



Community Bankers Association of Kansas

Wrap Up Session and Policy Update

May 03, 2021

Overview

The 2021 regular Session concluded April 9th, but there is still considerable work to be done when the Legislature returns May 3rd for the Wrap-up or Veto Session. There are some significant differences yet to be worked out, including funding for K-12 education that is not currently included in the state budget. The influx of nearly \$5 billion in federal American Rescue Plan Act (ARPA) funds further complicates the wrap-up process, and the state has yet to receive specific guidance on how those funds can be spent. Thus, we may be looking at a slightly longer Veto Session than in recent years. This report will examine where we left off when the Legislature adjourned April 9th, the Governor's vetoes over the last couple of weeks, and all the issues that remain unresolved going into the Veto Session beginning May 3rd.

- A comprehensive overview detailing ARPA funds coming to Kansas can be found here: <http://www.kslegresearch.org/KLRD-web/Publications/AppropriationsRevenue/federal-relief-americanrescueplan-2021.pdf>
- A summary of the latest round of consensus revenue estimates can be found here: http://www.kslegresearch.org/KLRD-web/Publications/CRE/2021_CRE_ShortMemo_4-20-2021.pdf

Vetoes: Since the Legislature adjourned April 9th, the Governor has vetoed several key pieces of legislation, including the major income tax cut bill, SB 50, which passed the Senate 30-10 and the House 81-43. (SB 50 also includes the ability to deduct FDIC premiums, so we will be watching for a likely veto override to restore that provision.) As a reminder, to reach the 2/3 majority necessary in both chambers to override a veto, the Senate requires 27 affirmative votes and 84 in the House. It is highly likely the House will pick up the three votes necessary to override the veto of SB 50.

Other significant vetoes include:

- SB 55. The transgender women in sports bill requires female student athletic teams only include members who are biologically female. This passed the Senate 26-11 and the House 76-43. It is unlikely, especially in the House, that there would be enough votes for a veto override, so this issue is likely dead.
- The Governor vetoed a couple of education bills: One mandated that students must pass a civics test and a financial literacy course, as well as a bill that required local school boards who chose to offer gun safety education courses to use specified programs including the National Rifle Association and the Kansas Department of Wildlife and Parks. The veto of the civics/financial literacy bill likely holds, but the "Eddie Eagle" gun safety education veto may be overridden.
- HB 2058 Lowering the conceal carry age from 21 to 18. This passed the Senate 30-8 and the House 80-43, so only 4 votes are needed in the House for an override.
- It is worth noting that the Governor has vetoed the most bills this Session than in the past 17 years, highlighting the especially partisan environment at the Statehouse right now.

State Budget: The Governor approved the State Budget on April 26th, while line-item vetoing 18 individual provisions, including one OSBC-related item that would have increased the per diem for Kansas Banking Board members. The explanation for the line-item veto is that it “would increase the per diem for members of the state banking board from \$35 to \$100 for the 2021 fiscal year, which ends in less than 70 days. The legislature should study this issue over the interim and make recommendations applicable to all boards and commissions. These recommendations should consider the fiscal impact of potential increases.”

- More on the specific line-item vetoes here: <https://governor.kansas.gov/governor-laura-kelly-signs-budget-removes-certain-provisos/>

Looking Ahead: The Legislature will reconvene Monday to wrap up and address outstanding issues, continue adjusting the budget, funding for K-12 education, and attempt to override vetoes. We expect both budget committees to resume work Monday on their respective Omnibus budget bills. Additionally, lawmakers will likely address some unresolved COVID relief policies including property tax reimbursements for businesses impacted by shutdowns or capacity limitations. The late infusion of \$4.9 billion in federal COVID relief aid will contribute to a lengthier wrap up as well. While the Legislature does not typically go on General Orders to debate bills during the Wrap-Up Session, there is some indication they may do so to debate some of the issues previously mentioned. As next week begins, the coming days are unclear.

