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Wrapped Up

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Legislature ends session with focus on stimulating state's stagnant economy.

Story by Walt Williams

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CHARLESTON -- When the West Virginia Legislature wrapped up its 2008 regular session March 8, lawmakers had passed 245 bills ranging from mandating hunter safety classes in public schools to designating the timber rattler as the first official state reptile.

They also made millions of dollars in tax cuts and pledged to spend millions more to start a research endowment fund at the state's two universities, all in the name of economic development.

Economic development was the unofficial theme of this year's session, hammered home by Gov. Joe Manchin in his State of the State Address Jan. 9, when he said that job creation was the biggest challenge facing West Virginia and that the complaint he hears regularly from businesses is that they have a hard time finding skilled workers in the state.

Lawmakers then got to work, although at what seemed a slow pace given the importance of the issue in a state where the average median household income ranks next to last in the nation, according U.S. Census Bureau figures. It was that perception that House Speaker Richard Thompson, D-Wayne, sought to dispel in his summary of the session, pointing to what lawmakers had done rather than how quickly they got there.

"This has not been a session of 'high-profile' bills that spur controversy, but it has most definitely been a session that has resulted in valuable, substantive measures that will contribute to our state's economy and society," Thompson said in a news release. "I am proud of this Legislature, in particular the House of Delegates."

Perhaps the biggest tax change to come out of the 2008 session is a bill that completely will eliminate the business franchise tax by 2015. That same legislation -- Senate Bill 680 -- calls for the corporate net income tax to be reduced from its current rate of 8.75 percent to 6.5 percent by 2014 but only as long as the balance of the state's rainy day fund doesn't drop below 10 percent of the general revenue fund appropriations for the fiscal year.

Also, West Virginia University and Marshall University may get to split \$50 million for research and development, with \$35 million going to WVU and \$15 million going to Marshall.

The \$50 million investment will need to be squeezed into a state budget that is still under construction. While the Legislature's regular session is over, lawmakers began their annual budget session March 10 to figure out how they are going to pay for the legislation they passed.

As it stands after it left the House of Delegates, the current state budget calls for spending \$3.88 billion in the coming fiscal year, which starts July 1. That figure is a little less than the \$3.9 billion that Manchin proposed in his executive budget and represents a roughly \$124 million increase over the previous budget.

The current budget also calls for spending \$170 million in regular lottery funds and \$330 million in excess lottery funds. When federal and highway funds are thrown in, the total state budget for the coming year is more than \$10.3 billion.

The state Senate, however, has approved a different budget with different spending priorities. The purpose of the budget session is to craft a hybrid of the two plans.

Tax Cuts

One of the biggest potential hits on the state budget could come from the tax cuts enacted by lawmakers this year, although it will take a while for their effects to play out.

The elimination of the business franchise tax eventually may cost the state more than \$48 million a year in lost revenue, according to estimates by the State Tax Department. At the same time, the reduction of the corporate net income tax is estimated to reduce state revenues by more than \$70 million annually.

Because of the potential impact on the budget, Manchin asked lawmakers to phase in the cuts over several years, fearing that cutting the taxes too soon would leave a revenue hole that the state wasn't prepared to fill. The House also added the extra caveat that the gradual reduction in the corporate net income tax would freeze automatically if the rainy day fund balance drops below a certain level.

Supporters of the tax cuts argued the state would make up the lost revenue through the economic activity that the cuts would spur. In fact, the main criticism of the cuts was not that they were being made but that they were not happening quickly enough. Many Republicans and a few Democrats said the business franchise tax in particular needed to be eliminated sooner rather than later if West Virginia was going to compete with surrounding states in attracting businesses.

"We will be moving in the right direction, but we won't be moving fast enough, we won't be moving competitively enough," House Minority Leader Tim Armstead, R-Kanawha, said.

Armstead attempted to amend SB 680 to require that the franchise tax would be eliminated this year. However, other lawmakers resisted the motion, with Delegate John Doyle, D-Jefferson, saying it is better to move gradually rather than quickly toward tax reform because it allows the state to adjust its expenses and make sure people get the government services they expect.

"Don't confuse tax reduction with tax reform," he said.

Steve Roberts, president of the West Virginia Chamber of Commerce, wasn't complaining about gradual reduction of the taxes. He said while the chamber understood the concerns of those who wanted to see the cuts happen sooner, such cuts were unthinkable just a few years ago, before Manchin took office.

"In a perfect world we would eliminate them faster," he said. "That does not mean, in our case, we are not pleased, because we are pleased."

One group that isn't pleased is the West Virginia Center on Budget and Policy, which in a report issued a week before the end of the session, questioned not only the cost of the tax cuts but their alleged economic impact. Using state figures, it concluded the two tax cuts could result in an accumulative cost of \$1.2 billion to the state, which may undermine the state's ability to provide services and perhaps result in tax increases down the road.

The report also pointed to two studies in Oregon and California that concluded that corporate tax cuts did not pay for themselves through increased economic growth, with the states only recouping \$16 to \$18 for every \$100 in cuts.

"So far I have not seen any empirical data to show on a state level ... it is going to increase economic activity in West Virginia to a substantial extent," said the report's author, Ted Boettner.

