



Ernestine Krehbiel
President & Editor

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2013 LEAGUE OF WOMEN VOTERS OF KANSAS E-REPORT #14

April 20, 2013 – Paul Johnson

Briefly: SIGNED KANSAS LAWS (see below for more details on each)

- **UNAUTHORIZED DISCLOSURE OF VOTERS' NAMES:** While you can find out who did advance voting, its now illegal to find out who has voted on election day (or if they voted provisionally or regular) This was because Rep. Ann Mah, wanted to know provisional ballot voters in her district so they could be helped to get the proper ID in time to have their ballots count. Kobach opposed her doing so. (Mr. Kobach authored this one.) [[League opposed](#)]
- **SELECTION OF KANSAS COURT OF APPEALS JUDGES:** Governor appoints with Senate OK. No more merit selection of these judges. (The Gov got his way.) [[League opposed](#)]
- **KANSAS PRESERVATION OF RELIGIOUS FREEDOM ACT:** government can't step on your religious liberty in Kansas, now. (Hmmm, I didn't know they could before)
- **TELECOMMUNICATIONS DEREGULATION:** ATT wrote this bill and won. Kansas Corporation Commission will have no authority over minimum quality of service--and telecommunications co. will no longer be required to serve all rural areas if they have more lucrative urban areas--that rule had been in effect since 1930s. (Thanks ATT!)
- **KANSAS TURNPIKE:** KDOT Secretary to be over turnpike as well as regular highways but at this time not merging moneys from turnpike and Transportation Dept. (Yet at least!)
- **Requires Confined Animal Feeding Facility (CAFO):** to be a certain distance from neighbors and KDH&E is to identify any significant water pollution potential or separation distance violations. (But funds and staff in KDH&E were cut earlier. Hmmm)
- **LIMITED TRANFER PERMITS; AGGREGATE MINING OPERATIONS; DAMS AND WATER OBSTRUCTIONS; STREAM CLEANING BY COUNTY COMMISSIONS; REVIEW OF WATER DEVELOPMENT PROJECTS; LOCAL ENHANCEMENT MANAGEMENT AREAS; HB 2363:** This bill addresses a number of water-related issues.

See other bills at the bottom as well as KANSAS REVENUE CHALLENGES

BILLS THAT DID NOT PASS

- The Kansas House rejected a Senate-approved bill that would **cut** nearly in half the state portion of the **Earned Income Tax Credit**, which is aimed at helping low-income, working families. [[Hoo-ray. League opposed this cut](#)]
- Dentists fought off the proposal to add licensed Dental Practitioner. (like Physicians Assistants) as 37 Kansas counties do not have a single KanCare dentist and even in counties that do have one or more, there are not enough providers to meet demand.

UNAUTHORIZED VOTING DISCLOSURE; SENATE BILL 122

This bill makes it illegal to intentionally disclose or expose the name of any voter who has cast a ballot, whether provisional or regular, except as ordered by a court in an election contest. The bill prohibits disclosing the name of any voter who has cast a ballot from the time the ballot is cast until the final canvass of the election. The bill states that disclosure of the names of advance voters is permitted. Nothing in this bill prohibits authorized poll agents from observing elections as allowed under current law.

APPOINTMENT OF KANSAS COURT OF APPEALS JUDGES; HB 2019

This bill amends the current procedure for the appointment of Court of Appeals Judges to allow the Governor, with the consent of the Senate, to appoint a qualified person to fill any vacancy on the Kansas Court of Appeals. The bill requires the Clerk of the Supreme Court to give prompt notice of a vacancy to the Governor, who must then make an appointment within 60 days. Otherwise, the Chief Justice of the Supreme Court, with the consent of the Senate, will appoint a qualified person. The bill requires the Senate to vote to consent to the appointment within 60 days of being received or, if the Senate is not in session and will not be in session within the 60-day time limit, within 20 days of the next session. If the Senate fails to vote within the time limit, its consent will be deemed given. If the appointee does not receive a majority vote in the Senate, the Governor will appoint another qualified person within 60 days, and the same consent procedure will be followed.

KANSAS PRESERVATION OF RELIGIOUS FREEDOM ACT; HB 2203

This bill provides that government shall not substantially burden a person's civil right to exercise religion unless the government demonstrates, by clear and convincing evidence, that application of the burden to the person is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that compelling governmental interest. This bill applies to all government action, including state and local laws, ordinances, rules, regulations, and policies, and to their implementation, whether enacted or adopted before, on, or after this bill's effective date. This bill defines 'compelling governmental interest' of the highest order and states that religious liberty is an independent liberty that occupies a preferred position.

