

Report of the Special Committee on Economic Recovery to the 2021 Kansas Legislature

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OTHER MEMBERS: Senators Anthony Hensley, Richard Hilderbrand, Gene Suellentrop, and Caryn Tyson; Representatives Tom Burroughs, Stephanie Clayton, Jim Gartner, Marty Long, Les Mason, Richard Proehl, and Kristey Williams

STUDY TOPIC

The Committee is directed to review state policies and make recommendations to the Legislature concerning Kansas economic recovery from the COVID-19 pandemic in the areas of taxation, regulatory affairs, business financing, and programs at the Kansas Department of Labor and Kansas Department of Commerce.

Special Committee on Economic Recovery

REPORT

Conclusions and Recommendations

The Special Committee on Economic Recovery submits the following recommendations:

Government Response to Pandemics

- The Committee recommends the Legislature review all state and local policies that have been implemented throughout the pandemic to ensure the state is prepared for any future pandemics that may occur.
- The Committee recommends the Legislature review the Kansas Emergency Management Act and any related statutes to ensure appropriate uniformity while avoiding shutdowns and regulations that severely limit the ability of businesses to operate. The review of the Kansas Emergency Management Act should include consideration of provisions providing for the maximum possible legislative oversight of any restrictive orders.
- The Committee recommends the Legislature consider providing for a mechanism by which state and local governments compensate businesses that are restricted due to emergency management orders, for both loss of revenue due to any orders and for property taxes associated with any time during which businesses are closed by emergency management order.

Unemployment Compensation Issues

- The Committee recommends the House Committee on Commerce, Labor and Economic Development and the Senate Committee on Commerce evaluate the unemployment compensation reforms recommended by the Kansas State Council of the Society for Human Resource Management and the Kansas employer community.
- The Committee recommends the Legislature establish a special oversight committee to monitor and support the Kansas Department of Labor information technology (IT) modernization efforts and ensure the needs of the business and labor communities are met by the system upgrades. This oversight committee could be a continuation of the Special Committee on Economic Recovery.
- The Committee recommends the Legislature appropriate necessary funds for the Kansas Department of Labor IT modernization process and the House Committee on Commerce, Labor and Economic Development and the Senate Committee on Commerce provide input on the modernization process and system, as well as the amount of money appropriated. If necessary to expedite the appropriation process, funds should be appropriated with a provision that the special modernization oversight committee previously recommended must approve any modernization expenditures.

- The Committee recommends the Legislature and Governor provide for sufficient full-time-equivalent employees and employee salaries to employ appropriate staff for the maintenance of the modernized IT systems.
- The Committee recommends any available federal moneys provided by federal legislation enacted in response to the pandemic should be used to finance IT modernization and replenish the depleted unemployment trust fund to ensure benefits are available to out-of-work Kansans and that the economic recovery of the State will not be impeded by increased unemployment compensation taxes.
- The Committee recommends using any available funds, including the State General Fund, to replenish the unemployment trust fund to ensure the business community is not forced to bear the cost of unemployment benefits throughout the pandemic through solvency surcharges applied to employer rates.
- The Committee recommends the State immediately reinstate the requirements that recipients of unemployment benefits be actively seeking employment or be in training for a new skill to enable the employment community to fill the thousands of open Kansas jobs. The Committee further recommends that the Kansas Department of Labor provide matching services for individuals receiving unemployment benefits to allow for quick re-employment.
- The Committee recommends the creation of a process for employers to report job offers that would result in the cessation of unemployment compensation benefits to individuals who have received job offers. The Committee recommends this policy be accompanied by a policy providing for incentives for companies to retrain individuals currently receiving unemployment benefits and incentives for unemployed Kansans to gain new skills and remain in Kansas for work.
- The Committee recommends the Legislature consider requiring income tax withholding from unemployment compensation benefits.
- The Committee recommends the Kansas Department of Labor ensure that reimbursing employers will not be required to pay for fraudulent claims that have been reported as fraudulent.

Regulatory Recommendations

- The Committee recommends the State generally lighten the burden of administrative regulations on businesses and individuals to increase economic growth. The Committee further recommends the Legislature review existing rules and regulations to ensure no regulations duplicate those of the federal or local governments and that regulations are not overburdensome.
- The Committee recommends the State permanently eliminate any regulations waived through the COVID-19 pandemic unless the Legislature finds the waiver caused public harm.
- The Committee recommends the State implement a sunset review board for all state regulations, agencies, boards, and commissions.

- The Committee recommends the State provide for universal recognition of occupational licensing to allow individuals licensed in other states to immediately work in Kansas through the passage of legislation substantively similar to 2020 HB 2506.
- The Committee recommends revising state and local permitting processes to function as “shall issue” processes to allow businesses to open and reopen following the COVID-19 pandemic without administrative delay caused by a backlog of applications or inspections associated with the pandemic.
- The Committee recommends the elimination of any state or local inspections required prior to reopening a business that was temporarily closed due to the COVID-19 pandemic or associated emergency or public health order.
- The Committee recommends the Kansas Department of Commerce create a concierge-style business opening or expansion service to manage the state and local permitting and administrative requirements associated with business entry and expansion.
- The Committee recommends local governments relax local zoning regulations and ordinances to make it easier for Kansans to operate businesses from their own homes, especially those businesses involving remote work or telework.

Business Recruitment and Economic Development

- The Committee recommends the State evaluate the effectiveness and cost-effectiveness of local and state-authorized subsidies to specific individual businesses or developments and consider eliminating these incentives and replacing them with more broad-based opportunities to attract new businesses.
- The Committee recommends the Legislature conduct a comprehensive review of all state and local economic development programs with an emphasis on encouraging the growth of start-ups to replace businesses that may be likely to fail.
- The Committee recommends the continued and expanded use of federal Coronavirus Relief Fund (CRF) moneys to expand broadband Internet availability to all Kansans, including rural and urban residents and students utilizing remote or virtual school options.
- The Committee recommends the State increase the availability of Kansas hunting and fishing, including, but not limited to allowing landowner permits for deer and otherwise expanding hunting and fishing options for both residents and non-residents.
- The Committee recommends the money available in the Economic Development Initiatives Fund be used according to statutory intent to enhance new and existing Kansas businesses and foster the growth of new industries, using the October 2019 report from the Legislative Division of Post Audit as a guide.

