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## Kansas Legislative Report, April 3-7, 2023

*The Kansas Legislature left for a two-week spring break on Friday, officially adjourning the regular part of the 2023 Legislative Session just after 4:00 a.m. Lawmakers had a busy week of conference committees and floor debate, but left several larger items for the Veto Session, including education funding and tax policy.*

*The key to First Adjournment, however, was passing the main budget bill. When legislators return for the wrap-up session on April 26, they will have received the April Consensus Revenue Estimating Group's new revenue projections and can make any adjustments in the "omnibus" budget at that time.*

*Despite what was left on the Veto Session table, a few big pieces of legislation were approved and are headed to the Governor's desk. Below are highlights from last week, as well as an update where other key bills stand right now.*

### **Legislature Overrides Governor's Veto on Women's Sports**

The Legislature on Wednesday overturned Governor Kelly's [veto](#) of the Fairness in Women's Sports Act, [House Bill 2238](#). The bill requires that female student athletic teams only include members who are biologically female. The Legislature has passed similar legislation for the past three years, this being the first one they succeeded in overriding Kelly's veto.

The House voted [84-40](#), the exact two-thirds majority needed for a constitutional override. The Senate vote was [28-12](#), one more than the 27 votes required. Several legislators in both chambers reluctantly voted in favor yet were vocal about their concern with certain provisions in the bill.

HB 2238 requires interscholastic, intercollegiate, intramural, or club athletic teams or sports that are sponsored by K-12 public educational entities or any school or private postsecondary educational institution whose students or teams compete against a public educational entity to be expressly designated based on biological sex.

Kansas is now the 20<sup>th</sup> state to ban transgender, male-at-birth students from competing against women in scholastic sports.

## **Tax Packages Formed**

After several rounds of negotiations and assembling packages, the House/Senate Tax conference committee finally agreed on three bundles that each include handfuls of tax policy provisions considered throughout the legislative session.

[Senate Bill 169](#) cleared both the House and Senate before First Adjournment and is headed to Governor Kelly's desk. It makes various changes to income, sales, and property tax law. Specifically, the bill would:

- Replace individual income tax brackets with a single rate of 5.15 percent.
- Reduce corporate income, privilege tax rates, and discontinue corporate rate reductions required by the Attracting Powerful Economic Expansion Act (APEX).
- Expand the exemption on Social Security income.
- Increase the annual standard deduction by a cost-of-living adjustment.
- Accelerate the elimination of the state sales tax on food.
- Increase the amount of the appraised value of residential property exempt from the statewide 20 mill school finance levy to \$60,000.

[House Bill 2002](#) cleared the Senate but still awaits a vote in the House during the Veto Session. This tax package would create two sales tax exemptions, authorize additional sales tax authority for certain counties, makes various changes to property tax law, and establishes a requirement for filing the release of tax warrants. More specifically the bill would:

- Create a sales tax exemption for the Kansas Suicide Prevention HQ.
- Create a sales tax exemption for Area Agencies on Aging.
- Provide county sales tax authority to Grant and Dickinson counties.
- Authorize county treasurers to electronically deliver property tax documents upon consent of the taxpayer.
- Grant the director of property valuation the authority to develop qualifying courses for county appraisers to be registered mass appraisers.
- Require filing release of tax warrants in the county where the warrant is docketed after payment of taxes owed.

[Senate Bill 8](#) is the last tax bundle that cleared the House before adjournment but still awaits a vote in the Senate during the Veto Session. This tax bill would:

- Limit the instances in which a taxpayer must file personal property renditions and reduces or waives penalties for late filings.
- Amend law regarding revenue neutral rate notifications and appeals, and payment under protest procedures.
- Freeze property taxes for low-income seniors and disabled veterans.
- Make clarifications to the SALT Parity Act.
- Allow land and buildings used for agritourism to be classified as agricultural use.
- Allow taxpayers to subtract net operating losses in determining their gross income and make changes to the Homestead Property Tax Refund Act.
- Provide a sales tax exemption for certain telecommunication purchases.

