

Weekly Legislative Report -----Kansas Legislature 2019

Weekly Legislative Report, February 1st

This week started off slow on Monday but quickly picked up pace surrounding two headliner issues of the 2019 Legislative Session. The Senate is now on its way to debate the “federal windfall” tax bill, and the Governor’s Medicaid expansion and budget bills have officially been introduced into committees.

Federal Tax Decoupling Bill Passes Senate Committee

The new Senate Select Committee on Federal Tax Code Implementation held three days of hearings this week before passing [Senate Bill 22](#), which returns roughly \$192 million back to taxpayers this fiscal year as a result of federal tax changes enacted in 2017.

Because Congress raised the standard deduction to \$24,000 for families and \$12,000 for individuals, fewer people are likely to itemize on their taxes this year. Currently, Kansans are not allowed to itemize on their state tax return unless they itemize on the federal level. And because Kansas is a rolling conformity state, SB 22 is needed to decouple from the Federal Tax Cuts and Jobs Act to allow Kansans the option to itemize.

But what garnered the uptick of media attention this week is the provision in the bill that would also decouple Kansas from the federal tax code allowing multinational corporations to bring home income earned overseas without being taxed. Kansas companies like Cargill, Seaboard, and Spirit AeroSystems testified that SB 22 would incentivize them to return foreign dollars that have remained overseas for decades to reinvest in jobs for more Kansans.

Because the Kansas Department of Revenue is still unsure of the fiscal impact to their revenue estimates from last year, some lawmakers – including Governor Kelly – are opposed to moving forward with any significant tax bill this early in the Session.

Significant Dates and Events

February 11th

Deadline – Non Exempt
Committee Bill request

February 13th

Deadline – Member Bill
Introduction

February 15th

Deadline – Committee Bill
Introduction



The full Senate is expected to debate and potentially vote on SB 22 next Wednesday. The key will be whether or not it can receive the 27 votes needed to override an expected veto by the Governor.

As far as the “old” Senate Tax Committee whose room and time slot were taken over by this special panel, expect to see them return to their original programming. The Committee has several property tax briefings on their agenda next week.

Internet Sales Tax Projected Revenue Deflated

The House Tax Committee on Monday held an informational briefing by the Kansas Department of Revenue regarding the fiscal impact on collecting sales tax on internet transactions in Kansas. Interim Secretary Mark Beshears testified before the committee that prior estimates of up to \$75 million in additional revenue to the state are now more like \$30-\$40 million, generously.

After the Supreme Court’s ruling in *Wayfair vs. South Dakota* this summer, states are now looking to pass laws requiring internet retailers to collect and remit sales tax if they have a physical, economic, or sales presence in a particular state.

Beshears gave the committee several recommendations of provisions that the Tax Committee should include in their legislation to likely establish constitutionality with the courts. Those include setting a de minimis threshold on the number of transactions, making the law prospective not retroactive, and requiring retailers to be members of the streamline sales tax agreement. It was also determined that a separate bill would be required to capture sales tax on 3rd party marketplace facilitators like Amazon and eBay, which would be the bulk of the estimated revenue projection.

Medicaid Expansion Bills Introduced

Governor Kelly’s Medicaid expansion bills were officially introduced in both the House and Senate on Tuesday. [Senate Bill 54](#) and [House Bill 2101](#) would expand the state’s Medicaid system, KanCare, to roughly 150,000 Kansans under the age of 65 and below 133% of the federal poverty level. The Administration’s bills are similar to the legislation passed by the Legislature but overridden by Governor Brownback in 2017.

Both House and Senate leadership are outspoken in opposition to expanding Medicaid in Kansas, arguing that any current federal funding is likely to drop off and leave the state with a huge financial burden in future budget years. Even with a Democratic Governor, attempts to move expansion bills through the committee process have never been easy, and this year will be no exception.

SB 54 is in front of the Senate Committee on Public Health and Welfare, while HB 2101 was referred to the House Appropriations Committee. Neither bill has a scheduled hearing date at this time.

Association Health Plan Bills Heard

The House Insurance and Senate Financial Institutions and Insurance Committees held hearings on ten bills dealing with Association Health Plans (AHPs) this week. As previously reported, because AHPs were recently approved by the federal government under the Affordable Care Act, states are now looking at creating these small group programs for people either not eligible for health insurance by their employer or as another alternative outside of the federal exchange. The Kansas Insurance Department testified as neutral during the hearings.

