

Political Stock Report - Jan. 18-24, 2020

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-A collection of insider opinion-
(Jan. 18-24, 2020)

Rising

State revenues: Lawmakers and the governor suddenly have an extra half-billion dollars in their collective lap in an election year. In past years, that might mean a spending spree or a tax cut. But with a Dem in the East Wing and Republicans still firmly in control of the Legislature, reaching some kind of deal that works for everyone is still very much up in the air. The Legislative Fiscal Bureau's latest projection suggests the state will take in \$818.2 million more in tax revenue through mid-2021 than what the nonpartisan agency had expected just eight months ago. Of that, \$409.1 million is slated for the rainy day fund, which is now expected to have a balance just north of \$1 billion by the end of the biennium. Add the remaining new revenue with a slight increase in departmental revenues and a slight dip in net appropriations, and that's an additional \$451.9 million in the state coffers. And that's not all. The state had budgeted \$212 million to give Foxconn via tax credits if the Taiwanese manufacturer hit its goals for the plant it's building in Racine County. But based on the progress it's made so far, LFB expects the state to fork over something in the \$50 million to \$75 million range. All that cash comes amid some bottled up pet projects for various lawmakers and Gov. Tony Evers. So far, just one of the seven bills in a package to address homelessness has made it through both houses, and that's only after Senate Republicans amended it to use \$1 million from the Wisconsin Housing and Economic Development Authority's surplus fund, rather than general purpose revenue. There are more bills working their way through the system from Assembly task forces on adoption, suicide prevention and clean water. Then the gov introduced his priority list in his State of the State, including an \$8.5 million package to help rural communities and the state's ag industry. But new spending has been hitting a roadblock in the Senate GOP caucus, and it's not clear the windfall is going to loosen the purse strings. Some Senate Republicans were unhappy with the \$81.6 billion in spending that was in the

budget, period, considering it was a 5.5 percent increase over base. So asking them to spend anything above that outside the budget is a non-starter, some say. If there are unused pots of money that can be tapped to cover those costs — much like how the emergency grants to homeless shelters ultimately were funded — that could help move things. Then there are those in the Legislature looking for a tax cut. The boost in revenue projections had been expected as corporate collections continued to be strong in the first months of the fiscal year despite the May projection from LFB that they'd tail off by 14 percent compared to the previous 12 months. Toward the end of last year, Senate Majority Leader Scott Fitzgerald, R-Juneau, had already been talking about using any additional money for a property tax cut amid reports that levies were up. He didn't offer any specifics then and still isn't now, though he pledged to work on the scope of the proposal so it could be voted on before his chamber adjourns in March. Meanwhile, the Marquette University Law School Poll has consistently shown in the last few years that voters prefer more money for schools to lower property tax bills, so it's unclear of the thirst for a property tax cut beyond the GOP base. What's more, it'd have to get through Evers, who has a list of priorities all his own. So is there room for compromise? Some longtime budget watchers also note the state has been on a GPR boom since the last recession, and Republicans often used that to buy down local property tax levies. That's all good while the GPR train keeps rolling. But when the state hits another downturn — and one is coming at some point — that's going to amount to a lot of pain if the state doesn't have the aid to keep those levies lower than they would be otherwise. It's also why it's a good thing that rainy day fund is inching toward \$1 billion, budget watchers say, adding: at some point, the state is going to need it.

Tony Evers: The gov used his State of the State to feed his base a little red meat on redistricting and to play on GOP turf with a call to help rural communities and the ag industry. But will either play result in anything meaningful? Evers headed into his second State of the State off a string of proposals that had been rejected by a GOP Legislature that has tried its best to paint Evers as ineffective and partisan despite polling that shows the public has been with him on his major proposals. So insiders were watching the speech to see if the gov could find his footing by using the bully pulpit to badger lawmakers to come around to his way of thinking, or if he could find a carrot-and-the-stick routine to get something big done. The gov's speech was no stemwinder, insiders say. No matter, they add, considering how few people really tune into the address, it's all about the coverage and the highlights. The highlights focus on the three-pronged approach that Evers proposes to address the state's dairy crisis and his redistricting proposal. The power to draw Wisconsin's political