Financial Institutions Legislation of Interest

With SB 15 privilege tax legislation/economic loan recovery program and HB 2074 TEFFIs approved by the Governor, most financial institutions-related issues are largely resolved for this Session.

- TEFFI Legislation
- A recap of the legislation is detailed below, but aside from the Governor’s approval of the legislation, there is little else to report on the issue at this time, other than a small technical change made in the House Omnibus budget as it relates to TEFFIs. The budget proviso would clarify that the Department of Commerce and OSBC have the ability to expend the funds (\$1 million) outlined in the bill in 2022 to be used for contracting services, etc. as TEFFIs are implemented.
- Senate Substitute for HB 2074: Enacting the technology-enabled trust bank act, providing requirements, fiduciary powers, duties, functions and limitations for trust banks and the administration thereof by the bank commissioner and creating an income and privilege tax credit for certain qualified distributions from trust banks.
- Changes made in conference committee:
 - Reworked the forms section that was in the original bill.
 - OSBC may consider and evaluate the safety and soundness of a TEFFI, but profitability is not included as a consideration when evaluating the safety and soundness of a TEFFI if sufficient equity and capital exist in the business.
 - Strikes “provisional, nonoperating charter,” and instead allows a “conditional charter” to be granted to Beneficient on July 1, 2021. Additionally, OSBC shall not approve any application until Beneficient’s conditional charter has been converted to a full charter and OSBC has completed their regulatory exam.
 - OSBC may offer to review a form and provide informational comments only.
 - Includes an amended definition of trust to mean “a trust created pursuant to the Kansas Uniform Trust Code or created pursuant to the Business Trust Act of 1961.”
 - Establishes the Joint Committee on TEFFI Oversight, to include nine legislative members instead of 13.

- Establishes advertising guardrails stipulating that no TEFFI name or advertising, other than indicating the TEFFI is headquartered and chartered in Kansas, shall infer, or imply that such TEFFI is endorsed by an affiliate or otherwise connected with the State of Kansas. TEFFIs may also not use the words “bank” or “trust company” or imply that they are banks or trust companies, unless OSBC approves in writing that it would not be misleading.
- Added language regarding income/privilege tax liability for TEFFIs relating to qualified charitable distributions.
- Lastly, on or before January 10th, 2022, OSBC is to provide a report to the Senate and House Financial Institutions committees on the progress of the TEFFI pilot and any recommendations, if the Joint Committee on TEFFI has not met.
- Senate passed the CCR 39-0 and the House 103-20; approved by the Governor on April 21st.

Other Legislation

- SB 86: Kansas Extraordinary Utility Costs Loan Deposit Program.
 - Similar to SB 88 that was passed several weeks ago to help cities cover the costs of natural gas during the extreme weather event of February 2021. SB 86 simply expands it by allowing wholesale natural gas customers, such as school districts, to apply for some of those funds as well.
 - Similar to the structure of the Economic Loan Recovery Program in SB 15, this will allow the use of \$20 million in PMIB funds to be used for those wholesale natural gas customers to cover the cost of high natural gas bills from February.
 - Loans through this program have a cap of \$500,000 and no loans are to be approved after June 1st, 2021. Additionally, no loan shall be amortized for more than three years for these wholesale customers.
 - SB 86 also changes the implementation date of SB 15 from July 1, 2021, to instead take effect upon publication in the register.
- SB 178: Providing for trust company charter conversions.
 - OSBC brought the legislation forward. Currently, the Kansas banking code does not allow a national bank to convert to a state trust company, so this legislation would incorporate trust companies into the conversion statutes. It allows national banks to come into the state as trust companies, and state trust companies can go out of the state as national banks.
 - The Senate Committee amended the bill to “clarify the naming standards for state banks and trust companies and establish a separate naming requirement for trust companies doing business in Kansas in law governing conversion to a state bank.”
 - The Senate passed the bill 39-0 and the House 121-1.
 - Approved by the Governor on April 21st.
- HB 2187: Enacting the first-time home buyer savings account.
 - No movement on the bill.

Wrap Up

Let us know if you have any questions.

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