



## KANSAS LEGISLATIVE INSIGHTS NEWSLETTER | NOVEMBER 16, 2018

### GENERAL ELECTION SUMMARY

Democratic Sen. Laura Kelly won a hard-fought general election campaign against Secretary of State Kris Kobach, finishing with an unofficial result of 48% to 43%. Kansas continued its trend of no Republican candidate succeeding another Republican as Kansas governor. Gov. William Avery was the last Republican to succeed a Republican (John Anderson Jr.) in 1964. Governor-elect Kelly has announced that funding education, finding a bipartisan approach for Medicaid expansion, and reducing the sales tax on food are her highest priorities.

Republicans won all the other statewide races, with Sen. Vicki Schmidt achieving the distinction of being the biggest Republican vote-getter on election day.

The Kansas House of Representatives will likely be more conservative under Republican control, and the final margin was not settled until yesterday, Nov. 15. The initial results showed Republicans increasing their House majority by one vote to 86-39. However, this did not include advance and mail ballots postmarked by Nov. 6 which are counted if they arrive in the mail by Friday, Nov. 9. On Tuesday, Nov. 13, 2018, the Harvey County canvass board met to count advance, provisional, and mail ballots. The results reversed Rep. Tim Hodge's, D-Newton, apparent narrow loss. Thus, the Harvey County canvass restored the 85-40 Republican majority in the House of Representatives.

At least two close Johnson County races and one in Ellis County were not settled until Thursday. On Nov. 15, the Johnson County canvass board count confirmed that in House District 25, Democrat Rui Xu, Westwood, defeated incumbent Rep. Melissa Rooker, R-Fairway, by a margin of 50.31% to 49.4%. The Johnson County board also certified Democrat David Benson, D-Overland Park defeated one-term Rep. Abraham Rafie, R-Overland Park, by 82 votes. Also on Nov. 15, the Ellis County canvass confirmed that Rep. Eber Phelps, D-Hays, lost by 32 votes to Republican Barbara Wasinger, R-Hays, in the 111<sup>th</sup> Kansas House district. Wasinger is an Ellis County commissioner who recused herself as a member of the canvass board. These results mean that the current 85-40 Republican majority will continue for the next two years.

The state board of canvassers will meet later this month to certify the final results. Leadership elections are set for early December.

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We expect little change in House leadership with Speaker Ron Ryckman having no announced opposition. The Speaker *pro tem* office is vacant with the election of Scott Schwab as Secretary of State. Former Democratic House Leader Tom Sawyer (Wichita-D) is challenging Rep. Jim Ward (Wichita-D) for House Minority Leader.

Congressmen Ron Estes (KS 4<sup>th</sup> Congressional District) and Roger Marshall (KS 1<sup>st</sup> Congressional District) were comfortably re-elected. Democrat Sharice Davids (KS 3<sup>rd</sup> Congressional District) defeated incumbent Republican Kevin Yoder. In the 2<sup>nd</sup> Congressional District, Republican Steve Watkins defeated Democrat Paul Davis 48% to 46%.

## AT LEAST THREE SENATORS WILL BE SELECTED BY LOCAL PRECINCT COMMITTEES

After the August primary, Democrats began speculating who would succeed Sen. Laura Kelly and Sen. Lynn Rogers if they were elected governor and lieutenant governor. Also, Sen. Vicki Schmidt's bid to become insurance commissioner sparked the same discussions among Republicans.

Now, after the general election, three Senate seats will be determined by local precinct committee persons from their respective parties. The vacancies were the result of the election of Sen. Laura Kelly to governor, Sen. Lynn Rogers to lieutenant governor, and Sen. Vicki Schmidt as insurance commissioner.

To further complicate matters, Governor-Elect Kelly could select other Senators or House members from either party to serve in her Cabinet, creating additional vacancies. Both Governor-elect Kelly and Lt. Governor-elect Rogers have submitted their resignations from the Kansas Senate effective Jan. 14, 2019. On Nov. 29, Democratic precinct committee members from the 18<sup>th</sup> Senatorial District (covering Shawnee, Pottawatomie and Wabaunsee Counties) will elect her successor.

