.

CHARTER SCHOOL LEGISLATION

Debate on the House floor regarding legislation to expand charter schools was also delayed this week. It was believed that House Bill 581, sponsored by Representative Rebecca Roeber would be taken up for debate.

Currently charter schools are authorized only in the St. Louis City and Kansas City school districts, and in unaccredited districts. This bill would expand charter school authorization to other areas of the State.

Part of the reason for the delayed debate was that Representative Roeber experienced a fall this week and is still recuperating.

People that follow this issue closely believe the vote count is extremely tight, but that the charter school expansion proponents may be short of the required 82 votes for passage.

This bill will likely be debated in the very near future.

WAYFAIR UPDATE-SENATE

As noted above, Senator Andrew Koenig did spend a number of hours on his substitute for Senate Bills 46 and 50, which deal with the Wayfair case decided by the United States Supreme Court, and the issue of implementing taxation of internet sales in Missouri.

The Senate Substitute offered by Senator Koenig would give authority to the Director of Revenue in 2022 to lower the individual income tax rate by the amount of increased use tax collected by this legislation in calendar year 2021.

Given some of the controversy surrounding the current Director of Revenue's problem with his handling of the individual income tax withholding tables during 2018, the idea of giving this amount of power to the Director of Revenue was widely criticized by the Democratic Senate minority members.

The substitute act would make the changes in use tax law to implement Wayfair effective on January 1, 2021. After a number of hours of debate, this bill was laid over.

WAYFAIR UPDATE—HOUSE

On Wednesday morning the House Ways and Means Committee narrowly passed out House Bill 548, sponsored by Representative Jay Eggleston, which he titled the Simplified Remote Sales Tax provisions. The bill passed out of the committee by a 5-4 margin.

House Bill 548 is dramatically different for the ideas of Senator Koenig's bill on the same issue. The bill would collect only the 4.225% rate of state sales tax currently collected for other sales/use transactions, and would not impose local sales/use taxes on the affected internet sales transactions. The failure to collect local sales taxes through this legislation was in part the reason that a number of Republican members voted against the bill.

Representative Eggleston is the Assistant Majority Floor Leader in the Missouri House, and as such is a member of the House leadership who will likely be able to secure floor time for debate on the House Calendar. However, it is difficult to imagine a bill that does not impose local sales/use taxes on internet transactions would finally pass the General Assembly.

Another issue with the bill as passed out of committee is that it is assumed that the entire 4.225% current state sales/use tax rate can be used to lower income tax rates. Part of that 4.225% rate are two constitutional sales taxes for parks and soils (.1%) and for conservation (.1225%). It is likely that advocates for those programs will fight to protect their constitutional tax proceeds.

Rules of the House do not allow floor substitutes to be used as a vehicle for amending bills on the floor, and revising this bill by amendment would likely be very difficult. The path for passage may be difficult without some changes to the bill.

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