Below is a running list of AHP bills being considered this year and their current status:

- [Senate Bill 32](#) – Adds the Kansas Farm Bureau to the list of exempted associations from insurance regulations. SB 32 was heard on Tuesday and Wednesday and is expected to be worked next week.
- [House Bill 2056](#) and [Senate Bill 34](#) – Exempting AHPs from Small Employer laws. HB 2056 was heard on Wednesday. SB 34 is scheduled for a hearing next Tuesday.
- [House Bill 2053](#) and [Senate Bill 35](#) – Short term, limited duration health plans. HB 2053 is scheduled for a hearing next Monday. SB 35 is scheduled for a hearing next Wednesday.
- [House Bill 2055](#) and [Senate Bill 36](#) – AHPs subject to certain Kansas Insurance Department (KID) jurisdiction. HB 2055 was heard on Monday. SB 36 was heard on Wednesday.
- [House Bill 2057](#) and [Senate Bill 33](#) – Small Employer laws. HB 2057 was heard on Wednesday. SB 33 was heard on Thursday.
- [House Bill 2054](#) and [Senate Bill 29](#) – Requirements of fully-insured AHPs. HB 2054 was heard on Monday. SB 29 was heard on Wednesday.
- [House Bill 2058](#) and [Senate Bill 30](#) – Small Employer Health Plan. HB 2058 was heard on Wednesday. SB 30 was heard on Thursday.

Sports Betting Subcommittee Named

On Wednesday, the House Federal and State Affairs Committee held two informational hearings regarding sports betting in Kansas. [House Bill 2068](#) creates the Sports Wagering Act, and [House Bill 2032](#) would require that sports gaming be operated and managed solely by racetrack gaming facilities. Chairman John Barker (R-Abilene) appointed a panel to study the issue, with hopes of bringing all interested parties together on compromise legislation.

Economic Incentive Programs to be Reviewed

The House Committee on Commerce, Labor and Economic Development received an informational briefing on Monday from the Interim Secretary of Commerce, David



Tolland, regarding economic development incentives currently available to businesses in Kansas. These include: Sales Tax as Revenue (STAR) Bonds, the High-Performance Incentive Program (HPIP), the Promoting Employment Across Kansas (PEAK) program, Rural Opportunity Zones (ROZ), the Angel Investor Tax Credit, and the Job Creation Fund.

Governor Kelly has charged the Department of Commerce (DOC) to complete a thorough review and analysis of these economic development programs this year. Tolland reported to the committee that Kansas saw \$1.7 billion in total investment from business recruitment and expansion programs in 2018. He also stated that due to agency budget restraints, there is a three to four-month backlog on reviewing applications to Kansas' incentive programs.

The Committee also held a hearing on [House Bill 2006](#) on Thursday, which would require the DOC to collect data on state economic development initiative benefit recipients, of \$50,000 or more annually, and place that information on a public database. In addition to economic development programs, such reportable benefits would also include tax credits and property tax exemptions.

The intent of the bill is to provide the public the ability to see how and where these tax dollars are used, and the total return on the investment. The website would not include information that was deemed confidential under the economic development programs. Chairman indicated that he'd like to work the bill soon.

Utility Study Discussions Continue

The Senate Utilities and House Energy, Utilities and Telecommunications Committees held informational briefings on Tuesday, hearing from representatives of Kansas City Power & Light (KCP&L) and Westar – now merged as Evergy – on a rate study they conducted comparing Kansas' rising energy costs with surrounding states.

Chuck Caisley, Senior Vice President, Marketing and Public Affairs for Evergy, reported that energy costs were flat between 2000 and 2007 and then ballooned through 2017. But while rates have indeed increased in recent years, annual growth has been below the rate of inflation during periods of no utility infrastructure investment, and Westar has one of the lowest Return on Equity (ROE) rates in the country at 9.3 percent.

Bill Number	Bill Sponsor	Bill Subject	Current Status	Last Action	Notes
SB 9	Molly Baumgardner, R-37th	Authorizing the transfer of \$115,000,000 from the state general fund to the Kansas public employees retirement fund during fiscal year 2019	On General Orders in Senate	01/30/2019 - Senate Committee Report recommending bill be passed, by Ways and Means	
SB 13	Caryn Tyson, R-12th	Increasing and allowing Kansas itemized deductions, allowing individual expensing deduction, providing for certain income tax credits, allowing rural opportunity zone for certain counties, extending certain counties countywide retailers' sales tax, providing for sales tax definitions and exemptions for certain sales	In Senate Federal Tax Code Implementation	01/18/2019 - Senate Withdrawn from Assessment and Taxation; referred to Federal Tax Code Implementation	

SB 22	Senate Federal and State Affairs Committee	Kansas itemized deductions, election, providing for deferred foreign income, global intangible low-taxed income, business interest, capital contributions and FDIC premiums income tax modifications	On General Orders in Senate	02/01/2019 - Senate Committee Report recommending bill be passed as amended, by Federal Tax Code Implementation	
SB 47	Senate Assessment and Taxation Committee	Creating the student opportunity scholarship program	In Senate Education	01/25/2019 - Senate Referred to Education	
HB 2005	Elizabeth Bishop, D-88th	Allowing an individual to itemize deductions in Kansas despite not itemizing on their federal return	In House Taxation	01/15/2019 - House Referred to Taxation	
HB 2100	House Financial Institutions and Pensions Committee	Providing a post-retirement benefit increase (COLA) for certain KPERS retirants	In House Financial Institutions and Pensions	01/30/2019 - House Referred to Financial Institutions and Pensions	