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## Weekly Legislative Report – Veto Session

The Kansas Legislature returned to Topeka on Wednesday, May 1<sup>st</sup> after a three-week spring break. Lawmakers had four major pieces of business to wrap-up: budget, taxes, Medicaid expansion, and an abortion bill veto override. After a rule was suspended allowing the Legislature to work past midnight, the Veto Session concluded in just four-days at 3:08 a.m. Sunday morning. The ceremonial sine die adjournment of the 2019 Kansas Legislative Session is scheduled for May 29.

### House Fails to Force Medicaid Debate

The Veto Session could have ended on Friday but was drug out another day and a half in a battle of wills between House members and Senate leadership over Medicaid expansion.

On Wednesday, the Senate Minority leader's motion to pull the Medicaid expansion bill out of the Senate Public Health and Welfare Committee failed by one vote. This set into motion a new strategy organized by House Democrats and moderate Republicans to join votes and stall passage of the mandatory budget bill until the Senate took up Medicaid expansion. The approach worked through two rounds of budget negotiations and floor votes on Friday, but ultimately failed when moderate Republicans began trickling off the alliance on Saturday.

Medicaid expansion, [House Bill 2066](#), narrowly passed the House 69-54 in March after an unexpected "gut-and-go" procedure on the House floor. It's been stalled in the Senate health committee ever since and has been a tug-of-war between legislative leadership and Governor Kelly all session. Opponents argue expanding KanCare to 130,000 additional Kansans will dismantle the state budget and reduce the quality of healthcare for everyone insured.

Senate leaders have promised a summer study on the Medicaid expansion issue, which will certainly be attempted again next session.

### New Federal Windfall Tax Bill Passes

After the Governor vetoed the first federal windfall tax bill in March and the Legislature failing to override it, proponents tried again with a scaled back modified measure during the Veto Session. A special conference committee took up the issue on Wednesday and adopted language in [CCR on House Bill 2033](#).

The new plan still decouples Kansas from federal law on several tax policy provisions but cuts the fiscal impact to the state in half by eliminating retroactivity on individual itemization, FDIC and capital contributions, and delaying those deductions until tax year 2019. The bill still allows multinational corporations headquartered in Kansas not be taxed on their foreign earnings and reimplements small business expensing for both individuals and corporations at 100 percent.

Other pieces in the bill include requiring all internet retailers – including 3<sup>rd</sup> party administrators such as Amazon, eBay, and Airbnb – to collect and remit tax on online sales made in Kansas and using that revenue to buy down the food sales tax over time. It also will require 3<sup>rd</sup> party administrators to remit associated fees with the sales such as transient guest tax on hotel rooms sold.

The bill passed the Senate 27-13 on Thursday and the House 83-41 on Saturday. While some are expecting another veto by Governor Kelly, she has not made definitive statements one way or another. She has ten days to veto, sign, or allow the bill to become law without her signature. A potential veto override attempt can be taken up on Sine Die.

### **Governor's Abortion Bill Veto Sustained**

During the legislative spring break, the Governor vetoed [Senate Bill 67](#), which requires notification to patients be posted that the effects of a medication abortion may be reversible. The Senate succeeded on Wednesday overriding Governor Kelly's veto with the required 2/3 majority vote. However, the House failed after two attempts and ultimately being one vote shy on Thursday.

### **Legislature Approves FY19-20 State Budget**

The budget ended up playing both a political and financial role in the end of session. Before legislators left at the first part of April, they were very close to passing the first of what was supposed to be two big budget bills. Instead, they abruptly ended negotiations and pushed all remaining budget matters to the Veto Session. The budget would end up being used as a bargaining tool for votes on expanding Medicaid, with the effort ultimately failing.

The final budget product, [CCR for House Substitute for Senate Bill 25](#), still includes numerous important fiscal policies.

There is money for local highway projects, focusing on bridges and roads. Cities and counties have a 25 percent match for those state funds. Legislators have been trying for years to stop using the “bank of KDOT” as a source for funding non-transportation initiatives. They are hopeful they might have stemmed that tide this year.

Corrections officers could be getting a much-needed raise. With state prisons becoming more and more crowded, keeping and hiring staff to manage that inmate population has been difficult in recent years. Legislators agreed to a wage plan to retain and attract people to these jobs in a competitive economy. There is also new money to treat the growing number of cases of Hepatitis C among inmates. This is a health threat to inmates and prison workers alike.

Career and technical education continue to be funded. As more high school students become attracted to the technical education career path, more funding is needed to fund those programs at the secondary and post-secondary levels. Legislators have been very receptive to the need for funding technical education.

Other appropriations were made toward better access to Kansas water ways and trails to attract more tourists, more mental health services to students, repairs to the foster care system, and, last but not least, the K-12 education funding package passed earlier this session.

Legislators crafted and passed a budget that actually exceeds the Governor's initial budget proposal. They did so partly due to better than expected tax revenues, and also by repaying some debt faster than anticipated. The final budget was passed with votes from both Democrats as well moderate and conservative Republicans.

Ending balances for the next two fiscal years will meet the 7.5 percent ending balance requirement. There is concern the further out you go with projections, that ending balance requirement will not be met. Economic projections show slow but continued growth for the Kansas economy. Legislators are hopeful that trend continues.

#### **Senate Concludes Cabinet Confirmations**

The Senate finished confirming Governor Kelly's administration appointments on Friday. They voted 38-0 to approve Delia Garcia as Secretary of Commerce, and Susan Duffy to the Kansas Corporation Commission (KCC). Garcia served in the Kansas House of Representatives from 2005-2010 and most recently led a Washington D.C. advocacy group working to increase diversity in public office. Duffy is a former executive director of the KCC and most recently managed the Topeka Metropolitan Transit bus service.

