

2019 Legislative Session Summary: We've Come Full Circle, Part 1 of 2

by [Richard Samaniego](#)

The Legislators officially ended their work for the 2019 session on May 29, 2019. The last day wasn't the usual low key ceremonial last day as the Legislature voted to overturn several measures vetoed by the Governor amid protests by spectators in support of Medicaid expansion. Poetically, the session ended on the same issues that set the division between the new Governor and the House and Senate Leadership at the start of the session: Taxes, Medicaid Expansion and the KPERS debt payment

If you recall, there was a last-ditch effort in the previous session to pass tax relief legislation that ultimately failed before the new Governor was elected. Governor Kelly campaigned on a promise to end the so-called Brownback tax experiment, so this set up an early line in the sand on policy between the Governor and Republican leadership. Early in the session, the Governor made it clear that Medicaid expansion was on the top of her agenda and her proposed budget delayed debt payments to KPERS to maintain an ending balance of 9.5%. The Legislative leadership quickly denounced both policies which culminated in a classic demonstration of the balance of powers between the branches. The Medicaid expansion legislation passed the House but was blocked by Senate Leadership despite efforts to stall the budget to garner support. The Legislature ultimately approved the \$51 million payment for the KPERS debt in the budget bill; however, the Governor opted to use her line item veto powers to stop the payment. The Legislature was



successful in overriding the veto by a vote of 84-30 in the House and 27-11 in the Senate.

The tax legislation met a different fate. In a House vote of 78 to 39 (84 is required), the Legislature failed to override the Governor's Veto of HB 2033, which included over \$100 million in tax reductions for businesses and individuals in fiscal year 2020. The two versions of the tax bills proposed by Republican leadership would have decoupled Kansas from the federal tax code to allow for certain deductions that were no longer available or reduced under the Federal Tax reform Act among other measures such as taxes on internet sales and reducing the tax on food. In her press release for the veto, the Governor stated, "the tax cuts would decimate the state's ability to pay our bills and invest in our people."

Legislative Updates

Although there were policy losses on both sides, the Legislature managed to pass a bipartisan bill to end the decade long school finance litigation. House Sub. for SB 16 or the Kansas School Equity and Enhancement Act (KSEEA) amends the BASE for school years 2019-2020 through 2022-2023 to include an addition of approximately \$90 million per year for four years to protect against the devaluating effects of future inflation on the previous funding amounts.

The legislation was approved by the Kansas Supreme Court in the

most recent *Gannon* decision released on June 14, 2019 (the same day the KSC also released an opinion striking the caps on noneconomic damages). Although the Kansas Supreme Court found the funding to be substantially compliant with the adequacy requirement in Article 6 of the Kansas Constitution, the Court retained jurisdiction to ensure continued implantation of the scheduled funding.

The line in the sand will likely grow deeper as we enter the next session, which is also an election year. The bills that were not passed this session will remain in play for the second half of the biennium in 2020. The following is a selection of summaries of the bills that made it through the 2019 legislative session and now in effect or will be effective July 1, 2019. The summaries are from the Kansas Legislative Research Department and the full list of bills can be found at <http://www.kslegresearch.org/KLRD-web/Publications.html>.

Judiciary/State Employees

House Sub. for SB 25, the state budget appropriations bill, provided state employees a 2.5 percent salary increase for all state employees, including judges and non-judge Judicial Branch employees. The Judicial Branch requested an additional \$18.2 million for salary increases for Judicial Branch employees, including 7.9 million for judges. The House conference committee took the position of a phased in approach of the Judicial Branch request over five years for Judges and three years for non-judges; however, the House and Senate agreed to a general 2.5%

increase for all state employees, excluding statewide elected officials and legislators.

The Department for Children and Families also received an increase to add 16 full time additional child welfare staff positions, for a total of 42 positions over two years.

CBD and Industrial Hemp

SB 28 creates “Claire and Lola’s Law,” which prohibits state agencies and political subdivisions from initiating child removal proceedings or child protection actions or proceedings based solely upon the parent’s or child’s possession or use of cannabidiol treatment preparation in accordance with the affirmative defense established by the second section of the bill. “Cannabidiol treatment preparation” is defined to mean an oil containing cannabidiol and tetrahydrocannabinol and having a tetrahydrocannabinol concentration of no more than five percent relative to the cannabidiol concentration in the preparation verified through testing by a third party, independent laboratory.

Senate Sub. for HB 2167 requires the Kansas Department of Agriculture (KDA), in consultation with the Governor and Attorney General, to submit a plan to the U.S. Department of Agriculture (USDA) regarding how the KDA will monitor and regulate the commercial production of industrial hemp within the state, in accordance with federal law. In addition, the bill establishes the Commercial Industrial Hemp Program; makes changes to the Industrial Hemp Research Program; and establishes hemp processing registrations, prohibitions on specific products, sentencing guidelines, and waste disposal requirements.

Municipal Law

SB 70 amends law concerning temporary permits to serve liquor for

consumption on premises; amends law concerning common consumption areas; amends law related to the issuance of licenses by the Division of Alcoholic Beverage Control (ABC), Department of Revenue; creates law related to delivery of alcoholic liquors within the state and required reporting of such deliveries; amends the Liquor Control Act to allow for producers of certain fermentative products to sell wine made at a farm winery; and designates the official Kansas red and white wine grapes.

Sub. for SB 130 amends law concerning advance ballots and associated signature requirements; polling places; the filing date for municipal offices and the date certain newly elected township officers take the oath of office; and elections, appointments, and dates certain officials take office for school boards, local boards of education, and local school district boards.

HB 2188: Property Tax Lid Exemption. The bill makes a tax levy

increase resulting from the dissolution of one taxing entity and a transfer of its responsibilities to another city or the county exempt from the provisions of the property tax lid, requiring approval from a majority of a city’s or the county’s qualified electors for certain increases in the appropriation or budget from property tax revenues, provided any such levy increase does not exceed the prior levy of the dissolved entity.

Sub. for SB 69 directs the Legislative Coordinating Council (LCC) to authorize a study of retail rates of Kansas electric public utilities.

SB 68 amends law relating to valid contract franchise ordinances and their application to wireless service providers and wireless infrastructure providers.

Part 2 of 2 will be available in the August Bar-o-Meter issue. Part 2 is available now online on the WBA’s website at <https://www.wichitabar.org/page/2019LegSumPart2>.

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If you have questions, contact Lori Gardner at 316-263-2251, ext. 103 or lgardner@wichitabar.org.