

Top Line: Legislators heard from a variety of construction businesses asking that the fuels tax be raised to pay for the highway program. T-WORKS declared “dead” by head of Kansas Contractors Association.

On pensions, legislators were briefed on how Kansas pensions are taxed and how that compares to other states. Rep. Johnson’s back-of-the-envelope math predicted tax on distribution could raise \$5-6 million.

Bill Introductions

- None

Governor’s Alcohol Proposal

Tuck Duncan, Wine and Spirits Wholesalers Association

- Displays article on why it is and how we tax whiskey. Displays primer on alcohol tax.
- Demonstrates how many taxes the state and Federal government takes by filling in a bottle full of liquid to demonstrate how much of a bottle is taxed (it would overflow).
- Rhymes entire testimony about losing business to surrounding states.

Proponents of Fuel Taxes

Bob Totten, Kansas Contractors Association

- Established in 1923. Along with Kansas Chamber in 1925, assisted in passing Kansas’s first gas tax of \$0.01 to match Federal funding.
- With Governor’s recommendations for 2018 and 2019, there will be \$3.5 billion taken out of TWORKS as it was passed in 2010. Calls it highway robbery.
- Gas tax cannot be diverted to any other part of government.
- \$0.05 per gallon would only raise about \$95 million a year, much less than the Governor’s transfers of close to \$400 million per year have been.
- Would prefer \$0.11 a gallon raise. Would raise \$197 million. It is still not as much as has been diverted, but would ensure safe and reliable highway system for business, agriculture, and jobs. Part of the Rise Up Kansas budget plan.
- Group polled in November and 86% of the public wanted the legislature to spend money on highways. A large majority also did not think highways were being adequately funded and were in poor condition.

Kelly Briggs, President of the Kansas Contractors Association, President and CEO of Bayer Construction, Manhattan, KS

- Company and association support hike in fuel tax and increase in revenue in other areas.
- An increase in the highway user fee would ensure that the revenue would go to the highway program.
- “It’s no wonder citizens don’t trust government when \$3 billion has been taken from the highway program.”

- Over 50 projects have been suspended or delayed. Believe it will continue in 2018 under the Governor's budget.

Mike Schilling, Schilling Construction Co., Manhattan, KS

- "My company and many of my competitors are cutting back our workforce because there is little or no work for us to bid on." The state is in danger of losing its construction workforce. This is all a result of the tax policy initiated in 2012 that left a hole of \$750 million a year that is not sustainable. When highways are allowed to fail, restoration costs go exponentially higher.
- Maintaining only 230 miles of road in 2018 compared to the normal 1,200 miles will lead to serious consequences. "This is when highway systems start to fail." Kansas needs an additional gas tax that can't be diverted to other purposes. Highway spending has a 5.2 multiplier of economic impact. The increase in the gas tax would jumpstart our economy.

Rob Lauer, Hall Brothers, Inc., Marysville, KS

- Cutting road funding cuts construction worker jobs. "If our company cannot procure contracts, we are going to be forced to lay off hardworking employees." Our employees buy food, hotel rooms, and other services that come back to the communities in which we work. We cannot continue to go down this path. Urges the committee to consider raising the fuel tax \$0.10 to \$0.15.

Marynell Popst, Reece Construction, Scandia, KS

- Kicking the can down the road increases maintenance costs for vehicles and safety risks for drivers. Supports increased fuel tax. "We have only begun to see the devastating impact that underfunding our highways has brought to our state."

Rodney George, Bennington State Bank

- \$750 million Kansas community bank with 7 offices in 5 counties. The transportation department's budget affects a lot of people. We have many construction companies that build roads. They employ anywhere from 5 people to 100 people. This is a foundational industry in our economy that is vertically integrated with the service industry and the insurance industry. When their cash flow is disrupted, it disrupts their employees, their vendors, and sometimes their lenders. This piece of our economy is primary to our economy. Anything that you invest in it will provide you many returns on your investment from the commerce that is created by it. Recently, we lost a customer because our county government wouldn't build a bridge to connect farmland between Wabaunsee and Pottawatomie County.