Resolving Barriers to Business Entry or Expansion

- The Committee recommends the House Committee on Energy, Utilities and Telecommunications and the Senate Committee on Utilities address the cost of energy in

Kansas, as the high cost of energy in Kansas is a deterrent to new businesses and the expansion of existing businesses.

- The Committee recommends the Legislature pass tax law that eliminates any unintentional state income tax increases on business and individuals as a result of 2017 federal income tax changes, specifically eliminating the new taxation of foreign income created by those changes and allowing individuals to itemize their state income tax deductions in light of the increase in the federal standard deduction.
- The Committee recommends House and Senate commerce and tax committees work together to explore incentivizing capital-intensive industries to invest in Kansas by providing for an alternative apportionment method using a single-factor sales formula that businesses may elect to use.

Workforce Development

- The Committee recommends the House Committee on Commerce, Labor and Economic Development and the Senate Committee on Commerce consider legislation providing for tax credits for certain graduates of aerospace and aviation-related educational programs and employers of those graduates that is substantively similar to 2019 HB 2118, as amended by the House Committee of the Whole.
- The Committee recommends the Legislature review the aviation economic development programs of other states to ensure that Kansas retains graduates in this field and that multi-state corporations choose Kansas as their site for their operations. The Committee further recommends reviewing this model for potential use for computer science and other technology industries.
- The Committee recommends the House Committee on Commerce, Labor and Economic Development and the Senate Committee on Commerce encourage Kansans to explore opportunities in high-paying skilled-labor industries, including programs allowing students to learn on site. The Committee recommends using the provisions of 2020 HB 2354 as a starting point to resolve liability concerns regarding high school apprenticeships and on-the-job training programs.
- The Committee recommends closely aligning K-12 education and higher educations with requirements of Kansas business and labor unions to provide for certificates for high-demand, high-paying, skilled-labor careers.
- The Committee recommends the Legislature pass the provisions of the Promise Scholarship Act (included in 2020 HB 2510, which was vetoed) to encourage high school students who might otherwise not attend college to attend two-year colleges or other certificate programs, while requiring those students to live and work in Kansas upon graduation by providing a scholarship that becomes a repayable loan if the requirements of the program are not met.

Banking and Financial Institutions Legislation

- The Committee recommends the State enact the provisions of 2020 Senate Sub. for HB 2619 providing for a low-interest linked deposit loan program using up to \$60 million of state idle funds to “impact invest” back into Kansas communities and provide for a tax

exemption for agricultural real estate and rural housing loans, in addition to other financial institutions provisions.

Property Tax

- The Committee recommends the Legislature eliminate the 1.5 mills of property tax currently used to finance the state building funds and replace this funding with State General Fund revenue as necessary through the appropriations process.
- The Committee recommends enactment of the following provisions of 2020 HB 2702, which was passed by the 2020 Legislature and vetoed by the Governor:
 - Notice and public hearing requirements for certain taxing subdivisions seeking to increase property tax revenues;
 - The Kansas Taxpayer Protection Act related to paid preparers of income tax returns;
 - A temporary waiver of interest on delinquent property taxes in response to the COVID-19 pandemic and associated emergency and public health orders;
 - Prohibit valuation increases solely as a result of normal maintenance of property improvements; and
 - Authorize county treasurers to accept partial payments and establish payment plans for all property taxes.
- The Committee recommends the Legislature waive a portion of the property taxes on commercial properties that are the locations of businesses that have been closed as a result of COVID-19 pandemic-related emergency or public health orders.
- The Committee recommends enactment of legislation allowing the State Board of Tax Appeals to serve orders and notices by electronic means upon request of any party to a case before it.
- The Committee recommends enactment of legislation prohibiting the increase of valuation of property upon appeal.

Income Tax

- The Committee recommends the Legislature not add any extra burden to businesses that have received Paycheck Protection Program loans by ensuring the forgiveness of those loans is exempt from state income tax, while not allowing the deduction of expenditures from the proceeds of forgiven loans.
- The Committee recommends the Legislature pass legislation increasing the standard deduction for Kansas individuals in proportion to the 2017 increase in the federal standard deduction and allowing Kansans the option to itemize their deductions on their Kansas returns, even if they choose to take the standard deduction on their federal return.
- In the alternative to allowing full state-level itemization of deductions regardless of federal itemization, the Committee recommends the Legislature consider allowing charitable contributions to be deducted in addition to the standard deduction.

- The Committee recommends enactment of legislation providing for the expensing deduction for individual income taxpayers.
- The Committee recommends the Legislature extend the Kansas net operating loss carryforward period.
- The Committee recommends the Legislature consider expanding the rural opportunity zones program to additional counties and possibly statewide.
- The Committee recommends the Legislature pass any necessary legislation to ensure that 2020 federal pandemic relief legislation does not result in any unintended state income tax increases.
- The Committee recommends the Legislature pass legislation to ensure fraudulent unemployment compensation payments do not result in an income tax obligation for fraud victims.
- The Committee recommends the House Committee on Taxation and the Senate Committee on Assessment and Taxation evaluate the Child Care Assistance Credit for businesses and make appropriate changes.

Sales Tax

- The Committee recommends the House Committee on Taxation and the Senate Committee on Assessment and Taxation, at the beginning of the 2021 Legislative Session, recommend passage of legislation requiring marketplace facilitators to collect and remit sales tax.