#### **Other Conference Committee Reports (CCRs) to the Governor**

*The following are a few of the bills we've been tracking that also advanced to the Governor during the Veto Session:*

#### **Economic Development Transparency – [CCR on House Bill 2223](#)**

The House approved the economic development transparency bill on Thursday 123-0. The measure authorizes a systematic and comprehensive review, analysis, and evaluation of state economic development programs every three years and establishes an online database to collect and disclose non-confidential data on the recipients of the tax credits and incentive programs. The Senate passed the bill 37-0 before first adjournment. The Governor is expected to sign the bill and it becomes law on July 1<sup>st</sup>.

#### **Scrap Metal Theft Reduction – [CCR on House Bill 2248](#)**

The House Judiciary Committee held a bill hearing on Thursday of the Veto Session that makes several changes to the scrap metal theft reduction act passed in 2015. House and Senate negotiators agreed to additional tweaks and included the new language in a

conference committee report Friday morning. On Saturday, the Senate passed the bill 39-0 and the House 110-11.

During the spring break, proponent groups traveled the state educating lawmakers on the bill and worked with scrap metal dealers and other interested parties toward compromise language. The measure implements and identifies funding sources for the statewide scrap metal theft database and reduces the registration fee on dealers. A \$180,000 appropriation for additional staff within the Kansas Bureau of Investigation and the Attorney General's office to analyze the data was also included in the omnibus budget.

#### **CBD Defense – [CCR on Senate Bill 28](#)**

House and Senate negotiators met on Wednesday and approved language that creates an affirmative defense provided by the state for anyone arrested or charged with possession of medical CBD with up to five percent THC that is under direct physician treatment. On Saturday, the House approved the bill 87-36 and the Senate 27-8.

#### **ATVs on Highways – [CCR on Senate Bill 63](#)**

The Senate approved a bill 40-0 on Wednesday that authorizes All-terrain Vehicles (ATVs) to cross federal or state highways, and allows ATVs used for agricultural purposes on federal and state highways outside of city limits under certain conditions. The House passed the bill 101-20 before first adjournment.

#### **Issues that did not advance in 2019 that likely will be back in 2020**

##### **PAYGO Sales Tax Exemptions - [CCR on House Bill 2160](#)**

The Tax Conference Committee attempted to find agreement on a last-minute tax bill, HB 2160. House Leadership was not willing to wait for negotiators to agree and ran the Adjournment resolutions as the committee was meeting.

The almost agreed to bill contained several provisions which had already passed in the other tax CCR such as the Finney county provisions and the net operating loss. However, the tentative agreement also continued SB 178, which contained two new sales tax exemptions and the controversial PAYGO language. If passed the PAYGO language would have required either the repeal or suspension of an existing exemption of equal or greater fiscal liability in order to enact any new sales tax exemption that goes into effect on or after July 1, 2019. Senate negotiators offered alternative language that any future sales tax exemption would have a 5-year sunset, however, the House chair rejected the counter-offer.

Although HB 2160 did not advance in 2019 it will be active in 2020 and could be acted upon at any time.

##### **Sports Gaming Fails to Move Forward**

Sports Gaming failed to gain passage this session. The parties involved in the Sports Gaming issue failed to reach consensus and thus no bill was passed. Most of the issues were agreed upon by the Kansas Lottery and the various casino interest. However, the issue of iLottery, an online app for purchasing lottery tickets and playing lottery games, held the

bill up. Most believe that the parties will work during the remainder of 2019 with the hopes of drafting an agreed upon bill for 2020.

### **Transportation**

No major transportation legislation passed during the 2019 Session. Many measures were considered, from a legislative taskforce to a bill that would set up the framework for a new transportation program. None of these bills gained enough support for passage. The passage and funding of a new transportation program will be a priority during the 2020 Legislative Session as additional money is needed for major projects and repairs to the state's highway system.

### **What's Next?**

Both House and Senate members are scheduled to reconvene one last time on May 29<sup>th</sup> for Sine Die, the traditionally ceremonial closing of the 2019 Legislation Session when they can consider gubernatorial vetoes of bills or line-item vetoes of provisions of the just-passed budget bill.

However, the Senate may be back on May 14<sup>th</sup> due to a more complicated than normal Adjournment resolution. An amendment made by Senator Masterson, regarding the appointment of a vacant Court of Appeal's seat, may require the Senate to return for consideration of a nomination. The Attorney General has asked the Kansas Supreme Court to consider if the Governor should be allowed to appoint another candidate after her appointment time had expired. Gov. Kelly's initial nomination of former Rep. Jeff Jack, R-Parsons, was rescinded after controversial social media posts were found on his accounts.

Governor Kelly has since nominated Sarah E. Warner, Lenexa, for the Appeals Court post, but Senate leadership believes Supreme Court Chief Justice Lawton Nuss should make the nomination since Kelly's nomination was not made within the set time limits. The Kansas Supreme Court will hear the appeal on May 9<sup>th</sup> hearing as to who has the legal appointing authority for the vacancy. If the Supreme Court rules that the appointment was valid, the Senate will return on May 14<sup>th</sup> for confirmation consideration.

After Sine Die, all official business will be wrapped up and lawmakers will begin officially beginning their break. Interim Committees will meet throughout the summer and fall gearing up for the 2020 Legislative Session. However, 2020 is an election year for both the state House and Senate members as well the Congressional seats. Candidates are already announcing their plans to run, and we expect these announcements to heavily influence the 2020 Legislative Session.