- Exclude manufacturers' coupons from the sales or selling price for sales tax purposes.
- Provide a cost-of-living adjustment for the standard deduction and expand the exemption of Social Security benefits.
- Make changes to the disability unemployment income tax credit.
- Increase the tax credits for adoption and childcare expenses.
- Provide a tax credit for contributions to nonprofit pregnancy centers or residential maternity centers exempt from federal income tax.
- Create property and sales tax exemptions for certain businesses located in cities where a facility owned or operated by a governmental entity competes against the business.

*Governor Kelly has been vocally critical about several provisions of SB 8, and some believe if passed as is the bill is at risk of being vetoed.*

### **Workforce Education**

The Legislature sent [SB 123](#) to the Governor on Thursday, which contains several key education and workforce provisions. Specifically, the bill does the following:

- Creates the Kansas Adult Learner Grant Act (Adult Learner Act) which establishes up to a \$3,000 grant per semester based on household income for Kansans 25 years or older to assist with costs associated with obtaining a degree in a high need field of study such as education, science, or healthcare.
- Creates the Workforce retention incentive income tax credit for \$1,500 for graduates who stay in Kansas or serve in the military for 2 years post-graduation.
- Establish the Career and Technical Education Credential and Transition Incentive for Employment Success Act which requires school districts to pay for 9<sup>th</sup>-12<sup>th</sup> students seeking an industry sought credentialing test.
- Address the residency status of veterans, their spouses, and dependents regarding postsecondary tuition and fees.
- Amends the Kansas Promise Scholarship Act to include the additional fields of study of Information technology and security, mental and physical health care, advanced manufacturing and building trades and early childhood education.

### **K-12 Education Funding**

On Thursday, by a vote of 17-20 the Senate voted down a much negotiated and debated K-12 school funding bill [House Sub for Senate Bill 83](#). The bill, often described as a school voucher program, proposed to create the Kansas Education Enrichment Program (KEEP). Specifically, the bill would allow for awards/grants for qualified students to receive up to a \$1,000 grant for supplemental educational materials or up to 95% of base state aid to attend nonpublic school. The bill also appropriated almost \$600 million in additional special education aid. It is expected the bill will be reworked and the topic considered again during the Veto Session.

### **Economic Development**

Several economic development bills have been discussed during the 2023 Legislative Session, but only a few have passed. Below is a quick recap of the bills considered:

The passed budget bill, HB 2184, added \$15.2 million for the **STAR Bonds Food Sales Tax Replacement Fund** and two additional STAR Bonds provisions which authorizes renovation and construction costs for historic theaters as eligible STAR bond project costs and extending the cap for rural projects.

[House Bill 2292](#), **apprenticeship programs tax credits** passed both the House and Senate and is headed to the Governor. This bill establishes a tax credit/grant incentive program for employers who participate in federally approved apprenticeships. In addition, the Office of Apprenticeships within the Department of Commerce will also manage a grant program for paraprofessionals participating in an apprenticeship program to become teachers.

[Senate Bill 17](#) passed both the House and the Senate and will now go to the Governor for her consideration. The bill updates the **Kansas Reinvestment Housing Incentive District Act** and create housing projects in cities with a population of 60,000 or more and amend the Act to expand the list of costs that could be paid for by proceeds of special obligation bonds and amends the Kansas Housing Investor Tax Credit Act to expand the transferability of tax credits that would be issued.

[House Bill 2234](#) contains the **film tax credit** and incentives to promote the growth of film and digital media production and industry in Kansas. The Conference Committee Report passed the Senate but will need to be acted upon by the House during veto session.

[SB 325](#) was introduced last week and is being called a mini-APEX bill that is aimed at attracting **Electric Vehicle (EV) and Hydrogen powered vehicle assembly**, component/subassembly manufacturers, and their respective headquarters or research & development facilities. The Department of Commerce was working with leadership to hold a hearing late last week, but nothing was scheduled. Though it would be a big lift, it is possible the bill could be acted upon during the veto session.

## **Budget Review**

Multiple rounds of budget conference committee meetings were needed last week to negotiate over 100 items across dozens of agencies, costing the state up to hundreds of millions of dollars. Ultimately, [House Bill 2184](#) passed the Legislature on the last day of session and is on its way to the Governor.

