



LENEXA CHAMBER OF COMMERCE

Top Issues for the 2020 Legislative Session

The Results!

****Includes bills that received at least a committee hearing****

TAXATION

Support Tax Policies That Preserve Johnson County's Economy & Quality

The Chamber supports pursuing balanced income, sales, and property tax policies that adequately fund the core state budget while preserving Johnson County's economic competitiveness and quality of life, including:

- Maintaining tax rates that do not unreasonably burden or disadvantage Kansas businesses;
- Preserving market-driven sales tax exemptions;
- Continuing the sales tax exclusion for professional services;
- Revisiting sales tax collections by out-of-state sellers to improve marketplace fairness, keeping flexibility in the use of new sales tax revenues;
- Reinstating for non-corporate business taxpayers the income tax expensing deduction for capital investments, back in parity with corporate taxpayers; and
- Decoupling certain state income tax provisions from federal provisions, including the option to take itemized deductions.

OUTCOME: Legislation (CCR for HB 2702) making a number of revisions to tax policy was **vetoed by the Governor.** The Governor said certain provisions of the bill would, during a pandemic, deprive local governments of revenue when they need it most and divert attention away from pandemic recovery to new administrative burdens. The bill included:

- Transitioning away from the current local property tax lid to a new stringent "Truth in Taxation" public notice/hearing/governing body resolution process;
- Creating a temporary grace period for property tax payments from May 10 until August 10 without penalties or interest;
- Codifying in statute (currently an Executive Order) the temporary grace period for state income tax payments from April 15 until July 15 without penalties or interest;
- Prohibiting increases in appraised valuation of residential or commercial property solely as a result of normal repair, replacement, or maintenance;
- Authorizing county treasurers to establish a payment plan for the payment of delinquent or nondelinquent taxes (currently authorization for such plans extends only to delinquent taxes);
- Instituting consumer-protection requirements on paid tax preparers, known as the Taxpayer Protection Act; and
- Providing county discretion concerning the waiving of de minimis property tax penalty charges.

Property Tax

A number of pieces of legislation revising property tax policies **all passed the Senate but were not considered by the House,** including bills:

- Prohibiting valuation increases of county-appraised property during valuation appeals (SB 272);
- Ensuring that the state is the entity adopting appraisal standards and that the standards do not conflict with Uniform Standards of Professional Appraisal Practice (SB 297);
- Revising appraiser certification and coursework (SB 266); and
- Changing the burden of proof from the taxpayer to the county appraiser to demonstrate the correctness of the property valuation or classification of residential or commercial property before a district court (SB 309).

Legislation (SB 242/HB 2517) providing for a property tax abatement for buildings and improvements (including commercial properties) destroyed or substantially destroyed by a natural disaster **passed Senate and House committees but were not considered by the full Senate or House.**

Legislation (SB 301) providing for property valuation of all classes of property (except motor vehicle) every three years, instead of annually, for purposes of property taxation **received a hearing in a Senate committee but did not advance.**

Income Tax

Legislation (original HB 2490) extending for corporations the net operating loss carryforward period for purposes of state income taxes from the current 10 years to 20 years **passed the full House but a Senate committee hearing was canceled amid COVID-19 concerns.** Kansas has one of the most restrictive state NOL carryforward standards in the nation at 10 years. With the passage of the federal *2017 Tax Cuts and Jobs Act*, NOL federally was changed to an indefinite carryforward standard at 80% of taxable income; this bill would have extended Kansas to 20 years at 80% taxable income.

Legislation (HB 2005) permitting state income taxpayers, starting TY2020, to elect to take itemized deductions vs. the standard deduction regardless of their election for federal income tax purposes **passed a House committee but was not considered by the full House.** Currently Kansas individual income taxpayers – the system under which non-corporate business entities pay income taxes – are required to make the same deduction election for state income tax purposes as they do for federal income tax purposes. This legislation would provide taxpayers with the option going forward to make different federal and state elections based on their personal circumstances.

Legislation restoring the ability of non-corporate income taxpayers to claim an expensing deduction for the costs of placing certain equipment and computer software into service, putting them back in parity with corporate taxpayers, **passed a Senate committee but was not considered by the full Senate** (SB 196) and also **received a hearing in a House committee but did not advance** (SB 104, which previously passed the Senate in 2019). This income tax deduction was inadvertently not restored at the same time the so-called “LLC exemption” was repealed, reinstating state income tax liability on these taxpayers.