boundaries rests with the state Legislature — though more often than not, the issue ends up in the courts. Dems have cried foul over the maps Republicans drew nearly a decade ago, but they've made no progress in overturning them. So Evers announced what he's describing as a nonpartisan commission that will draw "The People's Maps." The commission will travel to the state's eight congressional districts to take testimony before producing a map it will suggest the Legislature consider. But, don't expect it to go anywhere but the trash, insiders say. Still, the move gives a little boost to those in the Dem base who care passionately about the issue, even if it isn't one that really moves voters. The farm package, however, is what intrigues many. In introducing it, Evers notes some provisions were in his state budget only to see GOP lawmakers pull them out of the document. Some Republicans are quick to dismiss the effort as an acknowledgment by Evers that his first year was a failure when it comes to rural Wisconsin, and some conservatives have a hard time buying Evers' passion about farmers when he has talked in the past about capping the manufacturing and ag credit, which boosts the industry and those that support it. But even some Republicans give Evers credit for wading into the topic. Dems have struggled in rural areas recently and could use some wins there ahead of the fall elections, particularly with President Trump's appeal to rural, white, blue-collar voters. Two, it could put Republicans in an interesting position. Evers unveiled the bills and then called a special session to start just days later, which some Republicans don't view as a serious move. After all, sticking to his timeline would mean skipping the hearing process and rushing them to the floor. That's a no-go. But can Republicans ignore the proposals altogether considering the concerns they're hearing in their rural districts? Assembly Speaker Robin Vos, R-Rochester, is initially dismissive until hearing that Senate Majority Leader Scott Fitzgerald, R-Juneau, said his caucus will at least look at the proposals. But that's no guarantee of passage. Some Republicans also grumble a chunk of what Evers wants to do is add new positions, creating additional bureaucracy. But some Dems say it's smart and strategic. If you're representing a Republican district with constituents in a crisis, those constituents may not appreciate your unwillingness to even work with the gov. It remains to be seen whether anything of substance gets done on what Evers proposed. But lawmakers look like they'll at least have the conversation with him, and that's more than can be said for a lot of the proposals he put forth during his first year in office, insiders say.

Retirements: The Senate Dem caucus is losing 42 years of legislative experience. Will the most experienced lawmaker in U.S. history be following them out the door? Sen. Mark Miller, first elected to the Assembly in 1998 and the Senate in 2004,

announces he won't seek reelection. In a speech on the Senate floor, Miller bemoans partisanship that has gripped the Capitol. And off the floor, the 76-year-old says it's time to let someone younger have a crack at the seat. His announcement comes on the heels of state Sen. Dave Hansen, D-Green Bay, announcing he's hanging it up after two decades in the chamber. And now some are watching Sen. Fred Risser, first elected to the Assembly in 1956 and the Senate in 1962. The Madison Dem, 92, says he'll wait until April, when nomination papers can be circulated, to make a call on his political future. Some Dems can't see Risser walking away from a post that has defined almost his entire adult life. But if he does, it would create another opportunity for a generational change in the Madison caucus. Unlike Hansen, the Miller and Risser seats are among the safest Dem districts in the Senate. And there is already jockeying going on to replace Miller. State Rep, Melissa Sargent, D-Madison, quickly announces she will run. Jimmy Anderson, another Assembly member in that Senate district, isn't ruling out a bid. Meanwhile, Rep. Gary Hebl, D-Sun Prairie, says he's passing on running for the seat. Despite holding one of the most Dem seats in the state Assembly, Sargent has been stockpiling cash in recent years and finished 2019 with \$90,175 in the bank. As her war chest has grown, insiders have speculated she was preparing for the day Miller retired, and that bottom line gives her an early advantage in a possible primary — though maybe not that significant of one, some say. Anderson finished 2019 with just \$1,497 in the bank. But he loaned his campaign \$88,700 for his 2016 bid for an open Assembly seat, and he gave himself another \$12,000 in 2018 as he faced no opposition for a second term. That ability to write a check can come in handy, some note. Plus, former state Rep. Kelda Roys, who ran for gov in 2018, is considering a bid and spent a lot of time running TV in the Madison market two years ago. That can leave an impression on voters. Dem insiders also say there are any number of local officials — current and past — who will kick the tires. The seat could be a once-in-a-lifetime opportunity, and insiders see no way Sargent is unopposed for the nomination like she was in 2012 as she won her Assembly seat. Insiders are also watching what dynamic shapes up for the primary. While the district includes a good chunk of Madison, it isn't an isthmus based — i.e. hardcore liberal. The district runs from places such as Fitchburg to the southwest up through Monona, Madison's east side and Sun Prairie. It's solidly Dem with Hillary Clinton winning 69 percent of the vote there in 2016, but it's a more moderate brand of Dems with those suburban voters. Miller's retirement is the fourth of the session, and insiders note it's still early in the typical timeline for incumbents to announce they won't seek reelection. In addition to Miller and Hansen, GOP Reps. Bob Kulp, of Stratford, and Mike Rohrkaste, of Neenah, have announced they're hanging it up after this session.