Education

- The Committee recommends, in light of testimony related to the importance of in-person education to both the education of students and the ability of parents to participate in the workforce, combined with testimony related to the limited risk of COVID-19 to children and the reduced transmission rates and community spread associated with children, that schools make every effort and all necessary and appropriate accommodations to provide an in-person education to Kansas K-12 students. The Committee further recommends that the Legislature consider policies allowing state aid to follow a student to another school when in-person instruction is not offered at the local public school.
- The Committee recommends the use of federal CRF aid to expand broadband access to all Kansas students to provide access to online learning, including live instruction and interaction.

Health

- The Committee recommends the cycle threshold of all laboratories providing COVID-19 testing for Kansans to be released within seven days of the announced test result.
- The Committee recommends the cycle threshold for all laboratories that have provided past COVID-19 testing be made public immediately.

Other Recommendations

- The Committee recommends the penalties for criminal fraud and identity theft be reviewed and possibly increased.
- The Committee recommends amending state law to require state agencies to submit technology plans to the Joint Committee on Information Technology prior to state agency issuance of any technology-related request for proposals.
- The Committee recommends the Legislature review the statutory uses of the Kansas Universal Service Fund to consider the use of the fund for broadband expansion and access and ongoing support of broadband infrastructure.
- The Committee recommends the use of CRF moneys by the State and local governments to pay the salaries and benefits of public employees required to quarantine due to work-related exposure to COVID-19.

Proposed Legislation: None

BACKGROUND

The charge of the Legislative Coordinating Council to the Special Committee on Economic Recovery was to review state policies and make recommendations to the Legislature concerning Kansas economic recovery from the COVID-19 pandemic in the areas of taxation, regulatory affairs, business financing, and programs at the Kansas Department of Labor and Kansas Department of Commerce.

The Special Committee was initially authorized by the Legislative Coordinating Council to meet on six days and received subsequent authorization for an additional three meeting days. The topic was requested by the Speaker of the House of Representatives.

COMMITTEE ACTIVITIES

The Committee held meetings on August 12 and 13, September 16 and 17, November 16 and 17, and December 7 and 8, 2020, at which it heard from representatives of a broad array of economic sectors and other stakeholders regarding the impact of the pandemic on the Kansas economy; the effects of the federal, state and local government efforts to contain the impact of the pandemic and assist in the recovery of the state's

economy; and recommendations for future policies to contribute to the state's economic recovery.

August 12 – 13, 2020

The Committee received reports on the progression of the COVID-19 pandemic, the status of Kansas tax receipts and the state budget, the status of the Kansas labor economy and unemployment issues, the closing and reopening of the Kansas economy, the availability of capital for Kansas businesses, and the effect of economic development incentives in Kansas. The Committee also received overviews of the status of several economic sectors in Kansas.

COVID-19 Pandemic

The State Epidemiologist, with the Kansas Department of Health and Environment (KDHE), provided information to the Committee on COVID-19 cases, hospitalizations, and deaths from March 9 through August 10, 2020. The conferee also provided an update on past and active case clusters and the strategy employed by the KDHE for testing and contact tracing.

In response to questions, the conferee provided information related to tracking active cases and deaths from COVID-19 and distinguished between COVID-19 and other infectious diseases.

State Finances and Taxes

Kansas Legislative Research Department (KLRD) staff provided an overview of the current State General Fund profile and current receipt estimates. KLRD staff also provided data comparing select state tax receipts for calendar year 2020 through July 2020 to those of calendar year 2019 and noted that, while the 2020 amounts for most tax sources were below the 2019 amounts, compensating use tax receipts, which includes receipts of taxes for many online transactions, exceeded the prior year amount.

KLRD staff also provided information outlining the range of tax rates for various taxes, comparing Kansas rates to those of the rest of the country.

Labor Economy and Unemployment Compensation

Representatives of the Kansas Department of Labor (KDOL) provided information concerning the new federal unemployment compensation programs and the challenges the addition of the new programs and the increased number of unemployment claimants had on the unemployment compensation system, particularly on KDOL's antiquated computer system and on the balance of the unemployment insurance trust fund.

KDOL representatives also notified the committee that the agency is identifying numerous high-level fraud schemes, especially within the new programs, and indicated several new fraud prevention and mitigation strategies were being implemented by KDOL.

Reopening the Kansas Economy

A representative of the Gwartney Institute presented information to the Committee on the results of a survey of Kansas businesses related to measures enacted in response to the COVID-19 pandemic, noting that many businesses owners thought the imposed business closures were too restrictive and that they were concerned about the potential for permanent closure of businesses within their industries in Kansas.

The conferee recommended that the highest-cost restrictions should be imposed by the

government that is least removed from those affected by the restrictions (such as city or county governments) and that broad, general restrictions should be as limited as possible.

Capital Options for Kansas Businesses

The Committee received testimony from a representative of the Kansas Department of Commerce (Commerce) concerning two initiatives from Commerce in response to the COVID-19 pandemic: \$5 million of short-term, zero-interest loans that were made available to businesses in the hospitality industry and a business grants program being implemented by Commerce.

The Committee also received testimony from a representative of the Kansas Bankers Association indicating that capital availability was not the greatest challenge for Kansas businesses; the greater challenge for Kansas business was the greatly diminished cash flow caused by the COVID-19 pandemic and associated shutdowns.

Economic Development Incentives and Economic Growth

A representative of the Kansas Policy Institute provided information indicating that, of the six metropolitan areas in the states of Kansas, Iowa, Missouri, Nebraska, and Oklahoma, Wichita was the only metropolitan area to not see its proportion of the combined population of those five states grow in the past decade.

The conferee also presented information indicating that economic development projects displaying local economic growth may not have actually yielded broader economic growth, but may have only moved existing business activity.

Overview of Economic Sectors

The Committee received a summary economic impact overview from representatives of the Kansas Chamber of Commerce and the National Federation of Independent Businesses-Kansas indicating that the COVID-19 pandemic and associated shutdowns have put substantial stress on Kansas businesses of all sizes, with the smallest businesses bearing the greatest share of the burden. The Committee also received information concerning the impact of the pandemic on several economic sectors.