Dee McKee, County Commissioner, Pottawatomie County

- I'm the mean lady who won't build the bridge. I was a County Commissioner in Ford County during the first Economic Lifelines plan in the 1980s. Cities and counties and all of us worked together to make that happen. It took the effort of a lot of people. Prior to that, the roads of our state were a disgrace to us. It cost us 7 times as much to repair

them to go all the way down to the base. Currently, cities and counties maintain 130,000 miles of roads. 92% of those roads are in our jurisdiction. We carry 42% of all traffic but only receive 33% of highway money. The T-WORKS program boosted the Kansas economy when it was passed in 2008. It made us a model for the country. The tax lid has prevented us from partnering with the state to repair our roads and bridges.

Gasoline, Diesel, and Dyed Diesel

- Rep. Corbet: For Mr. Totten, on your motor fuels, this is gasoline, diesel, and dyed diesel fuels?
- Totten: I don't have the information on dyed diesel. I only have the information on diesel.

Why Is New Gas Tax Necessary?

- Rep. Thimesch: Had we not robbed KDOT would we need to raise this tax?
- Totten: I don't think you would have any of the folks in this room today if you had fully funded T-WORKS. We would also have a better economy.
- Rep. Thimesch: Had we not taken the money, would we have kept up with T-WORKS and not had to consider raising the gas tax?
- Totten: I don't think we would. We are also dealing with increased costs while having fewer projects to work on.

How Much T-WORKS Money Has Been Raided?

- Rep. Sawyer: How much money has been taken from T-WORKS?
- Totten: It would be \$3.45 billion by 2019. That's out of \$8.1 billion that was initially estimated. T-WORKS is dead. Don't cry for our people that testified. Cry for the people who work for them. They're going to be working in another state to keep their job.
- Rep. Sawyer: The original T-WORKS was \$8.1 billion?
- Totten: Correct.
- Rep. Sawyer: And we will have taken \$3.45 billion.
- Totten: If you implement the Governor's recommendations, yes.
- Rep. Sawyer: You had mentioned that we were 50th in the nation in construction jobs?
- Totten: We're 51st in creating construction jobs. You will hear more about that next week in a public release in Wichita.

Bernie Koch, Kansas Economic Progress Council

- I wanted to come at this from a business perspective. Usually I quote the Area Development Magazine. For 30 years, they have done a survey of decision makers in business and they come up with a ranking of the most important factors. Every year, highways have been number one or two on that list. Highways are particularly important to industries that require inputs and outputs like agriculture and manufacturing. Like you, we are concerned about the differential between Kansas gas prices and Missouri gas prices.
- Oklahoma roads are so poor because they don't have the political will to take care of them like we have had. I'm afraid that we are going to become more and more like

Oklahoma. It's ironic, because now we're sending construction workers to Oklahoma. They take 60% of their fuel taxes for roads and 40% of their fuel taxes for their state general fund. They will just quit their road projects in the middle of them if they don't have enough funding.

Leslie Kaufman, Kansas Cooperative Council

- Will also present on behalf of Mr. Randy Stookey, of the Kansas Grain and Feed Association. Represents agricultural product retailers that sell fuel. Worried about retailers who are on the border and have to compete against businesses across the state line. Runs the risk that Kansas business enterprises on the border will lose business across the border.

Price Point for Losing Business To Surrounding States

- Rep. Johnson: Do you have any information on what the price point is that would lead the most people to go across the border?
- Kaufman: That is already a concern for businesses in cities along the southern border.
- Rep. Corbet: Last week, Tom Palace indicated that Missouri was already a dime a gallon cheaper than us. If this tax increase were implemented do you have any idea how much this tax increase would cripple business along the border?
- Kaufman: I don't have an economic analysis that would show how far into the state that would affect businesses. I only have the information about businesses affected on our southern border.
- Rep. Kelly: The lunchtime routine in Coffeyville, KS was to drive across the border to South Coffeyville, OK on their lunch break to save money on gas.

Taxation of Retirement Benefits

- Kathleen Smith from KDOR goes over tax exemptions for the retirement benefits of different state entities.

Legislator Comment

- Rep. Johnson: I was under the expectation that either the contributions or the benefits would be taxed. I was surprised to see the number of plans in which both the contributions and the benefits were not taxed.