TELECOMMUNICATIONS DEREGULATION AND STUDY COMMITTEE; HB 2201

House Bill 2201 creates the Telecommunications Study Committee to study telecommunications issues, the Kansas Universal Service Fund, the federal Universal Service Fund, the state's public policy on tele-

communications, the possibility of establishing a Kansas Broadband Fund, and other issues determined by the Legislative Coordinating Council. This study committee has 20 members from the Legislature. The required date of the report is December 31, 2014. This bill deregulates AT&T from being a 'carrier of last resort' by becoming an electing carrier. The Kansas Corporation Commission will have no authority over minimum quality of service standards and statewide long distance price regulation for electing carriers. Electing carriers are no longer required to participate in the Kansas Lifeline Service Program. Thousands of rural consumers will be impacted by this deregulation bill.

KANSAS TURNPIKE; HOUSE BILL 2234

This bill names the Kansas Department of Transportation (KDOT) Secretary as the director of operations of the Kansas Turnpike Authority (KTA). The director of operations will be responsible for the daily administration of the toll roads, bridges, structures and facilities constructed, maintained or operated by KTA. The bill provides that KTA tolls or other revenues cannot be used in ways other than those established in existing law for three years until July 1, 2016.

CONFINED ANIMAL FEEDING FACILITY REGULATION; Sub. for HB 2207

This bill continues the requirement that any Confined Animal Feeding Facility (CAFO) with an animal unit capacity of 300 or more must register with the Secretary of Health and Environment and pay a fee of \$25. The bill requires the receipt of the registration to be acknowledged and published by the Secretary. The registration will be required to indicate the prescribed tract land where the proposed construction will occur and that the separation distances for the CAFO comply with the requirements listed in the bill. The bill requires KDHE to identify any significant water pollution potential or separation distance violations within 30 days of receiving the registration. There are provisions provided to waive separation distances. The assumption is that the CAFO will be constructed within 18 months but an additional 18 months can be granted.

LIMITING NUISANCE ACTIONS AGAINST AGRICULTURAL ACTIVITIES; SB 168

This bill expands the 'right to farm' in Kansas. It amends law relating to the protection of farmland and agricultural activities from certain nuisance actions. The bill creates a new section setting out compensatory damages that may be awarded to a claimant from a nuisance action against farmland used primarily for agricultural activity. Compensatory damages are limited to the reduction in the fair market value of the claimant's property caused by such nuisance. This expansion of 'right to farm' allows the farmer the right to reasonably expand acreage, animal units or change agricultural activities as long as all applicable local, state, and federal environmental codes, resolutions, laws and regulations are complied with. This expanded right can be sold or be inherited.

LIMITED TRANSFER PERMITS; AGGREGATE MINING OPERATIONS; DAMS AND WATER OBSTRUCTIONS; STREAM CLEANING BY COUNTY COMMISSIONS; REVIEW OF WATER DEVELOPMENT PROJECTS; LOCAL ENHANCEMENT MANAGEMENT AREAS; HB 2363

This bill addresses a number of water-related issues. It establishes limited water transfer permits up to 4 million gallons for one year. This bill exempts land-based sand and gravel permits or aggregate mining operations utilizing washwater ponds from certain KDHE rules and regulations. The bill modifies the statutory definition of a 'dam'. The bill exempts hazard Class A dams proposed for construction or modification from the requirement to acquire a permit or written consent unless the Chief Engineer determines it is necessary for the protection of life or property. The bill establishes a new methodology for the application fee for a permit to construct, modify, or add to a water obstruction or to change or diminish the course, current, or cross section of a stream based on the watershed area. The bill amends law to allow county commissioners to clean and maintain the banks and channels of streams and watercourses. Local Enhancement Management Area orders are added to the list of orders made by the Chief Engineer that are subject to review in accordance with the Kansas Administrative Procedure Act.