Financial Services

The Committee received testimony from representatives of the Kansas Bankers Association and Heartland Credit Union Association concerning the impact of the pandemic on the financial services sector. The conferees indicated the sector anticipates seeing increased loan delinquencies and charge-offs and diminished return on assets for the duration of the COVID-19 pandemic. The conferees noted the industry received fees for administering certain pandemic response programs, but the magnitude of those fees is less than the loss from other issues associated with the pandemic.

Insurance

The Committee received testimony from representatives of the American Property and Casualty Insurance Association, America's Health Insurance Plans, State Farm Insurance Companies, Blue Cross and Blue Shield of Kansas, Inc., and the Kansas Association of Insurance Agents concerning the impact of the pandemic on the insurance industry. Property and casualty insurance conferees noted the insurance industry was able to refund premiums to customers due to the diminished risk of driving-related losses. However, the conferees also noted that the industry expects total property and casualty loss payments associated with the COVID-19 pandemic to approach or exceed the largest insured loss event in U.S. history. Conferees stated the ultimate insurance for business loss in the pandemic must come from the federal government.

Health insurance conferees noted the industry has taken several steps to help curb the impact of the pandemic on patients, such as the elimination of cost sharing for COVID-19 testing and treatment and waiving certain prior authorization requirements. In response to questions, a conferee noted hospitalization rates and the number of elective procedures performed for the current year had been lower than rates for the previous year.

Agriculture

Representatives of Cargill, the Kansas Farm Bureau, and the Kansas Livestock Association reviewed the impact of the COVID-19 pandemic on the agriculture industry. Conferees stated the

industry had largely been excluded from shutdowns associated with the pandemic, but the pandemic had greatly altered the food supply landscape for consumers, resulting in necessary rapid changes to supply chain models. Conferees also noted that slowdowns at food-processing facilities associated with disease outbreaks had greatly affected the livestock supply chain. Conferees also noted that commodity price decreases associated with the pandemic had brought significant challenges to many producers.

Oil and Gas

The Committee received testimony from a representative of the Kansas Independent Oil and Gas Association, who stated low commodity prices from diminished demand due to the COVID-19 pandemic created difficulties and uncertainty for the oil and gas industry, and the volatility of the low prices was especially challenging for the small businesses that make up much of the industry in Kansas.

Health Care

The Committee received testimony from representatives of the Kansas Health Care Association, the Kansas Hospital Association, the Kansas Medical Society, and LeadingAge Kansas concerning the impact of the COVID-19 pandemic on the health care industry. Conferees all noted that the limited availability of personal protective equipment (PPE) made performing any health care through the pandemic a challenge. Conferees also noted that the reduction or elimination of elective procedures placed a large financial strain on the health care system at a time when the system needed to be strengthened to provide care for COVID-19 patients. Conferees also stated nursing homes were simultaneously facing challenges associated with declining occupancy rates and also a workforce shortage, on top of obstacles related to limited PPE.

Real Estate Development

Representatives of Occidental Management provided testimony on the topic of retail and real estate development. The conferees noted that, in addition to the immediate strain of the COVID-19 pandemic and associated shutdowns, the response of governments to the pandemic made retailers

uncertain as to how to plan for and project future business.

Accountancy

A representative of the Kansas Society of Certified Public Accountants testified that the changes to tax law and various business rules and regulations had created some opportunity for accountants, but the industry's clients are facing substantial obstacles, and the clarity and consistency of the business and regulatory climate will be key for businesses as they emerge from the pandemic.

Restaurants and Hospitality

A representative of the Kansas Restaurant and Hospitality Association testified that the shutdown imposed by the state amounted to a taking of private property and that business owners should be compensated for their loss during that time. The conferee indicated the restaurant industry has been particularly hard hit due to ongoing limitations on indoor dining. The conferee further testified that the industry is not optimistic about a quick return to profitability, and it is likely that many businesses will close permanently.

Utilities

The Committee received testimony from representatives of Evergy; Kansas Electric Cooperatives, Inc.; Kansas Gas Service; and Kansas Municipal Utilities on the impact of the COVID-19 pandemic on the utilities industry. The conferees generally indicated the service providers are experiencing much larger numbers of customers with past-due balances than is typical and that indefinite shutoff moratoriums would be challenging for the industry. The conferees also all expressed support for relief efforts aimed at assisting individuals to pay their utility bills.

September 16 – 17, 2020

On September 16 and 17, the Committee received reports on emergency management, human resources issues, unemployment compensation, and child care, education, and higher education. The Committee also received overviews of the status of several economic sectors in Kansas.

Emergency Management

The Committee received testimony from the Attorney General of Kansas concerning the Kansas Emergency Management Act. The Attorney General testified that a key to supporting economic activity is heightened certainty for businesses, consumers, and others making decisions throughout the emergency. He further testified that his office has provided legal guidance to state agencies and local officials since the beginning of the pandemic to ensure that orders issued conform to Kansas law. The Attorney General also provided several recommendations for amendments to the Kansas Emergency Management Act to support economic recovery.

Human Resources Issues

Representatives of the Kansas State Council of the Society for Human Resource Management testified that Kansas employers are struggling to find applicants for numerous job openings and that fraud issues are prevalent in the unemployment compensation system. The conferees further stated the state unemployment insurance trust fund is on track to be depleted in either late 2020 or some time during 2021, and the sharp decline in the balance in the unemployment trust fund will result in increased unemployment tax rates for employers beginning in 2022.

Unemployment Compensation

The Committee received testimony from the Acting Secretary of Labor and representatives of KDOL concerning the status of the unemployment insurance trust fund and the implementation of the Lost Wages Assistance Program, which provides \$300 of additional weekly benefits to recipients of unemployment compensation. The Acting Secretary also testified to the Committee concerning the fraud mitigation strategies KDOL had implemented and updated the Committee on the balance of the unemployment trust fund.