Marrying Kansas Law and Federal Law

- Rep. Francis: Do we have any idea on which the fiscal note would be to marry us with Federal law?
- Rep. Johnson: I would said that it is probably not a great one. There are a number of plans. I really don't know the magnitude. It's not going to be huge.

Revisor's Presentation

Chris Wagner, Revisor's Office

- Refers to chart from the National Conference of State Legislatures from 2014 that covers how states tax distributions from retirement plans.
- Second document is a chart that compares Kansas regionally. Breaks it down between government employees, general government employees, and university employees.

Louisiana and Illinois

- Rep. Johnson: It looks like Illinois and Louisiana have plans that do not tax contributions or distributions?
Wagner: Definitely on the distributions. I could not find anything that showed that they treated contributions different than the Federal level.
- Rep. Johnson:
- Wagner: Most states follow the Federal model of not taxing contributions.
- Rep. Johnson: Would I find any other states that don't tax either distributions?
Wagner: I believe there are 10 states that don't tax distributions.
- Rep. Johnson: So, 10 do not tax distributions.
- Wagner: Correct.
- Rep. Johnson: And a subset of those 10 would not tax contributions?
- Wagner: Correct.

Comparison to Roth

- Rep. Rahjes: Asks about how this compares to Roth.
- Wagner: Roth taxes on the back end, but there is an exemption up to a certain contribution at the front.
- Rep. Johnson: Right, and we tax the employee portion but not the employer portion.

Alan Conroy, Executive Director, KPERS

- Most states that levy personal income tax allow employees to exempt part of their retirement income from income tax.
- There are 41 states with an income tax. Of those, 36 offer exclusions from various sources of private and public sector retirement income.
- 5 states including Nebraska have no exclusions for any type of retirement income.
- Some states have age restrictions. Iowa allows all Iowa residents over 55 to exclude \$6,000 of retirement income.
- Some states offer a full exclusion. Kansas is one of those. Other states are Illinois and Michigan. They do not follow Federal law taxing distribution.
- Other states have a partial exclusion on income taxes for retirement distribution.
- Most states with an income tax use the Federal AGI as a starting point to determine state tax.
- Contributions and distributions from deferred compensation plan are taxed at the time in the same manner as they are Federally.
- Other states that require public sector pensions to add back state pension contributions for taxation purposes include Colorado.

Are Kansas Public Employee Retirement Contributions Fully Exempt?

- Rep. Francis: With the few exceptions that are on the list that we got earlier, it is not fair to say that we give a full exclusion because we tax it when it goes in, correct?
Conroy: You pay taxes on it when it goes in but you don't pay taxes when it goes out.
- Rep. Francis: Like a Roth. On any of these other states that offer a full exclusion, do you know if they do it the same way?
- Conroy: We would have to do more research.
- Rep. Johnson: While that tax treatment is true of KPERS, it may not be the case for the other plan where there is no tax on contributions.

Elaine Frisbie, Kansas Board of Regents

- We have a 403(b) that we offer to a number of our Regents employees. It is distinct from KPERS. It is not administered by KPERS. It has nothing to do with KPERS except that our members are covered by the death and disability program by KPERS. Our employees have two vendors that they may elect to choose from. For withdrawals, they have to follow the IRS rules.

Retirement Plan Rollover and Tax Treatment

- Rep. Johnson: If I roll the plan to another plan, do I maintain the tax free treatment?
- Frisbie: I will have to get back to you on that.
- Rep. Johnson: So, my contributions and my employer's contributions are not subject to tax right now, nor are the distributions?
- Frisbie: Correct.

History of Kansas Public Employee Pensions

- Rep. Phillips: How did the current plan come into effect?
- Frisbie: We have a staff person who helps us administer this program. She works in our office and at the University of Kansas. She has been in that office for a long time and she has no memory of how this came about. I can look up the statute to see when it was first enacted into law.

Eligible Retirement Withdrawals

- Rep. Kelly: On the bottom box, retirement plan withdrawals, what is the difference between the two?
- Frisbie: If you make a withdrawal for a medical emergency, it would be exempt. If you make a withdrawal because you resign, then you take those funds with you to a new plan. If the legislature were to treat withdrawals as eligible for taxation, that type of withdrawal would not be eligible.