Roberts disputed the report, saying it is fine for a "liberal-leaning interest group" to have its own opinion, but that "doesn't mean the opinion has any resemblance to reality." Boettner, however, said the report relied on published research and the burden of proof was on the tax cuts' supporters to come up with research showing that, at a state level, the cuts would have a substantial economic impact.

When asked about the potential impact on the state budget, Manchin spokeswoman Lara Ramsburg noted that the cuts were phased in over several years for that very reason.

SB 680 not only cut taxes, it cleaned up language in existing law that would make West Virginia a combined reporting state in 2009 for tax purposes, meaning that corporations and their subsidiaries will essentially have to file their state taxes as a single entity. State officials have said the move will allow them to collect up to \$34 million in annual taxes that corporations should now be paying but are not because of tax shelters and other accounting methods.

The bill also provides an income tax credit against the franchise tax and the corporate net income tax for ad-valorem property taxes paid by a manufacturing business on its inventory, and it provides a limited tax credit for goodwill associated with the acquisition of a domiciled financial organization by a non-domiciled financial organization.

Another tax cut approved by lawmakers this year included a bill that allows aircraft owned or leased by commercial airlines or private carriers to be taxed at salvage value or 5 percent of the original cost of the property, whichever is lower. Supporters said the legislation will encourage more companies and individuals to base their aircraft at West Virginia airports and therefore lead to more jobs and tax revenue.

Also, lawmakers agreed to allow senior citizens to defer payment of any increase in property taxes if that increase exceeds \$300 or 10 percent of what they already are paying. Senior citizens who earn less than \$25,000 a year can apply for tax credits instead.

University Research

Like many businesses across the state, West Virginia's two research universities may do well as a result of legislative action, although college students may not necessarily feel the same way.

Manchin's Bucks for Brains proposal calls for a one-time \$50 million injection into WVU and Marshall to create a trust fund that will be used to build on and expand existing research programs at the two universities. While lawmakers still are working on the final details of the budget, they already have passed a bill creating the fund, and many have said they supported making the appropriation.

Brian Noland, chancellor of the state Higher Education Policy Commission, said the money will be used to bring in the researchers and faculty the universities need to strengthen existing programs, such as in biomedicine and energy research.

Bucks for Brains is modeled after a similar program already under way in Kentucky. According to the commission, research efforts at the University of Kentucky have generated 44 startup companies that employ 870 people at an average salary of \$61,000 since that state's program started.

At the same time, federal research and development investments at the research universities increased from \$76 million to \$210 million annually, and total research expenditures grew from \$161 million in 1998 to \$324 million in 2006. Corporate research and development investments increased from \$105 million to \$310 million.

Still, don't expect radical changes overnight, Noland warned.

"This is a long-term investment in our state's future, not something we are going to see tomorrow," he said.

While millions may be heading to university research, lawmakers are being more reserved in funding other university expenses. So far, they have agreed only to fund a portion of a proposed 3 percent pay raise for university personnel, which, along with covering other inflationary expenses, could result in a 6 percent to 9 percent increase in tuition across the university system, according to Noland.

That is a larger increase than seen in recent years, with tuition rising about 4 percent last year. But Noland said that even with the increase, tuition at the state's universities still would be lower than that of similar-sized institutions throughout the region.

Students also can draw on PROMISE scholarships without worrying about needing to pay them back at a later date. Manchin had proposed making the scholarships a forgivable loan that would be paid back only if students moved out of state for work after they graduated. But the idea failed to win support among students, parents and lawmakers.

Instead, a commission appointed by the governor will study the issue between legislative sessions, as well as take a look at college affordability. The commission is expected to report its findings to the 2009 Legislature.

The state's community and technical colleges also may be getting a boost, although just how much money they receive won't be determined until lawmakers wrap up their budget session. Manchin has proposed spending \$30 million to build two advanced technology centers for work force training, although the sites haven't been selected yet. In addition, he has proposed \$7.1 million for allied health programs to train nurses and other

medical staff.

Tort Reform

One thing that many business groups said was needed to boost the state's economy, but they didn't receive during the 2008 session, was legislation giving them greater protection from what they view as frivolous lawsuits.

West Virginia has been labeled a "judicial hellhole" by the American Tort Reform Association for its "anti-business rulings, massive lawsuits and close relationships between the personal injury bar, state attorney general and the judiciary," according to the organization's Web site.

Among the new laws that business groups were wanting was one limiting lawsuits resulting from asbestos and silicosis exposure and another requiring the nonpartisan election of judges.

Neither proposal gained much traction among lawmakers, some of whom were far from pleased with the "judicial hellhole" label and said it was little more than an effort by corporations to smear a court system that had been protecting consumers. One early sign that neither had a chance of passing was when House Judiciary Committee Chairwoman Delegate Carrie Webster, D-Kanawha, arranged to have WVU researchers who had written a report challenging the label to give a press conference at the Capitol about their findings.

Still, Jan Vineyard, chairwoman of the West Virginia Business and Industry Council, said the session hadn't been unproductive from her organization's point of view. She said BIC did get a commitment from Manchin to facilitate a discussion between both sides of the issue between legislative sessions.

"So I think we did make some progress," she said.

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