Childcare, Education, and Higher Education

Representatives of the Kansas Children's Cabinet and Trust Fund, the Kansas Children's Service League, and the YMCA of Greater Kansas City testified concerning the challenges of providing child care through the pandemic and the importance of providing high-quality child care for

both long- and short-term economic recovery. The conferees noted the ability of many parents to return to the workforce is largely dependent on the availability of child care and briefed the Committee on tax incentives available to employers for providing child care to employees.

The Committee received testimony from a pediatrician concerning the importance of in-person education for the health of students. The conferee noted that rates of disease transmission from and to students appear to be very low and indicated the best interest of most students would be for schools to be open for in-person instruction with appropriate precautions in place.

A member of the Legislative Task Force on Dyslexia provided information concerning the importance of reading instruction, even during a pandemic, especially for those students who struggle to read. The conferee stated the progress made for dyslexic education should not be allowed to be delayed by the pandemic as the students who are struggling to read will not get another chance in the current school year.

A representative of the Kansas Association of Community College Trustees testified to the work undertaken by community colleges to provide a safe, quality education through the pandemic. The conferee noted colleges had pandemic-related costs that exceeded the relief funding allotted to colleges.

A representative of the Kansas Board of Regents stated higher education is a necessary driver for economic recovery in Kansas. The conferee said the Board has undertaken strategic economic alignment initiatives to ensure that Kansas will have a qualified workforce for sustainable jobs. The conferee also testified regarding the effect of the pandemic on university campuses and estimated that enrollment declines systemwide were likely near 10 percent.

Small Business Support Initiatives

Representatives of NetWork Kansas testified concerning the implementation of Kansas Department of Commerce relief programs. The conferees said more than \$7 million of loans had been awarded to Kansas small businesses through these initiatives and that Commerce staff were

then processing applications for additional small business grants.

Overview of Economic Sectors

The Committee received testimony concerning the impact of the pandemic on several economic sectors.

Mental Health

A representative of the Association of Community Mental Health Centers of Kansas testified concerning the effect of the pandemic on the Kansas mental health system and on the mental and behavioral health of Kansans. He stated the economic impact on community mental health centers in terms of lost revenue and unexpected costs is estimated to be nearly \$30.0 million since the Governor's state of disaster emergency order in March.

Community Banks

Representatives of the Community Bankers Association indicated that it is too early to ascertain the full effect of the pandemic and shutdowns as federal stimulus efforts are currently supporting the economy and have been for several months.

Tourism and Conventions

The Committee received testimony from a representative of the Kansas Department of Wildlife, Parks and Tourism concerning the effects of the pandemic on tourism. The conferee noted that, while travel has been sharply reduced during the pandemic, certain outdoor travel activities are faring better than the industry as a whole. A representative of the Travel Industry Association of Kansas testified that the hotel industry has been harmed as much or more than any other industry through the pandemic. The conferee noted that pandemic protocols had increased hotel costs while revenues had sharply decreased for most establishments.

Farm Wineries and Event Venues

Two Kansas farm winery operators testified that the pandemic had harmed their business while shifting the same behavior to private locations where no safety protocols are being followed. The

conferees also noted that their businesses would benefit if they were allowed to deliver wine to their customers or sell wine in grocery stores.

The Committee also received testimony from an operator of several live event venues. The conferee indicated the live event industry has been essentially halted by the pandemic and that clarity of what businesses are allowed to do is necessary for the survival of establishments through the pandemic.

Diagnostic Testing

The Committee received testimony from a representative of Quest Diagnostics who stated the company was attempting to supply COVID-19 testing to meet the large demand created by the pandemic. The conferee noted the company had been able to acquire staff, but had to review compensation as there is a nationwide shortage of medical technologists.

Medical Marijuana

Representatives of the Kansas Cannabis Business Association and Farmers for Alternative Crop Expansion testified that medical cannabis reform could expand economic opportunities for numerous sectors of the Kansas economy.

November 16 – 17, 2020

On November 16 and 17, the Committee received reports on Kansas finances and taxation, legislation vetoed during the 2020 Legislative Session, the performance of various state economies through the COVID-19 pandemic, the labor economy and unemployment compensation system, the aviation manufacturing sector, and policy recommendations from the Kansas business community.

State Finances and Other State Information

KLRD staff provided an update on the November 6, 2020, revision of the consensus revenue estimates, noting that the estimate for the current fiscal year was increased by \$477.2 million, largely due to an improved economic outlook. KLRD staff noted the previous estimate was made at the height of the shutdown and forecasts for many economic variables had improved since that time. KLRD staff also

provided an update on the State General Fund profile, testifying that the current forecast shows a deficit of \$119.4 million in fiscal year 2022. KLRD staff also provided information from other states indicating that many states have increased their revenue estimates in recent months if their previous estimates were made during the spring months. KLRD staff noted such comparisons are especially challenging for income taxes, as most states delayed filing and payment deadlines from April to July, but the effect of those delays is not yet fully understood.

Economic Outcomes and State Restrictions

A representative of the Kansas Policy Institute testified that states with more-limited restrictions on their economies in response to the COVID-19 pandemic had better economic outcomes and health outcomes. The conferee stated Kansas' longstanding subsidy-based economic development strategy had not been successful and was not likely to be successful prospectively, and he recommended Kansas focus on other competitive areas, such as taxes, education achievement, and regulatory climate. He also recommended Kansas adopt a concierge-style economic development strategy that provides services, rather than incentives, to new or expanding businesses.

Property Tax

KLRD staff provided an overview of the Kansas *ad valorem* property tax system, noting it is the single largest revenue source for state and local governments in Kansas, and described the process by which property is valued for tax purposes and tax rates are determined.

The Committee also received testimony from a representative of the Kansas Policy Institute concerning property tax transparency legislation in Kansas. The conferee noted that such legislation would provide more transparency for taxpayers in understanding why their tax bills change from year to year and who receives the revenue from those taxes.