Legislation (HB 2726) extending the date when state corporate income tax returns are required to be filed, clarifying the filing deadline to be one month after the federal filing deadline, **passed a House committee but was not considered by the full House.** The federal *2017 Tax Cuts and Jobs Act* changed the corporate filing deadline on federal returns to October 15, which coincides with the state extension deadline. Because corporate taxpayers cannot file their state returns until their federal returns are filed, this bill would resolve a conflict of dates between federal and state returns.

Legislation (HB 2722) establishing tax filing and withholding tax requirements related to employees who work in multiple states **passed a House committee but was not considered by the full House.** This issue impacts workers who travel outside their home state on business trips for temporary periods who then incur unforeseen tax liabilities and obligations in states where they travel. Under the bill, employers would also have no withholding obligation for those employees (Kansas currently has a one-day threshold for employer withholding.)

Legislation (HB 2538) increasing the Kansas standard deduction for single, married, and head of household filers **passed a House committee but was not considered by the full House.**

Legislation (HB 2553) making several changes to Kansas state income tax provisions in response to federal income tax changes enacted in the *2017 Tax Cuts and Jobs Act*, modifying state income tax treatment of corporate foreign Global Intangible Low-Taxed Income (GILTI) and amounts attributable to the disallowance of Federal Deposit Insurance Corporation (FDIC) premiums, interest expense limitations, and capital contribution deductions, **received a hearing in a House committee but did not advance.**

Sales Tax

Legislation (H Sub for SB 266) requiring third-party online marketplace facilitators (such as Etsy and AirBnB) with more than \$100,000 in sales in Kansas to collect and remit state and local sales, compensating use, and local transient guest taxes starting July 1, 2020, **passed a House committee but was not considered by the full House.**

The bill would also require any out-of-state online seller to have sales in Kansas greater than \$100,000 before being required to collect and remit state and local sales tax. The U.S. Supreme Court in its online sales tax *Wayfair* decision indicated having such a *de minimis* threshold avoids an unconstitutional burden on interstate commerce. Kansas currently has no minimum threshold.

Similar legislation (SB 369) requiring third-party online marketplace facilitators with more than \$100,000 in sales in Kansas to collect and remit state and local sales and transient guest taxes **received a hearing in a Senate committee but did not advance.**

Legislation (HB 2727) requiring an existing sales tax exemption of greater or equal fiscal value to be repealed or suspended prior to approval of a new sales tax exemption and newly imposing sales tax on some personal care services **received a hearing in a House committee but did not advance.**

Legislation (HB 2685) imposing sales tax on the sale of digital goods and subscription services **received a hearing in a House committee but did not advance.**

Retain Flexible Revenue & Spending Authority

The Chamber opposes the imposition of state or local tax and spending lids and other unreasonably burdensome mandates for tax or budget measures and supports repeal of the mandated public vote on utilization of increased local property tax revenues, or in the alternative, a “lookback” period that removes the disincentive to lower property taxes.

OUTCOME: Legislation (CCR for HB 2702) making a number of revisions to tax policy, including transitioning away from the current local property tax lid to a new stringent “Truth in Taxation” public notice/hearing/governing body resolution process, was **vetoed by the Governor.** The Governor said certain provisions of the bill would, during a pandemic, deprive local governments of revenue when they need it most and divert attention away from pandemic recovery to new administrative burdens.

TRANSPORTATION

Continue Dedicated Infrastructure Investment

The Chamber supports authorization of a new statewide multi-modal infrastructure program, including:

- Continuing the direct transfer of state sales tax revenues to the State Highway Fund;
- Giving strong consideration to economic impact in program criteria; and
- Providing ongoing and expanded opportunities for local input and partnership.

The Chamber opposes diverting sales tax revenues statutorily intended for transportation to other purposes.

