

Legislative POLICY GUIDE



2019

Five issues critical to the
economic and educational
future of Kansas

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INSTITUTE



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Legislative Policy Guide

The 2019 Legislative Policy Guide is intended to provide educational information about broad economic and education issues that are important to the citizens of our State. It is the product of nonpartisan analysis, study, and research and is not intended to directly or indirectly influence any piece of legislation or executive action.

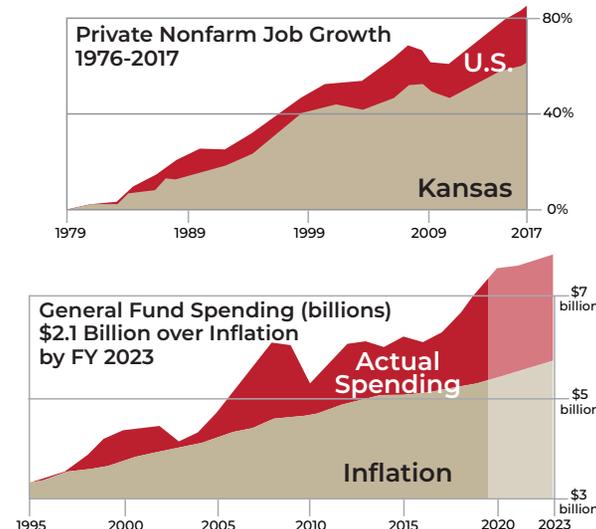
Five issues were selected for their economic and educational importance to the future of Kansas, but are not listed in any particular order:

1 Resolving the budget crisis and stagnant economy

Calculations by Kansas Legislative Research Department in December 2018 showed more than a \$1 billion revenue shortfall over the next four years, and that's after factoring in a large state income tax hike caused by changes in federal tax law. KLRD's estimate assumed no money transferred from the highway fund, making KPERS payments on time, and keeping the required ending balances on hand. The only new spending is for social service caseloads and the estimate for satisfying the Supreme Court on school funding.

Claims that spending can be increased for Medicaid and other new proposals without tax increases only consider a single year of spending and include 'gimmicks' like continually transferring hundreds of millions from the highway fund and deferring KPERS pension payments; Governor Kelly's KPERS proposal is estimated to increase long-term costs by about \$7 billion.

The purpose of these 'gimmicks' is not to restore government, but to further increase record-setting spending. Kansas is in its fourth consecutive decade of economic stagnation and more tax increases would only make a weak economy worse.



Legislators' options to create long term budget stability without tax increases include (but are not limited to) ignoring the court's call for additional funding, rolling back some of the planned school funding increases, requiring school districts to use some of their excess cash reserves, and reduce costs through the performance-based budgeting system.

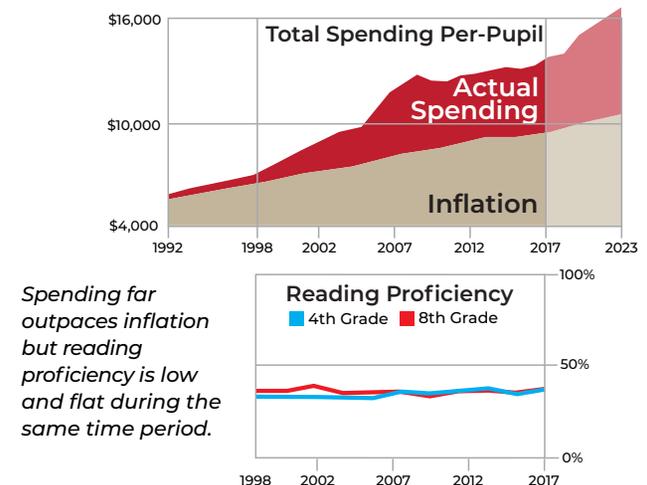
Questions to Consider

- ▶ Should Kansans be subject to a back-door income tax increase due to federal tax law changes?
- ▶ Should any type of tax increase be imposed on Kansans?
- ▶ What specific actions should be undertaken to close a \$1 billion revenue shortfall over the next four years resulting from school funding increases?

2 Solving the school funding/ student achievement puzzle

Contrary to claims by education officials, simply spending more money has not produced better achievement in Kansas or anywhere else. Reading proficiency levels on the National Assessment of Educational Progress (NAEP) increased from 35 percent to 37 percent over the last two decades, while spending during this time was 35 percentage points above inflation-adjusted levels. Kansas students' average score on the ACT test is slightly lower than it was 20 years ago, and only 29 percent of those taking the test last year were considered college-ready in English, Reading, Math, and Science.

The Kansas Department of Education estimates complying with court rulings will push funding to \$16,520 per-pupil in four years, even with no increase in federal aid and minimal gain in local funding; that's more than \$6,000 per-pupil above long-term inflation.



Spending far outpaces inflation but reading proficiency is low and flat during the same time period.

Barely half of school spending is allocated to instruction. Much of the rest is spent on functions that could be more efficiently provided by regional service centers (payroll, food service, transportation, purchasing, etc.), with the savings put into classrooms to improve student outcomes.

Questions to Consider

- ▶ Is it a good idea for out-of-the-classroom costs (administration, building operations, transportation, etc.) to be provided on a regionalized basis or as a way to create greater efficiency?
- ▶ Since massive funding increases to schools alone do not improve student achievement, should school choice be expanded to allow students to attend a different school that better conforms to their educational needs?