Sales Tax

KLRD staff provided an overview of the Kansas retail sales tax, providing information on the determination of what constitutes a taxable

sale and how the sales tax rates are determined for a transaction.

The Committee also received testimony from the Secretary of Revenue, who testified concerning the impact on Kansas sales taxes of a 2018 U.S. Supreme Court decision concerning sales tax on remote transactions. He testified that while Kansas is currently collecting much of the possible revenue from this change in law, a statutory provision concerning third-party marketplace facilitators is necessary for Kansas to capture additional revenue from otherwise taxable remote transactions.

Income Tax

Staff provided an overview of the Kansas individual income tax, noting that this tax is the largest single source of revenue for the State General Fund. Staff indicated that while federal adjusted gross income is the starting point for the Kansas income tax calculation, the full determination of income tax liability involves several steps before the Kansas income tax rates are applied.

The Committee also received testimony from a representative of the Kansas Society of Certified Public Accountants concerning the income tax changes in the federal Coronavirus Aid, Relief, and Economic Security (CARES) Act and the taxation of the various stimulus program benefits from that legislation. He noted there was a lack of clarity as to the tax treatment of business expenses from forgiven Paycheck Protection Program loans.

Other Taxes

KLRD staff provided an overview of other Kansas taxes, including the compensating use tax, the corporation income tax, the financial institutions privilege tax, the motor vehicle tax, the motor carrier property tax, motor fuels taxes, cigarette and tobacco taxes, liquor and beer taxes, severance taxes, transient guest taxes, and other minor taxes.

2020 Vetoed Legislation

Office of Revisor of Statutes staff provided an overview of two pieces of legislation from the 2020 Session that were vetoed. Senate Sub. for HB 2619 would have made several changes to law

related to financial institutions, and HB 2702 would have made several changes to property taxes.

Business Community Policy Recommendations

The Committee received testimony from representatives of the Kansas Bankers Association, the Kansas Chamber of Commerce, the Kansas Restaurant and Hospitality Association, and Renew Kansas Biofuels Association concerning policy recommendations for the Legislature to consider during the 2021 Session. The recommendations included reconsideration of legislation vetoed during the 2020 Session and other changes to Kansas tax law, legal reform, emergency management reform, targeted tax relief for businesses impacted by shutdowns, regulatory reform, and unemployment insurance modernization and reform.

Labor Economy, Unemployment Compensation, Modernization, and Reform

Representatives of KDOL provided an update on the state of the Kansas labor economy and the state unemployment compensation system. Committee members had numerous questions for the Department representatives related to unemployment fraud issues and feasibility of computer modernization during the pandemic.

The Committee also received testimony from a representative of the Kansas State Council of the Society for Human Resource Management concerning modernizing and reforming the Kansas unemployment compensation system. The conferee recommended expanding the merit-rating system to trust fund solvency adjustments to avoid penalizing employers who had not laid off employees and other changes to the unemployment compensation system.

Aviation Manufacturing

A representative of the Wichita Regional Chamber of Commerce described the challenges facing the aviation manufacturing industry. The conferee noted that aviation manufacturing jobs pay well and that states are very competitive to attract those jobs.

December 7 – 8, 2020

At its meeting on December 7 and 8, the Committee received reports on unemployment compensation fraud mitigation and computer modernization issues, the State's utilization of federal Coronavirus Relief Fund moneys, broadband expansion, and the State's economic development outlook following the pandemic. The Committee concluded its work by discussing the information presented to it and making various recommendations.

Unemployment Compensation Fraud and Modernization Issues

The Acting Secretary of Labor provided information concerning the unemployment compensation system and fraud mitigation strategies in the unemployment compensation system. Portions of this presentation were provided in executive session; staff were not present. In open session, the Acting Secretary stated that all individual claimants who are entitled to benefits under any federal relief programs will receive those benefits, even if the program that authorized those programs has expired. The Acting Secretary also noted that all businesses are held harmless for claims that are properly reported as fraudulent and determined to be fraudulent.

Federal Coronavirus Relief Fund Utilization

The Committee received testimony from a representative of the Office of Recovery concerning the State's use of \$1.25 billion of federal Coronavirus Relief Fund moneys. The conferee outlined the process the State used to determine the use of the funds and also the actual use of the funds. The conferee indicated that \$400 million had been allocated to counties for local needs and the remaining funds had been used in several rounds to meet statewide needs. The conferee also provided information concerning additional steps involved in using the funds and the remaining time for using funds.

Broadband Expansion

Representatives of Commerce testified concerning broadband expansion initiatives in the state. The conferees noted previous broadband expansion efforts had focused on mapping broadband availability prior to building new

infrastructure, which prevented effective infrastructure from being built. The conferees indicated the current approach is to work to build infrastructure in any place where a deficiency is identified without requiring comprehensive advance mapping.

The Committee also received testimony from representatives of Cox Communications, the Kansas Cable Telecommunications Association, and RG Fiber on the topic of broadband expansion. The conferees highlighted efforts from industry stakeholders to expand broadband access and affordability throughout the state.

Post-Pandemic Economic Development Outlook

A representative of Commerce provided information on the State's economic development outlook following the COVID-19 pandemic. The conferee noted Kansas faced many challenges prior to and during the pandemic, but that Kansas also possessed numerous strengths prior to the pandemic, and the state was well positioned to have strengths after the pandemic. The conferee indicated that the outlook for economic development in Kansas included improved education and business alignment, retaining population and workforce within Kansas, the creation of a high-growth innovation sector, and further support for Kansas small businesses.

Discussion and Recommendations

The Committee discussed the need for policymakers to identify the best economic course for Kansas without seeking credit for successes or attempting to assign blame for past or current failures. The Committee made extensive and varied recommendations to the Legislature and other policymakers.

CONCLUSIONS AND RECOMMENDATIONS

The Special Committee on Economic Recovery submits the following recommendations:

Government Response to Pandemics

The Committee recommends the Legislature review all state and local policies that have been implemented throughout the COVID-19 pandemic

to ensure the State is prepared for any future pandemics that may occur.

