



Community Bankers Association of Kansas

Kansas Legislative and Policy Report

March 20, 2023

Overview

With just three weeks remaining until First Adjournment, the Legislature is working quickly to wrap up a large volume of work in a short amount of time. The next three weeks will be characterized by committees hearing as many bills as possible and advancing them to their respective chambers. The process to assemble the state's budget is wrapping up, with the full Senate approving their version of the budget on Thursday, March 16th. The House is expected to package and debate its budget sometime next week. Once the mega-budget is assembled, likely sometime next week or early the following week, the budget conference committee will begin meeting to negotiate.

The Legislature will adjourn by Thursday, April 6th, for a roughly two-and-a-half-week Spring Break, and return Monday, April 24th for Veto Session. The rumor, and hope, is that the Legislature plans to officially wrap up all of their work by May 1st, which is at least a week earlier than usual.

Highlights from the Week

1. The Senate Federal and State Affairs Committee held the first hearing of the Session on medical marijuana. After a two-day hearing on the topic, the Committee tabled the bill, effectively stalling any further debate on the issue, at least for now.
2. Social issues, unsurprisingly at this point in Session, are heating up, and there are lots of issues moving through the process getting lots of attention from lawmakers. One issue, advanced out of committees on both sides this week, concerns Environmental, Social, and Governance criteria—or ESG—and the state's pension system's policy when it comes to ESG investing. Financial institutions, municipalities, and others have closely tracked the legislation and its potential impacts on investing and contracting. Initially the policy proposal was a negative impact on KPERs of \$3.6 billion over ten years, the legislation on the House side was amended to no longer have an impact on KPERs. Another bill, HB 2390, related to the opioid crisis and that passed the House unanimously a few weeks ago, ran into roadblocks on the Senate side. HB 2390 would decriminalize fentanyl testing strips and has a broad range of legislative support, but the Senate Health Committee tabled the bill on Thursday and will resume debate on Monday. It is unlikely to advance in its current form on the Senate side and will undoubtedly be up for debate in Health Conference Committee. Lastly, the transgender sports bill which has passed both chambers, awaits action by the Governor, and many anticipate a forthcoming veto.

Big Picture Issues

Tax Bills

- Food Sales Tax
 - House Tax heard but failed to advance SB 248. SB 248 would provide a total sales tax exemption on all food and food ingredients, both at the state and local levels on January 1, 2024. Municipalities from across Kansas testified about the significant financial impacts this would mean for their communities. While House Tax did not advance the bill, it is still eligible for Tax Conference Committee in the coming weeks.
- Social Security Income Tax Reductions.
 - House Tax heard SB 33, which would exempt all social security and retirement benefits from Kansas income tax. It also increases the Kansas standard deduction by a cost-of-living adjustment.
- Personal, Corporate Income Tax Reductions
 - The House Tax Committee this week heard SB 169, which would provide for a flat tax rate of 4.75% for individuals.
- All these tax bills remain in committees.

Other Policy Topics

- While mostly silent thus far, the issue of vaccinations has surfaced, and the Senate Health Committee will hear two controversial bills next week.
 - SB 315 would require childcare facilities and all educational institutions to grant vaccination exemptions, as well as repeal the meningitis vaccine requirement to live in university student housing.
 - SB 314 would prohibit the KDHE Secretary from requiring COVID-19 vaccination for school children/daycare facilities.
- The House very narrowly passed the school choice bill, 64-61, far below a veto-proof majority. The bill allows families to use the base aid per pupil, roughly \$5,000, for private schools or homeschooling. Also included in the bill is additional funding for special education and teacher pay raises, but despite those provisions, a gubernatorial veto is still highly anticipated. Before any possibility of a veto, the bill goes back to the Senate for its approval.

Financial Institutions Related Issues

Weekly Highlights

- ESG bills on both sides passed out of committees, with amendments to effectively reduce the fiscal note to zero, no longer resulting in a \$3.6 billion hit to KPERS. The issue will end up in conference committee, where the attorney general and industry representatives will negotiate over the disclosure and consent requirements added in by the Attorney General.
- SB 300 (privilege tax reduction) passed out of Senate Tax and awaits action on the Senate floor.
- Next week, the House Financial Institutions Committee will hold an informational briefing on the banking industry, following the recent failures of Silicon Valley Bank and Signature Bank. OSBC will provide an update.

ESG

- Out of the two bills, HB 2436 is considered to be the preferred proposal. The Senate Committee, on the other hand, amended SB 291 to add the consent requirement language requested by the Attorney General. HB 2436 does not include the disclosure or written consent requirements. The issue will be negotiated in conference committee.
- SB 291 as amended by committee:
http://kslegislature.org/li/b2023_24/measures/documents/sb291_01_0000.pdf
 - Summary of SB 291, as amended:
http://kslegislature.org/li/b2023_24/measures/documents/supp_note_sb291_01_0000.pdf
 - The new written consent language brought by the AG is in New Section 5 on p. 5-6 of the bill.
- HB 2436 as amended by House committee:
http://kslegislature.org/li/b2023_24/measures/documents/hb2436_01_0000.pdf
 - Summary of HB 2436, as amended:
http://kslegislature.org/li/b2023_24/measures/documents/supp_note_hb2436_01_0000.pdf