State Employee Morale

- Rep. Johnson: I would want to stress that all of the jobs in the Regents are valued employees, as are the jobs in the convenience stores. The data here gives us an idea of the magnitude of the tax windfall. This would reap about \$6 million at a 5% tax rate.

Taxing the State Contribution

- Rep. Francis: Wouldn't we want to do that percentage on just the employee contribution so that we are not taxing ourselves?
- Rep. Johnson: There could be a number of solutions and that would be one of them.

How a Tax on Employee Pension Distributions Would Raise

- Rep. Wolfe-Moore: Would you just clarify for me how much you think this would raise?
- Rep. Johnson: \$5-\$6 million.

Proponent Testimony

David Trabert, Kansas Policy Institute

- I looked at what the BLS said about construction jobs in Kansas and it is quite significantly different than what was testified to here. The construction jobs that were lost in Kansas were specialty trade contractors and not highway contractors.
- Rep. Johnson: I have you testifying on behalf of retirement benefit taxes.
- Trabert: That's correct. As you heard with KPERS, the employee is taxed when it goes in, but benefits are never taxed when it goes out. So, the employee is never taxed on the employer contributions or the returns on their investment.
- On the Board of Regents, they have a mandatory 403(b) plan that works the same as a 401(k). In Kansas, there is a statutory exemption for Kansas Board of Regents payments coming out of that plan. In the private sector though, there may be some defined benefit plans still in Kansas. Those plans are all fully taxed. Kansas has a tax preference treatment for public sector employees while private sector employees are fully taxed. Government and individuals can set up a Roth IRA, but I'm talking about the employer pension plan.
- You were talking about contributions, not distributions?
- Rep. Johnson: Correct.
- Trabert: If we were to tax the Board of Regents, it would need to be on the distribution, correct?
- Rep. Johnson: We could make a policy decision either way.
- Trabert: When I contacted NCSL, I got the 2011 data from them. On the back of your testimony is the 50 state breakdown. 4 states have made a change since 2011. Maine, Michigan, and Montana adjusted the allowance. North Carolina has now joined the states that don't tax retirement income.
- In going through this, we found 32 states that basically treat government and private sector employees the same. 2 states, Missouri and Illinois are very similar to the other 32. There is a slight preference for government, but it is very small. 14 states gives varying degrees of better treatment to government employees than to private sector employees. Only one other state fully taxes private sector retirement income and doesn't tax public sector retirement income.

Eric Stafford, Kansas Chamber of Commerce (written)

Justifying a Tax on Public Employee Retirement Benefits

- Rep. Burroughs: How do you justify taxing KPERS employee benefits when the state doesn't make its actuarially required contribution in line with the agreement reached in 2012?
- Trabert: The state has not made its fully required contribution back to the early 1990s. This is not a recent occurrence. That doesn't affect the employees. The retirees are not impacted because it is a defined benefit plan. With a defined benefit, you're getting the benefit when you retire. It doesn't change at all whether the employer doesn't put in enough. Eventually you have to pay the piper. But no employee has been impacted by there not being enough put into the plan.
- Rep. Burroughs: I would disagree with that statement because there are employees that ask for a COLA and employees that could get a higher payout with a higher investment rate and employees wouldn't have to contribute as much when we are not paying them living wages. That is a lost opportunity for those employees to receive more dollars.
- Trabert: Anyone could make the case that the state would have more money if it put more money in before. The decision of this legislature or a past legislature to not put in an actuarially required contribution doesn't affect the benefits.

Do Kansas Public Employees Pay State Taxes If They Move Out of Kansas?

- Rep. Francis: When you draw a state pension, are you taxed based on the state that you receive the pension from or the state that you are a residence in at the time?
- Trabert: It is exempt from state income tax here. If they move to another state, they are subject to the tax laws of the state they live in. It might be fair to say that government would be better off if you taxed contributions going in, but it would not be better for the employee distribution. I would not be in favor of taxing the benefits going into the plan.
- Rep. Johnson: Asks Trabert to share the details of his state-by-state breakdown with Director Conroy.