The Committee recommends the Legislature review the Kansas Emergency Management Act and any related statutes to ensure appropriate uniformity while avoiding shutdowns and regulations that severely limit the ability of businesses to operate. The review of the Kansas Emergency Management Act should include consideration of provisions providing for the maximum possible legislative oversight of any restrictive orders.

The Committee recommends the Legislature consider providing for a mechanism by which state and local governments compensate businesses that are restricted due to emergency management orders, for both loss of revenue due to any orders and for property taxes associated with any time during which businesses are closed by emergency management order.

Unemployment Compensation Issues

The Committee recommends the House Committee on Commerce, Labor and Economic Development and the Senate Committee on Commerce (House and Senate commerce committees) evaluate the unemployment compensation reforms recommended by the Kansas State Council of the Society for Human Resource Management and the Kansas employer community.

The Committee recommends the Legislature establish a special oversight committee to monitor and support the Kansas Department of Labor information technology (IT) modernization efforts and ensure the needs of the business and labor communities are met by the system upgrades. This oversight committee could be a continuation of the Special Committee on Economic Recovery.

The Committee recommends the Legislature appropriate necessary funds for the Kansas Department of Labor IT modernization process and the House and Senate commerce committees provide input on the modernization process and system, as well as the amount of money appropriated. If necessary to expedite the appropriation process, funds should be appropriated with a provision that the special

modernization oversight committee previously recommended must approve any modernization expenditures.

The Committee recommends the Legislature and Governor provide for sufficient full-time-equivalent employees and employee salaries to employ appropriate staff for the maintenance of the modernized IT systems.

The Committee recommends any available federal moneys provided by federal legislation enacted in response to the pandemic should be used to finance IT modernization and replenish the depleted unemployment trust fund to ensure benefits are available to out of work Kansans and that the economic recovery will not be impeded by increased unemployment compensation taxes.

The Committee recommends using any available funds, including the State General Fund, to replenish the unemployment trust fund, to ensure the business community is not forced to bear the cost of unemployment benefits throughout the pandemic through solvency surcharges applied to employer rates.

The Committee recommends the State immediately reinstate the requirements that recipients of unemployment benefits be actively seeking employment or be in training for a new skill to enable the employment community to fill the thousands of open Kansas jobs. The Committee further recommends the Kansas Department of Labor provide matching services for individuals receiving unemployment benefits to allow for quick re-employment.

The Committee recommends creation of a process for employers to report job offers that would result in the cessation of unemployment compensation benefits to individuals who have received job offers. The Committee recommends this policy be accompanied by a policy providing for incentives for companies to retrain individuals currently receiving unemployment benefits and incentives for unemployed Kansans to gain a new skill and remain in Kansas for work.

The Committee recommends the Legislature consider requiring income tax withholding from unemployment compensation benefits.

The Committee recommends the Kansas Department of Labor ensure that reimbursing employers will not be required to pay for fraudulent claims that have been reported as fraudulent.

Regulatory Recommendations

The Committee recommends the State generally lighten the burden of administrative regulations on businesses and individuals to increase economic growth. The Committee further recommends the Legislature review existing rules and regulations to ensure no regulations duplicate those of the federal or local governments and that regulations are not overburdensome.

The Committee recommends the State permanently eliminate any regulations waived through the COVID-19 pandemic unless the Legislature finds the waiver caused public harm.

The Committee recommends the State implement a sunset review board for all state regulations, agencies, boards, and commissions.

The Committee recommends the State provide for universal recognition of occupational licensing to allow individuals licensed in other states to immediately work in Kansas through the passage of legislation substantively similar to 2020 HB 2506.

The Committee recommends revising state and local permitting processes to function as “shall issue” processes to allow for businesses to open and reopen following the COVID-19 pandemic without administrative delay caused by a backlog of applications or inspections associated with the pandemic.

The Committee recommends the elimination of any state or local inspections required prior to reopening a business that was temporarily closed due to the COVID-19 pandemic or associated emergency or public health order.

The Committee recommends the Kansas Department of Commerce create a concierge-style business opening or expansion service to manage state and local permitting and administrative

requirements associated with business entry and expansion.

The Committee recommends local governments relax local zoning regulations and ordinances to make it easier for Kansans to operate businesses from their own homes, especially those businesses involving remote work or telework.

Business Recruitment and Economic Development

The Committee recommends the State evaluate the effectiveness and cost-effectiveness of local and state-authorized subsidies to specific individual businesses or developments and consider eliminating these incentives and replacing them with more broad-based opportunities to attract new businesses.

The Committee recommends the Legislature conduct a comprehensive review of all state and local economic development programs with an emphasis on encouraging the growth of start-ups to replace businesses that may be likely to fail.

The Committee recommends the continued and expanded use of federal Coronavirus Relief Fund moneys to expand broadband Internet availability to all Kansans, including rural and urban residents and students utilizing remote or virtual school options.

The Committee recommends the State increase the availability of Kansas hunting and fishing, including, but not limited to allowing landowner permits for deer and otherwise expanding hunting and fishing options for both residents and non-residents.

The Committee recommends the money available in the Economic Development Initiatives Fund be used according to statutory intent to enhance new and existing Kansas businesses and foster the growth of new industries, using the October 2019 report from the Legislative Division of Post Audit as a guide.

Resolving Barriers to Business Entry or Expansion

The Committee recommends the House Committee on Energy, Utilities and

Telecommunications and the Senate Committee on Utilities address the cost of energy in Kansas as the high cost of energy in Kansas is a deterrent to new businesses and the expansion of existing businesses.

The Committee recommends the Legislature enact tax law that eliminates any unintentional state income tax increases on business and individuals as a result of 2017 federal income tax changes, specifically eliminating the new taxation of foreign income created by those changes and allowing individuals to itemize their state income tax deductions in light of the increase of the federal standard deduction.