After an unsuccessful primary bid to become the Republican candidate for the 2<sup>nd</sup> Congressional district, Sen. Steve Fitzgerald, Leavenworth, resigned as the State Senator for the Kansas 5<sup>th</sup> Senatorial district on Sept. 24. Last month, Kansas City Republican Kevin Braun was unanimously elected to hold that seat by the 5<sup>th</sup> District Republican precinct committee. Braun, former House candidate, was elected 38-0.

After State Treasurer Ron Estes was elected to Congress in a 2017 special election, Gov. Brownback appointed Sen. Jake LaTurner as his successor. Sen. Richard Hilderbrand, R-Galena, was appointed to the Kansas Senate in 2017 by local precinct committee persons to replace Sen. Jake LaTurner. Under state law, Sen. Hilderbrand was required to run in the next statewide election, which he did, winning 54% of the vote.

The Kansas Senate is not up for re-election until 2020. Therefore, during the 2019 Legislative Session, the balance of power will remain unchanged in the Kansas Senate, with Republicans controlling the Kansas Senate by a margin of 31-9. The only difference will be at least four new members appointed by precinct committee persons and minor shifting in committee assignments.

## THE GOVERNOR'S TRANSITION

Governor-elect Laura Kelly has announced her transition team. It will include her campaign manager, Jordanna "Jordy" Zeigler. Other members include Natalie Haag, a former General Counsel and chief of staff to Gov. Bill Graves; Duane Goossen, former Republican House member, and former Secretary of Administration and Director of the Budget; and Joyce Allegrucci, former Chief of Staff for Gov. Sebelius and Assistant Secretary from Children and Family Policy-SRS. This team will begin the process of forming the next Cabinet and filling key roles in the Kelly Administration.

## CREG UPDATE

The Consensus Revenue Estimating Group (CREG) met on Nov. 9, 2018. Kansas State General Fund Estimates for Fiscal Year (FY) 2019 were increased by \$306.4 million. This increase is 4.4% above the previous estimate

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made in April and subsequently adjusted for legislation enacted during the 2018 veto session. This budgetary improvement may result in posturing by those advocating expanded funding for education, Medicaid expansion, transportation funding, and other programs.

There is, however, a cautionary note. CREG has lowered FY 2020 estimate by \$38.4 million and the FY 2021 has been adjusted down by \$36.5 million. CREG is attempting to look 32 months into the future to project state revenues. Obviously, this is challenging given the volatility in revenue sources and pending school (K-12) litigation.

The estimates for the State General Fund are developed using a consensus process that involves the Division of the Budget, Legislative Research Department, Department of Revenue, and three consulting economists from state universities. The estimate is the base from which the Governor and the Legislature build the annual budget.

## JOINT LEGISLATIVE BUDGET COMMITTEE

On Nov. 13, 2018, the Joint Legislative Budget Committee reviewed consensus revenue numbers, caseloads for education and Health and Human Services along with the requested enhancements and supplemental requests from all state agencies for the next three years. The total requested was \$1.3 billion for the next three years. The requests for FY 2019 are \$140.5 million, including \$104.5 million from the State General Fund. The State General Fund requests for 2020 were \$504.9 and \$654.8 million in 2021. The initial requests were submitted in September to the current administration. The governor's recommendation will refine and adjust these requests. In a regular year, the governor has until the eighth legislative calendar day to submit a budget. During a year in which a new governor has been elected, the governor will have thirteen additional calendar days to make budget recommendation (on or before the 21<sup>st</sup> calendar day of the session).

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**Kansas Legislative Insights** is a publication developed by the Governmental Relations & Public Policy Law practice group of Foulston Siefkin LLP. It is designed to inform business executives, human resources and governmental relations professionals, and general counsel about current developments occurring in current Kansas legislation. Published regularly during the Kansas legislative session, it focuses on issues involving health care, insurance, public finance, taxation, financial institutions, business & economic development, energy, real estate & construction, environmental, agribusiness, employment, and workers compensation. Bill summaries are by necessity brief, however, for additional information on any issue before the Kansas Legislature, contact Foulston Siefkin's Governmental Relations & Public Policy Law practice group leader, James P. Rankin at 785.233.3600 or [jrankin@foulston.com](mailto:jrankin@foulston.com).

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## PRACTICE AREAS

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