OUTCOME: Legislation (SB 173) establishing a new statewide infrastructure plan, to be known as the Eisenhower Legacy Transportation Program, was **signed into law.** Details about the 10-year \$10 billion comprehensive plan include:

- Utilizes a 2-year rolling project selection process;
- Prioritizes funding preservation projects and completion of delayed T-WORKS projects (directs all remaining T-WORKS projects be let by July 1, 2023);
- Creates minimum dollar commitments to new modernization and/or expansion projects in each KDOT district through metrics developed by KDOT, which have included economic impact and opportunity;
- Requires at least \$8 million be spent in each county over the course of the 10-year program;
- Provides for multi-modal infrastructure improvements, including investments in short-line rail, aviation, bike/pedestrian, public transit, broadband deployment, technology/innovation, and local partnerships;
- Authorizes 5% of the program (3% in FY2021/2022 and an additional 2% starting in FY 2023) to be used for alternative delivery (alternative delivery projects must be a minimum of \$100 million);
- Maintains a dedicated direct transfer of state sales tax revenue to the State Highway Fund (SHF); and
- Institutes new layers of protection for State Highway Fund sales tax revenues to discourage those revenues from being diverted to other general government purposes.

State budget legislation (SB 66) ***signed into law*** also decreased (for now) the transfer of funds from the State Highway Fund to the State General Fund by an additional \$25 million, from \$158.7 million to \$133.7 million in FY2021, continuing to close the “Bank of KDOT.”

EDUCATION

Support K-12 Public Education to Build Our Workforce

The Chamber supports K-12 education policies that:

- Maintain operational funding and early childhood resources that adequately enable Johnson County students to prepare for post-secondary success and workforce-readiness, do not unreasonably burden taxpayers, or shortchange other core state services;
- Remove the July 1, 2020, sunset provision and make permanent high-density at-risk weighting for individual school buildings;
- Respect local control over funding, spending, and curriculum choices; and
- Address barriers to K-12 apprenticeships and on-the-job training programs.

To help ensure access and quality for all students, the Chamber opposes programs that divert public funds, directly or indirectly, to private alternatives not subject to the same mandates, regulations, and accountability requirements governing public schools.

OUTCOME: State budget legislation (SB 66) that keeps in place K-12 base state aid and special education aid increases approved last year and maintains most other programs at current levels was ***signed into law***. FY2021 allocations could, however, be impacted by pandemic-related budget cuts known as “allotments.”

The legislation also maintains high-density at-risk weighting for two years. That weighting, which is important to several area school districts, was scheduled to “sunset” after June 30, 2020, unless the legislature extended it. Both the House and Senate passed bills extending the weighting between three to five years, but a final agreement was unable to be negotiated before the legislature adjourned.

Legislation (HB 2507) resolving liability issues for students and employers relating to high school apprenticeships and on-the-job training programs – a current disincentive for some businesses to participate in such programs – ***passed the full House and a Senate committee but was not considered by the full Senate.***

Legislation (HB 2465) expanding student eligibility for the Tax Credit for Low Income Students Scholarship Program by expanding it to all schools (not just the 100 lowest performing public schools), both free and reduced lunch students (not just free lunch students), and all ages (not just elementary schools) – meaning the program would no longer be tied just to low-performing schools and at-risk kids – ***passed a House committee but was not considered by the full House.*** The bill would not have changed the current \$10 million program cap, the value of the scholarship given, or the value of the tax credit given.

The House committee also amended the bill to include a provision revising the schedule for Capital Improvement State Aid, which public schools believe will provide for more equitable funding for capital improvements and provide some property tax relief to local taxpayers.

Legislation (HB 2552) creating the Kansas Reading Readiness Act -- providing options for the education of Kansas students who do not read at a certain grade level either by allowing them to attend an alternative private school utilizing publicly-funded vouchers diverted from K-12 base state aid funding or by using at-risk weighting funds to choose their own intervention – ***passed a House committee but was not considered by the full House.***

Fund a Strong & Affordable Public Post-Secondary Education System

The Chamber supports policies and investment in public post-secondary education that:

- Helps ensure affordable access and quality for all students;
- Promotes programs that match workforce needs, including career/technical training and certifications;
- Rewards efficiency and outcomes; and
- Supports R&D and commercialization, moving innovation into industry.

OUTCOME: State budget legislation (SB 66) was **signed into law** including \$11.9 million in additional funding for state universities in upcoming FY2021 (KBOR had requested \$50 million in additional funding) and \$8.5 million in funding for the Excel in Career and Technical Education Initiative in which the State of Kansas pays tuition charges for KBOR-approved tiered career technical courses at two-year institutions. These appropriations are proposed to be rescinded by the Governor via budget allotment as part of a \$26.3 million funding swap with federal CARES Act funding applied to state universities.