The Committee recommends House and Senate commerce and tax committees work together to explore incentivizing capital-intensive industries to invest in Kansas by providing for an alternative apportionment method using a single-factor sales formula that businesses may elect to use.

Workforce Development

The Committee recommends House and Senate commerce committees consider legislation providing for tax credits for certain graduates of aerospace and aviation-related educational programs and employers of those graduates that is substantively similar to 2019 HB 2118, as amended by the House Committee of the Whole.

The Committee recommends the Legislature review the aviation economic development programs of other states to ensure Kansas retains graduates in this field and multi-state corporations choose Kansas as their site for their operations. The Committee further recommends reviewing this model for potential use for computer science and other technology industries.

The Committee recommends House and Senate commerce committees encourage Kansans to explore opportunities in high-paying skilled-labor industries, including programs allowing students to learn on site. The Committee recommends using the provisions of 2020 HB 2354 as a starting point to resolve liability concerns regarding high school apprenticeships and on-the-job training programs.

The Committee recommends closely aligning K-12 education and higher education with Kansas business and labor unions to provide for certificates for high-demand, high-paying, skilled-labor careers.

The Committee recommends the Legislature pass the provisions of the Promise Scholarship Act (from 2020 HB 2510, which was vetoed) to encourage high school students who might otherwise not attend college to attend two-year colleges or other certificate programs, while requiring those students to live and work in Kansas upon graduation by providing a scholarship that becomes a repayable loan if the requirements of the program are not met.

Banking and Financial Institutions Legislation

The Committee recommends the Legislature enact the provisions of 2020 Senate Sub. for HB 2619 providing for a low-interest linked deposit loan program using up to \$60 million of state idle funds to “impact invest” back into Kansas communities and provide for a tax exemption for agricultural real estate and rural housing loans in addition to other financial institutions provisions.

Property Tax

The Committee recommends the Legislature eliminate the 1.5 mills of property tax currently used to finance the state building funds and replace this funding with State General Fund revenue as necessary through the appropriations process.

The Committee recommends the Legislature pass the following provisions of 2020 HB 2702:

- Notice and public hearing requirements for certain taxing subdivisions seeking to increase property tax revenues;
- The Kansas Taxpayer Protection Act related to paid preparers of income tax returns;
- A temporary waiver of interest on delinquent property taxes in response to the COVID-19 pandemic and associated emergency and public health orders;

- Prohibit valuation increases solely as a result of normal maintenance of property improvements; and
- Authorize county treasurers to accept partial payments and establish payment plans for all property taxes.

The Committee recommends the Legislature waive a portion of the property taxes on commercial properties that are the locations of businesses that have been closed as a result of COVID-19 pandemic-related emergency or public health orders.

The Committee recommends enactment of legislation allowing the State Board of Tax Appeals to serve orders and notices by electronic means upon request of any party to a case before it.

The Committee recommends enactment of legislation prohibiting the increase of valuation of property upon appeal.

Income Tax

The Committee recommends the Legislature not add any extra burden to businesses that have received Paycheck Protection Program loans by ensuring the forgiveness of those loans is exempt from state income tax, while not allowing the deduction of expenditures from the proceeds of forgiven loans.

The Committee recommends enactment of legislation increasing the standard deduction for Kansas individuals in proportion to the 2017 increase in the federal standard deduction and allowing Kansans the option to itemize their deductions on their Kansas returns, even if they choose to take the standard deduction on their federal return.

In the alternative to allowing full state-level itemization of deductions regardless of federal itemization, the Committee recommends the Legislature consider allowing charitable contributions to be deducted in addition to the standard deduction.

The Committee recommends enactment of legislation providing for the expensing deduction for individual income taxpayers.

The Committee recommends the Legislature pass legislation extending the Kansas net operating loss carryforward period.

The Committee recommends the Legislature consider passing legislation expanding the rural opportunity zones program to additional counties, possibly statewide.

The Committee recommends the Legislature pass any necessary legislation to ensure that 2020 federal pandemic-relief legislation does not result in any unintended state income tax increases.

The Committee recommends the Legislature pass legislation to ensure fraudulent unemployment compensation payments do not result in an income tax obligation for fraud victims.

The Committee recommends the House Committee on Taxation and Senate Committee on Assessment and Taxation (tax committees) evaluate the Child Care Assistance Credit for businesses and make appropriate changes.

Sales Tax

The Committee recommends the tax committees recommend, at the beginning of the 2021 Legislative Session, passage of legislation requiring marketplace facilitators to collect and remit sales tax.

Education

The Committee recommends, in light of testimony related to the importance of in-person education to both the education of students and the ability of parents to participate in the workforce, combined with testimony related to the limited risk of COVID-19 to children and the reduced transmission rates and community spread associated with children, that schools make every effort and all necessary and appropriate accommodations to provide an in-person education to Kansas K-12 students. The Committee further recommends the Legislature consider policies allowing state aid to follow a

student to another school when in-person instruction is not offered at the local public school.

The Committee recommends the use of federal Coronavirus Relief Fund aid to expand broadband access to all Kansas students to provide access to online learning, including live instruction and interaction.

Health

The Committee recommends the cycle threshold of all laboratories providing COVID-19 testing for Kansans to be released within seven days of the announced test result.

The Committee recommends the cycle threshold for all laboratories that have provided past COVID-19 testing be made public immediately.

Other Recommendations

The Committee recommends the penalties for criminal fraud and identity theft be reviewed and possibly increased.

The Committee recommends amendments to state law to require state agencies to submit technology plans to the Joint Committee on Information Technology prior to state agency issuance of any technology-related request for proposals.

The Committee recommends the Legislature review the statutory uses of the Kansas Universal Service Fund to consider the use of the fund for broadband expansion and access and ongoing support of broadband infrastructure.

The Committee recommends the use of Coronavirus Relief Fund moneys by the State and local governments to pay the salaries and benefits of public employees required to quarantine due to work-related exposure to COVID-19.