KANSAS RESTRAINT OF TRADE ACT; SB 124

This bill creates or amends sections of the Kansas' antitrust law – Kansas Restraint of Trade Act (KRTA). This bill creates a new section declaring the purpose of the new section and the amendments to existing sections is to clarify and reduce uncertainty in the application of the KRTA. Applicable evidentiary standards to certain business contracts, agreements, and arrangements are not intended to unreasonably restrain trade or commerce and do not contravene public welfare. The new section directs the KRTA be construed in harmony with ruling judicial interpretations of comparable federal antitrust by the U.S. Supreme Court, with certain exceptions. KRTA damages sections are amended or repealed to eliminate the ability to recover full consideration damages and clarify that a plaintiff may recover treble the actual damages sustained. This bill contains a retroactivity clause applying the new law and amendments.

(These bills can be read at http://www.kslegislature.org/li/b2013_14/measures/bills/. Kansas Legislative Research Department has developed two supplements of summaries of legislation passed – April 5, 2013 and April 9, 2013. <http://skyways.lib.ks.us/ksleg/KLRD/Repts&PubsShortcuts.htm>)

- CIF (Children's Initiative Fund) Law suit provided Tobacco settlement proceeds would be used for programs that benefit children. From FY 2001 through FY 2012, a total of \$644.5 million was received. Much of those monies were transferred to the State General Fund, particularly in difficult budget times

KANSAS FARMERS' MARKET PROMOTION ACT; SB 120

This bill establishes a central registration of farmers' market in Kansas. This voluntary registration with the Kansas Department of Agriculture (KDA) will be used to encourage and promote farmers' market across Kansas. There will be no charge for registration and requires the Kansas Secretary of Agriculture to maintain a list of all registered entities for dissemination to the public. KDA will be the registration authority for all farmers' markets in Kansas. KDA is allowed to apply for any federal, state, local, private grants or funding opportunities that will assist in the creation or promotion of farmers' markets in Kansas. The bill also provides limited liability for farmers' markets.

KANSAS REVENUE CHALLENGES

The Consensus Estimating Group met yesterday to revise the State General Fund estimates for FY 2013 and FY 2014. The good news is that a significant recessionary reduction in revenues for 2013 or 2014 was not realized. The bad news is that the individual income tax reductions passed last year are taking hold and resulting in a significant tax revenue decline from \$6.2 Billion in 2013 to \$5.45 Billion in 2014. The Kansas Legislature left - till the veto session on May 8 - key decisions on future tax policy and the 2014 State budget. This Group will issue new projections next November that will factor in the tax & revenue changes made in the May veto session.

The \$755 million revenue reduction between 2013 and 2014 come primarily from changes in individual income taxes and the sales tax. For individual income taxes, the revised number for 2013 is \$2.850 Billion while for 2014 it drops to \$2.400 Billion – a loss of \$450 million. There is still some uncertainty over the exact cost of eliminating income taxes from the non-wage income of sole proprietorships, subchapter S corporations and limited liability corporations (LLC's). By existing law, the state sales tax is slated to decrease from 6.3% to 5.7% on July 1. The revenue from the sales tax will decline from \$2.190 Billion in 2013 to \$1.920 Billion in 2014 – a decline of \$270 million. The severance tax from expanding oil and gas development increases from \$100 million in 2013 to \$132 million in 2014 but cannot compensate for the sales and income taxes.

The big picture is the disparity between 2014 revenues of \$5.454 Billion and the 2014 State Budget that will be right at \$6.0 Billion – a difference of almost \$450 million. While the Governor will veto any increases in income tax rates, he is lobbying hard for the Kansas Senate tax package that makes permanent the 6.3% thus bringing in \$270 million more in sales tax. The 2014 State Budget of \$6 Billion assumes an ending balance of \$450 million that may have to be reduced to find that right balance between revenues and spending. These revenue estimates do not include the funding that goes into the State Highway Plan. The Governor and the Kansas Legislature is tapping the State Highway Plan for around \$140 million to pay for school transportation costs.

It is possible to lower ending balances, divert money from the State Highway Fund and probably retain a portion of the state sales tax to patch together the 2014 State Budget. The projection for the 2015 State Budget is an increase to \$6.2 Billion – \$200 million over 2014. The Governor's plan is to eliminate the individual income tax by 2018. The tax debate in the May 8 veto session will be over the options and process to eliminate the income tax. For several decades, Kansas government was funded with balanced revenue sources of property, sales and income taxes. The experiment is on to eliminate income taxes and pray that significant, increased economic growth will fill in the gap while state funding for education, health care and social services will be frozen or further reduced. Our taxes will become far more regressive as the dependence on the sales and property taxes increases and our Kansas' 'quality of life' decreases.