Assembly Speaker Robin Vos, R-Rochester, said before the holidays he expects a record low number of retirements from his caucus, but didn't say just how low. Meanwhile, insiders will be watching Assembly Dems to see if any longtime members decide they've had enough. Life in the perpetual minority is no fun and barring a dramatically better map in 2022 — and a good environment and a boost in money- it looks like a long slog out from the 63-36 hole they're in now.

Mixed

3rd CD Republicans: Two more GOP candidates have declared their intentions to target Dem U.S. Rep. Ron Kind this fall. It's just no one so far screams, "I'm the candidate to take down a 24-year incumbent," insiders say. The latest are John Garske, who spent 20 years in the Army and now runs a business helping vets transition to finding jobs in the private sector, and Jessi Ebben, 29-year-old public relations professional. Garske says he was inspired to run by "this impeachment fiasco and sham" as well as career politicians who have impeded progress in Congress. Ebben, meanwhile, promises to "defend our constitutional rights, listen and represent the people of the district, support President Trump's pro-America agenda, and work to get things done for Wisconsin." They've also never run for public office before, and insiders don't expect either to be able to write the kind of check or attract the big dollars that would help level the playing field against an incumbent who will soon report \$3 million in the bank at the end of 2019. Besides Ebben and Garske, two Republicans have filed for the 3rd CD, including Kevin Ruscher, who bills himself on his Facebook page as "an anti-Trump Republican" who has "never liked the guy." The other is Brandon Cook, of Hager City; he wrote on his Facebook page he's running "as a common sense Conservative Republican." Republicans say Derrick Van Orden, a retired Navy SEAL who authored "Book of Man, A Navy SEAL's Guide to the Lost Art of Manhood," is also considering a bid. But they're all political neophytes who may have great stories to tell, but face a daunting task of taking on a well-funded incumbent who has a record of pulling in middle-of-the-road voters. A preliminary copy of his latest campaign finance report shows Kind will likely enter the 2020 election cycle with the largest bank balance in the delegation after he pulled in over \$292,000 in the fourth quarter of 2019 to bring his total cash on hand to just over \$3 million. National Republicans have had Kind on their target list ever since Trump won his western Wisconsin district by more than 4 points as the Dem lawmaker faced no opposition. But there's really been no sizzle to a challenge of him since. He won in 2018 with 59.7 percent of the vote, and while Republicans have knocked him for supporting the articles of

impeachment against Trump, there's not much to suggest yet it's really hurting him in the district. Some insiders also note that while the top of the ticket can change quickly in some areas, the partisan leanings of voters down ballot often take longer to turn. It's still possible for one of the announced GOP candidates to catch fire or for Trump's coattails to make things interesting, some say. But insiders are still largely betting on Kind to win another term this fall.

Evers cabinet: The Senate has essentially reached the halfway point in approving the gov's cabinet picks. But with the Senate only on the floor once in February and likely once in March, time is running out to get through too many more — especially with some nominees still inspiring pockets of opposition in the GOP caucus. More than a year after his appointment, the Senate unanimously confirms Caleb Frostman as DWD secretary. The former local economic development official won a special election for a northeastern Wisconsin Senate seat in 2018, beating then-GOP Rep. Andre Jacque only to lose the district in a rematch months later. The only drama about his nomination, some suggest, was whether Jacque was going to acquiesce after their election battles. The Senate also signs off on Joaquin Altoro to lead WHEDA. That means the Senate has now approved seven of Evers' cabinet picks and his appointments to lead WHEDA and to serve on the PSC. But that still leaves five cabinet picks awaiting a floor vote and one more agency head to name after the Senate in November rejected Brad Pfaff to lead DATCP. Following the Frostman vote, Senate Majority Leader Scott Fitzgerald, R-Juneau, is noncommittal on whether anyone else will make it to the floor prior to the Senate adjourning in March, saying his members are still working through various concerns. Typically, the cabinet confirmation votes come early in appointees' terms, meaning senators are voting on what the nominees promise to do rather than what they've done. Still, Fitzgerald acknowledges that, fair or not, performance is now part of the equation for some of his members. In looking at the others, DSPS Secretary Dawn Crim has yet to receive a committee vote, while the rest cleared committee comfortably. The remainder includes: Emilie Amundson, Children and Families; Preston Cole, Natural Resources; Sara Meaney, Tourism; Andrea Palm, Health Services; and Craig Thompson, Transportation. Crim's nomination first ran into trouble over an incident with her son nearly 15 years ago, and now some Republicans have expressed unhappiness over her performance at DSPS. Still, few expect her to ever get a committee vote, which also means Republicans likely won't have the chance to shoot down her nomination. Some are betting that Cole and Amundson make it out of the Senate before the session ends. But prospects for the other three are murkier. There are still some Republicans who'd like to tube additional cabinet