3 Medicaid expansion

Since the U.S. Supreme Court ruled in *NFIB v. Sebelius* in 2012, the decision to expand Medicaid (taxpayer-funded health care to low-income Americans) has been left to state governments. Kansas is one of 14 states that have not expanded coverage to able-bodied working-aged adults. This topic has been hotly debated in Topeka since 2012 and an override attempt failed when Medicaid expansion was vetoed in 2017.

The Kansas Health Institute estimates that the 10-year cost to Kansas taxpayers to expand Medicaid would be \$1.1 billion for the state budget and almost \$10 billion in federal spending (which all must be borrowed and paid back with interest). But many expansion states saw actual expenditures far outpace estimates. Kentucky saw costs exceeded estimates by \$3.3 billion in just two and a half years, Ohio is already \$4.7 billion over budget, and other states have similar experiences. The state of Louisiana, an expansion model noted by Governor Laura Kelly, underestimated enrollment by 100,000.

These estimates also assume that the federal government can honor their promises to fund expanded Medicaid at a 90% rate. Even the Obama Administration floated the idea of lowering federal matching dollars.

Studies show Medicaid patients tend to experience health outcomes worse than those under private insurance after adjusting for economic, admission and other factors and are controlled for income status. A *New England Journal of Medicine* study could not find a statistically significant difference in health outcomes between Medicaid expansion patients and those with no health insurance at all.

Since state spending already exceeds tax revenue, the cost of Medicaid expansion would likely crowd out spending on other

state spending priorities (i.e., education, transportation) or ultimately lead to a bigger tax increase.

Health care does need to be more affordable and accessible to more Kansans. Changing the rules on association plans and short-term health plans could accomplish those goals.

Questions to Consider

- ▶ Can Kansans reasonably expect the federal government to honor long-term promises of generous matching dollars?
- ▶ Should legislators look at ways to make health care more affordable and accessible without spending more taxpayer money?
- ▶ If Kansas expands Medicaid, should it be paid for with higher taxes or cuts to other government programs.
- ▶ Should taxpayers pay for health care for able-bodied, working-age adults?

4 Protecting worker freedoms

In *Janus vs AFSCME*, the U.S. Supreme Court ruled public employees cannot be compelled to pay union dues because it violates their First Amendment right to free speech. Kansas is a right-to-work state so public employees can opt out of paying dues or even joining a union, but teachers and other public employees have sometimes been told they can only opt out on certain dates. Even if dates for opting-out are specified in a union agreement, a person's constitutional right is absolute and cannot be limited to certain dates.

Most public employees who belong to a union have never had a say in which union represents them, or whether they even want to be represented by a union. The union was already there when they became employed. Workers do have a right under Kansas law to not join, but there is a lot of pressure to join. And because unions have a monopoly on worker representation, even those who aren't members are forced to comply with the terms imposed through union representation. To vote a union out (called decertification), at least 30 percent of workers must sign a petition to hold an election, and discomfort with public exposure can make it difficult to reaching that threshold.

Questions to Consider

- ▶ Should state law be modified so that public employees may quit a union and stop paying dues upon submitting written notice?
- ▶ Should public employees be allowed to vote annually to decide whether they want to retain their union?

5 Amending constitution to prevent courts from setting school funding

The Kansas Supreme Court's latest ruling that a six-year, \$854-million funding increase is inadequate has renewed talk of amending the constitution. Separation of powers is fundamental to our constitutional republic, and the Kansas Supreme Court itself has made two critical findings that explain why courts cannot set funding levels.

Its 1994 ruling in *USD 229 v. State of Kansas* declared that "suitable provision for finance" in the Kansas constitution does not refer to a level of funding, but to a system of finance which, as stipulated in the constitution, may not include tuition. "Adequate" isn't part of the constitutional language on education; that adjective was created by courts.

And in 2015, the court found the Legislature's attempt to allow local judges to elect their own chief judge unconstitutional. The court said the Legislature violated the court's constitutional authority and quite emphatically said it is the duty of the judicial, legislative and executive branches "... to abstain from, and to oppose, encroachments..." on their authority.

Since the Kansas constitution vests authority to spend money solely with the Legislature and the 1994 court said the constitutional meaning of "suitable" doesn't reference a level of funding, those proposing a constitutional amendment believe they are honoring the system of checks and balances and upholding the rule of law and constitutional intent.

Finally, even if the Legislature adds more money and satisfies the court on adequacy, it's just a matter of when the next lawsuit is filed. The Legislature's cost study with its \$2 billion recommendation is a ticking time bomb, and school attorneys won't hesitate to exploit it.

Questions to Consider

- ▶ Do you believe courts or elected legislators should establish school funding levels?
- ▶ Should the constitution be amended to stipulate that courts have no authority to determine whether school funding is adequate or whether it should be increased?
- ▶ Do you believe taxpayer money should be used to sue the state or the legislature for more money?



Kansas Policy Institute is a nonprofit education and research organization. KPI was founded in 1996 and maintains offices in Wichita and Overland Park. We engage citizens and policy makers with research and information to enact public policy solutions that protect the constitutional right to freedom of all Kansans, give them greater access to better educational opportunities, and allow them to keep more of what they earn. Protecting and promoting freedom will improve everyone's quality of life, make Kansas more competitive with other states, and attract new citizens and businesses.