Privilege Tax

- SB 300. Decreasing the privilege tax rates on banks, trust companies and savings and loan associations by reducing the normal tax rates.
 - CBA issued proponent testimony.
 - Heard and passed out of Senate Tax this week.
- HB 2457 comprehensive property, income, and food sales tax bill. Provides a flat tax rate of 4.95%; increases the Kansas standard deduction by a cost-of-living adjustment; accelerating the elimination of the state sales tax on food to July 1, 2023; and provides for a privilege tax rate reduction.
 - Privilege tax rate reduction information on p. 2-3:
http://kslegislature.org/li/b2023_24/measures/documents/hb2457_00_0000.pdf
 - Hearing in House Tax Tuesday, 3/21.
- HB 2061 and SB 61.
 - Lowers the privilege tax for banks to 3.13% from 4.375% and the rate for savings and loans to 3.21% from 4.5%.
 - Provides an income tax rate of 5% for individuals and corporations.
 - Decreases the surtax for entities subject to the privilege tax.
 - Provides that future income tax rate decreases be contingent on exceeding revenue estimates.
 - Heard in House Taxation Tuesday-Wednesday February 14th-15th.
 - CBA provided written proponent testimony.
- All of these tax issues have yet to be debated in either chamber, and will end up in conference committee.

Trusts

- HB 2144: Authorizing modification of a noncharitable irrevocable trust to provide that the rule against perpetuities is inapplicable, providing that the Kansas uniform statutory rule against perpetuities is inapplicable to trusts under certain circumstances and modifying the definition of resident trust in the Kansas income tax act.
 - Passed the House 123-0.
- HB 2172: Enacting the Uniform Trust Decanting Act.

- Passed the House 122-0.
- Heard in Senate Judiciary Monday, 3/13.

OSBC Bills

- SB 44: Kansas Financial Institution Security Act, to clarify OSBC's ability to enforce Federal Trade Commission's Safeguards Rule, and that it applies to all non-bank entities (i.e., TEFFIs) under its jurisdiction.
 - Passed the Senate 33-5.
 - Passed out of House financial institutions on 3/13.
- SB 51: TEFFI Act Amendment to permit OSBC to collect FBI fingerprinting and background check requirements on TEFFI officers.
 - Both bills were heard this past week in Senate FI&I.
 - Blessed and alive for remainder of Session.

Consumer-Related Legislation

- SB 62/HB 2243: Enacting the protect vulnerable adults from financial exploitation act.
 - SB 62 blessed and alive for remainder of Session. Committee had several questions when they worked the bill, so they blessed it to have more time to work on it later in Session.
- SB 104/HB 2133: Allowing a surcharge when purchases are made with a credit or debit card.
 - SB 104 passed out of Senate FI&I. Blessed and alive for remainder of Session.
 - HB 2133 passed the House 87-35.
- HB 2197: Providing a procedure for the distribution of a first-time home buyer savings account balance upon the death of an account holder, changing the term "transfer on death" to "payable on death" and resolving a conflict when beneficiaries differ on a financial institution's account records and tax forms required by the secretary of revenue.
 - Passed the House 121-1.
 - Passed out of Senate FI&I 3/16.

TEFFI

- SB 204: Replacing the definition of "charitable beneficiaries" with "qualified charities" in the technology-enabled fiduciary financial institutions act.
 - Passed out of Committee. Blessed and alive for remainder of Session.
- SB 302: Suspending fidfin transactions, custodial services, and trust business of TEFFIs until the Legislature expressly consents to and approves such activities by an act of the Legislature and requiring the Legislature to conduct a forensic audit of TEFFIs.
- SB 306: Including losses from investments in TEFFIs in Kansas adjusted gross income for income tax purposes.

Other

- HB 2247: Prohibiting banks from requiring a cosigner for an account of a child in the custody of the DCF Secretary. (Foster youth checking and savings account).
 - Proponents: DCF and Children's Alliance.
 - KBA testified as neutral and will offer friendly amendments to the bill:
 - To clarify that when a minor opens a deposit account, they will then be responsible for all of the duties and liabilities just like any other individual that opens an account.
 - Language to clarify that any bank that accepts these deposits may not require a co-signer.

- Clarification to include safe deposit boxes.
 - Bill as amended:
 - http://kslegislature.org/li/b2023_24/measures/documents/hb2247_01_0000.pdf
 - Passed the House 114-7.
- HB 2334: APEX trailer bill.
 - Heard in House Commerce Tuesday, 2/14. There are efforts to include a privilege tax reduction for qualified projects, corresponding to the corporate tax reductions for qualified projects that was included in last year's legislation.
 - Unlikely to advance, which is why there are efforts to reduce the privilege tax in a standalone bill, SB 300.

Upcoming Activities

The legislative schedule of hearings is updated regularly throughout the week can be found in the House and Senate calendars on the Legislature website at:

http://kslegislature.org/li/b2023_24/chamber/calendars/

Additionally, all hearings are now available online live and archived by the end of each day. You can find those hearings on the Legislative YouTube at:

https://www.youtube.com/channel/UC_0NO-Pb96CFABvxDwXAq8A

Monday, March 20th.

House Financial Institutions. 9:00 AM.

- Banking Industry Update by OSBC, KBA.

Tuesday, March 21st.

Senate Local Government. 9:30 AM.

- Hearing on HB 2083: Kansas vacant property act to prohibit municipalities from imposing any fees or registration requirements on the basis that property is unoccupied.

House Tax. 3:30 PM.

- Hearing on HB 2457 comprehensive tax plan—flat tax, food sales tax, raising residential property exemption from \$40,000 to \$60,000, exemption from social security income taxation, standard deduction cost-of-living adjustment, etc.

Wednesday, March 22nd.

House Financial Institutions. 9:00 AM.

- Final action on SB 34—RHIDs and SB 37—expanding use of the Kansas Housing Investor Tax Credit Act.
- Informational hearing on the Kansas Work and Save Program Act.

Thursday, March 23rd.

Wrap Up

Let us know if you have any questions.

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