From the Blog of the Kansas Health Institute (KHI)

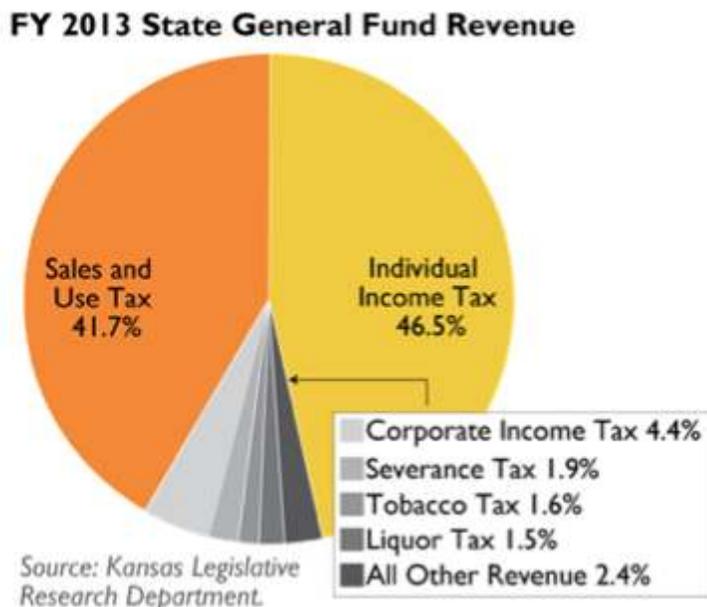
IF THE INCOME TAX GOES TO ZERO, HOW DOES THE STATE RAISE MONEY?

By [Duane Goossen](#)

March 20, 2013

In his State of the State address in January, Gov. Sam Brownback announced that Kansas was on a path to a zero income tax. As policymakers debate whether to support the governor's proposed direction, they should give serious consideration to the question: If state policymakers eliminate the income tax, how will Kansas fund its government? The elimination of a major tax may help produce economic growth or new jobs, but how will that growth translate into adequate funding to pay for key government services?

The chart below shows the current sources of State General Fund (SGF) revenue, which totals \$6.2 billion.



Almost half of SGF comes from the individual income tax. If the \$2.8 billion received from individual income tax goes to zero, how will that revenue be replaced? Consider four options:

Option 1: Replace with a sales tax. To make up for the loss of income tax revenue, sales tax receipts must more than double. For that to happen, Kansans must buy more than twice the amount they currently purchase, the sales tax rate must more than double, or the sales tax must be applied to many more things, such as professional services, pharmaceuticals and farm machinery. Even if every penny of the \$2.8 billion Kansans now remit for the income tax were instead spent to purchase something subject to the Kansas sales tax, that would only raise \$176 million in new sales tax receipts.

Option 2: Let property tax cover the bills. Kansas currently collects a 20-mill statewide levy for schools that raises about \$560 million. Although the proceeds from this tax do not pass through the state treas-

ury or the SGF but stay with the local school district, another 100 mills statewide on top of the 20 would about cover the loss of the income tax.

Option 3: Use oil and natural gas tax revenues. A number of no-income-tax states — Texas, Wyoming, Alaska — use this option, but it’s not realistic here. Kansas already collects a severance tax on oil and natural gas that raises a bit more than \$100 million, but even doubling or tripling the severance tax would not begin to replace the lost income tax revenue.

Option 4: Do not replace the tax; cut spending instead. Kansas spends more than 89 percent of SGF revenue on education and human services: 50.0 percent on the public school finance formula, 12.3 percent on higher education, 19.5 percent on the state share of Medicaid and 7.3 percent on other human services and state hospitals. A decision to not replace the income tax revenue would dramatically lower education and human service budgets.

The governor and other supporters of a zero income tax have not identified how income tax receipts might be replaced other than to suggest that economic growth will somehow take care of it. Even if growth does occur, some kind of mechanism must be in place to collect income for the SGF. How will it work? What tax will be used to collect revenue? Answers to these questions must be outlined in some detail if policymakers are to make a realistic decision about adopting a zero income tax policy.

Richard Crowson’s political cartoon below is in honor of State Insurance Commissioner, Sandy Praeger, who was the keynote speaker at our Local Annual Meeting on April 20th.