picks. Jacque, for example, has had his sights on Meaney, and some conservatives describe her as “political,” saying the agency under her direction is too focused on Madison and Milwaukee — even though she’s said publicly that’s not the case. And some Republicans still aren’t over Evers declining their calls to retain Stephanie Klett as the agency secretary. But so long as folks in the tourism industry aren’t screaming about Meaney, some argue, it’s unlikely she’s rejected. The opposition to Palm has largely been generated by her decision to hire a former Planned Parenthood employee for the agency’s No. 3 spot. But firing Palm wouldn’t change that, insiders point out. And the opposition to Thompson has been vocal, but from a small wing of the GOP caucus due to his past work promoting the road building industry. Put him on the floor, some say, and the former TDA director would pass easily. At least publicly, Fitzgerald is saying it remains unclear if the remaining nominees will receive votes before the Senate adjourns. “I can’t make that commitment right now,” he said. On the positive side for Evers, he gains two unexpected early appointments when former GOP Assembly Speaker and DOA Secretary Mike Huebsch resigns from the PSC and former Thompson administration health Secretary Gerald Whitburn quits the UW board of regents. Evers’ new PSC pick will swing control of the commission to Dems.

Brian Hagedorn: The Wisconsin Institute for Law & Liberty is giving the new conservative justice the opportunity to get it “right.” But in again asking the state Supreme Court to step in on a suit seeking to deactivate registrations, it also means WILL is putting him in the position to disappoint someone. When conservative enthusiasm propelled Hagedorn to a come-from-behind win in 2019, many assumed he’d be a reliable vote for those who helped put him there. But he surprised many conservatives when he sided with liberal justices Rebecca Dallet and Ann Walsh Bradley in declining to take over an appeal in the voter case. WILL filed the original action seeking to force the Elections Commission to deactivate the registrations for voters who may have moved and failed to respond to a mailing from the agency within 30 days. Originally, the commission had decided to give those voters until 2021 to respond. But an Ozaukee County judge sided with WILL in directing the commission to deactivate the registrations of some 209,000 voters. Then when the commission deadlocked along party lines, Judge Paul Malloy found the three Dem members and the agency in contempt of his order. Amid all that, the state Department of Justice appealed Malloy’s original ruling to the 4th District Court of Appeals. But WILL quickly stepped in with a request for the state Supreme Court to take over the case instead. With conservative Justice Daniel Kelly sitting out the case because it could affect his upcoming election, the court deadlocked 3-3 on the

request. Conservative Justice Rebecca Bradley bemoaned the court's inaction, saying it likely meant the case wouldn't be back before the justices until after the 2020 elections and that there were legal questions that could only be truly answered once the Supreme Court weighed in. The three that didn't want to take the case, though, didn't explain their reasoning. That has many assuming that Hagedorn, a former appeals court judge, wanted to respect the process and let it play out in the lower courts rather than granting yet another request from WILL for the Supreme Court to get involved in a case earlier than it would otherwise. Still, it outraged some conservatives that Hagedorn sided with the liberals in the case, particularly one of such importance ahead of an election in which Wisconsin could be the tipping point in the presidential race. Following the justices' deadlock, the 4th District Court of Appeals quickly issues stays of Malloy's order and his contempt finding. Not long after, WILL goes back to the state Supreme Court arguing the 4th District was wrong to issue the stays without explaining its reasoning in the initial ruling and that the court shouldn't have issued the stays in the first place regardless of its rationale. And now Hagedorn's dilemma, insiders say: Does he irritate conservatives again by declining to intervene? Or does he change his stance, giving opponents fodder to accuse him of a nakedly political move? Legal experts note the second WILL filing is somewhat different from the first, which wanted the court to take over the entire case. This one is just about a narrow question of whether the 4th District should have issued the stays. Still, that nuance won't cut through the political perception. Some suggest Hagedorn isn't like to face any real fallout regardless of how he decides. After all, he won't be on the ballot again for nine years. But he would greatly disappoint conservatives if he sides with his liberal colleagues again. And it's unlikely liberal critics would use it as their main argument against him come 2029, when he'd be up for reelection. There's a third angle to consider, some note. Hagedorn is still the new kid on the block with the court and is still building his reputation with the rest of the state's judiciary. How would his fellow judges view a flip flop in the case?