KBOR recently approved tuition rates for each of the six state universities for the 2020-2021 academic year. KSU and KU held tuition flat. Increases at ESU, FHSU, Pitt State, and WSU ranged from \$62-\$75 a semester. In 2019, state universities held tuition flat due to a \$34 million increase in state funding combined with increased efficiencies.

Legislation (CCR for HB 2510) containing provisions aimed at access to post-secondary education was **vetoed by the Governor**. The Governor said, while laudable, the projected pandemic-related drop in state revenues requires the state to conserve all financial resources and not expand discretionary spending. The bill included:

- Establishing a Kansas Promise Scholarship Act providing scholarships for students attending a community or technical college, two-year associate degree program, or technical certificate program who agree to work in Kansas for 2 years following completion of their studies (program capped at \$10 million); and
- Providing free ACT college entrance exams and ACT WorkKeys readiness assessments to non-public school students (currently provided only for public school students).

KEY BUSINESS COSTS

Support an Impartial & Cost-Effective Legal System

The Chamber supports a fair, nonpartisan, efficient, stable, and cost-effective legal system to resolve business disputes, including exploring constitutional methods of providing reasonable damages caps. To help ensure an independent and qualified judiciary, the Chamber also supports a non-election process for selecting judges.

OUTCOME: Legislation (Special Session HB 2016) was **signed into law** providing limited legal protections for business liability, health care provider liability, and qualified product liability for COVID-19-related civil claims, retroactive to March 12, 2020. Health care provider and qualified product liability protections include a higher standard of willful, wanton, or reckless negligent conduct; business liability protections expire January 26, 2021, and do not include a higher standard. The bill also includes special liability and affirmative defense provisions related to adult care facilities and nursing homes.

Legislation (HB 2507) resolving liability issues for students and employers relating to high school apprenticeships and on-the-job training programs – a current disincentive for some businesses to participate in such programs – **passed the full House and a Senate committee but was not considered by the full Senate**.

Promote Affordable Health Care Coverage

The Chamber supports to the extent possible market-driven health care that reduces costs and promotes greater efficiency, prevention, and enhanced quality of care without imposing substantial new mandates, penalties, or increased cost.

Because most health care costs of low-income uninsured individuals are currently being passed on to others in the system, the Chamber also supports fiscally-responsible Kansas solutions for expanding income-based coverage while improving the quality, efficiency, and outcomes of the state's Medicaid system.

OUTCOME: Legislation (HB 2053) providing for short-term, limited-duration health plans – specifically, amending the definition of short-term, limited-duration health plans to mean plans with a policy period of less than 12 months but with extensions up to a maximum policy period of 36 months – **passed a House committee but was not considered by the full House**. The change would mirror federal guidelines that were revised at the end of 2018.

Legislation (SB 252) expanding income-based Medicaid eligibility **received hearings and action in a Senate committee but did not advance**. This bill as introduced was the bipartisan expansion proposal from Dem Gov. Laura Kelly and GOP Senator Jim Denning; it was heavily amended in Senate committee, where it then remained.

State budget legislation (SB 66) for FY2021, **signed into law**, maintained a proviso prohibiting the expansion of the state's Medicaid program without the express consent of the Legislature.

Respect Employer-Employee Relations

Because employers and employees should remain empowered to decide employment issues based upon individual market circumstances, the Chamber opposes legislation that substantially intercedes in employer-employee relations, including unreasonable mandates or restrictions in hiring, compensating, accommodating, or terminating employees.

OUTCOME: Legislation (HB 2130) revising state discrimination laws to include protections based on sexual orientation and gender identity, including related to employment and the workplace, **was scheduled for a hearing in a House committee which got canceled amid COVID-19 concerns.** (Note: The U.S. Supreme Court recently ruled federal Civil Rights Act workplace protections extend to sexual orientation and gender identity, and the City of Lenexa's governing body previously passed similar workplace discrimination protections.)