Highlights of the passed budget bill include:

- \$53 million for water storage debt, investing those funds on a short-term basis.
- Funneling more money from Lottery vending machines to mental health services.
- Adding \$22 million for new mental health beds and ER services in the Wichita area.
- Adding \$6 million for a new Kansas Highway Patrol helicopter, which will likely be based in the south-central Kansas region.
- Appropriating \$142 million in federal funds for the new Wichita State University/University of Kansas Health Science Center in Wichita.

- Adding \$14 million for career technical education, the registered apprenticeship program, and other job training programs.
- Adding \$250 million, more than \$50 million over four years, for building infrastructure across Kansas in the new Build Kansas program.
- Saving \$600 million in the State's rainy-day fund, in case of a future downturn in tax receipts.

One of the big issues that remain for the Veto Session is state employee salaries. There are increasing talks about using a targeted approach to increasing wages, based on the current marketplace and areas of critical job shortages. This would be a stark contrast to the typical, across-the-board percent increase for all state employees.

Barring no complications, budget negotiators hope to finalize the last few budget items in the Omnibus bill when they return for the wrap-up session.

### **Other Bills to Governor**

*Here are a few other bills we were watching that passed the Legislature last week and are on their way to the Governor:*

ESG Investing: [House Bill 2100](#) will prohibit state and local governments from making investments or contracting decisions based on environmental, social, and corporate governance standards.

Abusive Litigation: [House Bill 2016](#) will create a civil action for determining whether litigation that alleges any website access violation under the federal Americans with Disabilities Act (ADA) or similar law constitutes abusive litigation.

Childcare Deregulation: [Senate Sub for House Bill 2344](#) will make several changes to the regulations surrounding childcare including license capacity, staff-to-child ratios as well as staffing requirements, including professional development training. The House concurred with the Senate bill by a vote of [77-46](#). The Senate still needs to act on the bill during the Veto Session.

Transportation Network Companies: [House Bill 2020](#) will establish conditions for when a driver is an independent contractor for a transportation network company.

Alcohol Law: [House Bill 2059](#) will amend various provisions of Kansas liquor laws concerning remittance of gallonage taxes, samples, Sunday sales, the food sales requirement, and common consumption areas. It would also permit food establishments to allow dogs in outside areas and inside under certain conditions.

Transmission Cost Recovery: [House Bill 2225](#) will limit recovery for certain transmission-related costs.

Multi-year Flex Accounts: [Senate Bill 205](#) will authorize certain water rights in a water bank to participate in multi-year flex accounts on a temporary basis.

GMD Reporting: [House Bill 2279](#) will require the groundwater management districts to submit annual reports to the Legislature identifying priority areas of concern.

Water Funding: [House Bill 2302](#) will appropriate \$35 million annually from the State General Fund to the Kansas Water Office to execute the State Water Plan. In addition, it will appropriate \$52 million in FY 2023 toward reservoir debt payments.

Scrap Metal Theft: [House Bill 2326](#) will extend the sunset of the scrap metal theft reduction program and add catalytic converters to the list of regulated metals.

Short Line Rail Funding: [House Bill 2335](#) will continue and increase grants toward short line rail maintenance.

Wind Turbine Lighting: [Senate Bill 49](#) will require light mitigation technology to be installed on future wind turbines.

### **Issues Left for Veto Session**

The House and Senate will take up any bills passed before First Adjournment that were Vetoed by the Governor. The two tax bills, Senate Bill 8, and House Bill 2002 were only passed by one body before first adjournment. These bills will need to be passed by the opposite chamber and sent to the Governor for her consideration. The legislature also still needs to pass a K-12 education spending bill and we also expect House approval of the film tax credit will should be taken up during Veto Session. Additionally, a Conference Committee Reports may run dealing with increased fentanyl manufacturing and distribution penalties and the decriminalization of fentanyl strips.

Budget negotiators are expected to meet before Veto Session begins to construct an Omnibus Budget bill. The new Consensus Estimates which contain April 15 tax receipts will be released shortly before Veto Session begins, which will update budget and tax numbers.

Veto Session is expected to be short but contentious as House and Senate members work to finalize all legislation for the 2023 Legislative Session.