Falling

Vaping: Gov. Tony Evers announces an effort to crack down on youth using e-cigarettes. On one front, he's directing his agencies to take a series of actions. The other involves a package of bills, but insiders question whether GOP lawmakers are going to get on board. Vaping has been under the gun nationally amid an outbreak of ailments, though a lot of that has been attributed to people vaping THC. Still, the entire industry has been facing questions about whether it's truly the healthier

alternative to smoking that advocates make it out to be. It's also been linked to a boom in tobacco use by teens. In Wisconsin, according to the Department of Health Services, use of e-cigarettes by high school students was up 154 percent between 2014 and 2018 — and 272 percent among middle schoolers. Now, Evers is putting three of his agencies on the case, directing DHS to, among other things, work with the Department of Public Instruction and local districts to develop anti-vaping policies. He wants DATCP to probe ads targeting youth and issue a consumer alert about youth vaping. And he's directing Revenue to go after tax fraud linked to vaping products. The legislative pieces, however, need buy-in from lawmakers to go anywhere. Senate Majority Leader Scott Fitzgerald, R-Juneau, says his chamber will consider the package. But Assembly Speaker Robin Vos, R-Rochester, complains the gov — yet again — didn't bother bringing in GOP lawmakers to get their backing before rolling out something. Evers' moves come after the state budget upped taxes on vaping products by \$5.5 million. The industry also has faced a squeeze from the federal government, though what the Trump administration put into effect wasn't as tough as it could've been. After the president promised a tough crackdown on vaping — only to be rebuffed by some in his base — the administration announced it would ban the sale of most flavored e-cigarette cartridges while exempting menthol and tobacco flavors, along with flavored liquid nicotine sold in open tank systems at vape shops.

Bryan Kennedy and Jim Sullivan: A Milwaukee judge rules the candidates for county exec are to remain off the ballot over an issue with their nomination papers. The situation that put them in front of the court isn't a good look, insiders say, even as some debate how much of the blame should be pinned on the candidates. Like many running for office, the pair used paid circulators to gather signatures for their nomination papers. But circulators sign statements that they're supporting the candidate for whom they're gathering signatures, and state law prohibits them from doing it for more than one candidate in a race. Milwaukee County Board Chair Theo Lipscomb — also one of the six candidates vying to replace Chris Abele — challenges his opponents' nomination papers, seeing the Milwaukee Election Commission deadlock 1-1 before the state board knocks both candidates off the ballot. While Kennedy and Sullivan argue the statute on circulators is discretionary, not mandatory, Lipscomb calls the Elections Commission decision a victory for the rule of law. But Milwaukee County Circuit Court Judge Kevin E. Martens denies Kennedy and Sullivan's request to put them back on the ballot. Any appeal would have to come quickly because ballots are due to local clerks on Monday. To some, the two have no one to blame but themselves. After all, the campaign is their

responsibility, top to bottom. Others, though, point out Lipscomb used paid circulators, and Dem state Rep. David Crowley used the same ones as Kennedy and Sullivan. But Crowley's signatures weren't impacted because the circulators worked for him first. Sullivan, a former Dem state senator and past member of Abele's administration, Kennedy, the Glendale mayor, and Crowley, first elected to the Assembly in 2016, all went to Simon Warren for help with their papers, and the community organizer paid the circulators. Both Kennedy and Sullivan's campaigns say they were assured that circulators would only work for them in the county exec race. That prompts some to ask what more they're supposed to do as candidates. Others say you should build an army of volunteers to gather the signatures so you don't have to outsource the work. You don't use paid circulators to get to the minimum needed to qualify for the ballot, they add, you only use them to go above and beyond that mark to be on the safe side. Some suggest the challenge isn't a good look for Lipscomb, either, and he takes flak at a debate for the move. Looking ahead, if Sullivan doesn't get back on the ballot, where will Abele's money go? Many viewed Sullivan as Abele's favored candidate, and with that comes the expectation that the outgoing county exec was going to use his personal wealth to give Sullivan a hand up in the race. There's still time for an effective effort on Sullivan's behalf ahead of the Feb. 18 primary if he gets back on, some say. On a side note, Kennedy and Sullivan weren't the only Milwaukee candidates to have trouble making the ballot. The Wisconsin Elections Commission found David King turned in 1,497 valid signatures for his mayoral bid — three short of the minimum required.

Note: This item has been updated to reflect Friday's circuit court decision.