Many pieces of legislation potentially impacting workplace practices were **introduced but did not receive hearings,** such as bills:

- Permitting local governments to set a minimum wage above federal or state levels (HB 2584);
- Prohibiting employers from requiring or using compensation history of job applicants (HB 2637);
- Enacting the Kansas paid family leave act (HB 2644/HB 2665); and
- Prohibiting employers from taking adverse employment action against an employee based on the employee's reproductive medical history or medical decisions (HB 2666).

Support a Stable and Reasonable Regulatory Environment

The Chamber supports a stable and limited regulatory environment with minimal administrative burden.

OUTCOME: Legislation (Special Session HB 2016) was **signed into law** limiting the Governor's emergency powers to close businesses and commercial operations (for-profit or non-profit). Under the bill the Governor is prohibited from ordering the pandemic-related closure of any business until Sept. 15, 2020, at which point the Governor may only order a closure of up to 15 days without legislative approval. These provisions expire Jan. 26, 2021.

Legislation (HB 2625) preempting cities and counties from prohibiting or regulating paper or plastic carryout bags and other single-use plastic items for five years, including imposing fees on such items, **passed a House committee but was not considered by the full House.** Under the bill, any existing local ordinances would have been nullified.

Legislation (HB 2563) increasing the minimum age to purchase or possess cigarettes, tobacco products, and vaping products from 18 to 21 years old, starting July 1, 2021, **passed a House committee but was not considered by the full House.** Sometimes referred to as T-21, the bill also adopted federal guidelines regarding sales of flavored vaping products (menthol flavor exempted), added vaping and state casinos to the indoor smoking ban, and banned cigarette vending machine sales.

Legislation (SB 283) authorizing sports wagering in the state **passed the Senate but was not considered in the House.** Another sports wagering bill (HB 2671) **received hearings in a House committee but scheduled discussion was canceled amid COVID-19 concerns.**

Maintain Unemployment Comp and Workers Comp Reforms

The Chamber supports unemployment compensation and workers compensation policies that promote stability and fairness, protect employer costs, reduce administrative burdens, and encourage employment and accountability.

OUTCOME: Legislation (Special Session HB 2016) making temporary changes to the state unemployment compensation system in response to the COVID pandemic was **signed into law,** including changes with respect to:

- Benefit eligibility (suspending work search requirements during the pandemic and waiving the benefit "waiting week" for new claims filed between Apr. 5-Dec. 26 (impacts benefit timing but not overall amount));
- Employer contribution rates (for calendar year 2021 prohibiting an additional solvency adjustment and limiting unemployment contribution rates for employers to the standard rate schedule);

- Shared work program requirements (eliminating provisions prohibiting negative account employers from participating in shared work plans, but providing that shared work plans may be approved only if the Secretary of Labor determines the contributing employer does not adversely impact State eligibility under the CARES Act);
- Requirements under federal COVID-19 unemployment grants, funding, and reimbursement provisions.

Legislation (H. Sub for SB 27) making temporary changes to the state unemployment compensation system – originally aimed at helping Wichita aviation workers impacted by the Boeing Max grounding but ultimately considered critical to workers impacted by the COVID-19 pandemic – was ***signed into law***. The bill changes the maximum number of weeks allowed to be claimed for state unemployment insurance benefits to 26 weeks, regardless of the unemployment rate, retroactive to January 1, 2020, and granting “waiting week” benefits upon completion of the third week of unemployment following the waiting week (note that Special Session HB 2016 subsequently waived the waiting week). Both provisions sunset on April 1, 2021. Under current law, the maximum number of benefit weeks is tied to the Kansas unemployment rate (and capped at 16 weeks, 20 weeks, or 26 weeks) and a claimant for unemployment benefits is eligible to receive benefits after the claimant has been unemployed for a waiting period of one week.

A proposed amendment (Carmichael Amendment-Special Session HB 2016) to amend workers compensation statutes to provide a presumption awarding benefits to employees who contract COVID-19 unless an employer can prove the worker did not contract COVID-19 at work ***failed to pass the House***.

ECONOMIC DEVELOPMENT

Preserve Competitive Economic Development and an Adequate Workforce

To ensure Kansas remains an attractive place for businesses to locate, the Chamber supports:

- Maintaining competitive and responsible state and local economic development tools that can attract or retain a variety of job creation, capital investment, and entrepreneurial opportunities;
- Developing an updated vision and strategic plan for economic development in Kansas;
- Investing adequate resources in Kansas Dept. of Commerce staff, marketing and programs; and
- Strengthening workforce development initiatives.

OUTCOME: State budget legislation (SB 66) containing a proviso extending the state’s Sales Tax and Revenue (STAR) Bond economic development incentive program for one year – through June 30, 2021 – was ***signed into law***.

Legislation (CCR for HB 2246) that includes appropriating \$10 million, starting FY2022, to the KU Cancer Center to enhance research and recruit and retain cancer researchers and clinicians, with the goal of achieving National Cancer Institute Comprehensive Cancer Center status and the significant economic and community health benefits that come with it, was ***signed into law***. A \$5 million appropriation for FY2021 is proposed to be rescinded as part of the Governor’s pandemic-related budget cuts known as “allotments.”

Legislation (HB 2585), which includes revising an electric utility-based economic development incentive to allow Kansas an option to better compete for large industrial projects, was ***signed into law***.

Legislation (HB 2619) creating a state-financed low-interest loan economic recovery program to help businesses and farms weather the pandemic – administered by the State Treasurer and capped at no more than \$60 million – was ***vetoed by the Governor***. The Governor said federal pandemic relief funds would be a better funding source for an economic recovery program and the projected pandemic-related drop in state revenues requires the state to conserve all financial resources.

Legislation (HB 2689) extending the angel investor tax credit program for 5 years (2021-2026) ***passed the House but a Senate committee hearing was canceled amid COVID-19 concerns***. The bill also increased the tax credit amounts, allowed the KS Department of Commerce discretion to issue tax credits less than 50%, expanded tax credit transferability, and phased up the program cap from \$6 million to \$8 million over the renewed 5-year period.

Workforce Development

Legislation (CCR for HB 2510) that included establishing a Kansas Promise Scholarship Act providing scholarships for students attending a community or technical college, two-year associate degree program, or technical certificate program who agree to work in Kansas for 2 years following completion of their studies was **vetoed by the Governor**. The Governor said, while laudable, the projected pandemic-related drop in state revenues requires the state to conserve all financial resources and not expand discretionary spending.

Legislation (HB 2506) expanding reciprocity guidelines for out-of-state occupational licenses – aiming to remove barriers to employment for eligible individuals (not otherwise disqualified under the bill) moving into Kansas for professions where occupational licenses are required – **passed the full House and a Senate committee but was not considered by the full Senate**. (The bill would not have included attorneys, who are licensed by the Judicial branch.)

Legislation (HB 2507) resolving liability issues for students and employers relating to high school apprenticeships and on-the-job training programs – a current disincentive for some businesses to participate in such programs – **passed the full House and a Senate committee but was not considered by the full Senate**.

Legislation (HB 2416) enacting the Kansas targeted employment act to provide tax credits for the employment of persons with developmental disabilities **passed a House committee but was not considered by the full House**.

Other Standing Positions

Strongly-held principles that may or may not arise during a given session.

SUPPORT: A property tax appraisal system that is equitable, rational, and consistent.

SUPPORT: Preservation of local control and home rule authority for local governments over the funding, regulation, and provision of services to meet the needs of the communities they serve, including determination of partisanship of local elections.

SUPPORT: A diverse long-term energy plan that responsibly balances environmental goals with ample statewide power and reasonable costs, including incentive-based measures rather than imposing unreasonable mandates and caps.

OUTCOME: Legislation (HB 2585) that includes revising utility-based state income taxes to help hold down consumer utility rates was **signed into law**.

SUPPORT: A balanced immigration policy created and enforced at the federal level to ensure consistency.

SUPPORT: Kansas Open Records Act (KORA) exemptions and other privacy provisions that protect confidential or proprietary business information.

OUTCOME: Legislation (HB 2137) continuing a number of exceptions to KORA, including certain records related to the banking and insurance industries, was **signed into law**.

OPPOSE: Unfunded mandates on local governments, shifting state responsibilities without the accompanying continuous financial resources necessary for implementation.

OPPOSE: Expansion of current initiative and referendum provisions in Kansas.

Questions or comments?

Contact the Chamber's Legislative Affairs Director Ashley Sherard at asherard@lenexa.org.