



Community Bankers Association of Kansas

2020 Legislative Session Update

February 24, 2020

Overview

- We have concluded the last week of regular committee meetings for the first half of the 2020 Session. This week bills will be advanced to the full House and Senate for debate and possible action. All non-exempt bills, which are most bills, must pass out of their chamber of origin before the mid-point, or “turnaround.”
- The Legislature will take a brief break after the 27th and return to work on March 4th.

Big Picture Issues

- Divisiveness continues, as Medicaid Expansion comes to an impasse and more committees fail to recommend the Governor’s various Executive Reorganization efforts. Governor Kelly’s plans to reorganize social services and create a state energy policy office will both likely be killed this week.
- From polkas and plastic bags to Tobacco 21 and taxes, the last weeks up to turnaround have been the busiest yet as committees furiously work to move bills out of committee to their full chamber for debate this week.
- After little movement on Medicaid Expansion in the last couple weeks, the fight to expand KanCare flared up again last Thursday. The Senate Public Health Committee made several amendments to the bill, before ultimately failing to pass it out of committee. The amendments included a religious/conscience protection act and a participation/work requirement outlining postsecondary coursework and/or part-time work and volunteering. Another amendment would have made expansion contingent upon passage of the constitutional amendment on abortion that failed in the House several weeks ago, as well as a U.S. Supreme Court ruling on the constitutionality of the ACA. Furthermore, all the amendments would have been non-severable, meaning invalidation of any one provision would cancel the entire law if passed. Ultimately, the bill was not recommended for passage to the full Senate and remains in committee.
- Budgets and Revenue
 - The budget and tax committees, both of which are exempt for deadlines, continue to work. The House and Senate tax committees are beginning to push tax bills out of committee this week and next. The budget will not be resolved until mid-March.

Financial Institution Issues

Senate Bill 259: Privilege tax deduction

- Currently awaiting action on the Senate floor this week. The bill should be debated between Tuesday and Thursday this week. If it passes, it will move over to the House for more hearings during the month of March.
- 2019 session KBA introduced SB 258 and SB 259. Neither bill had a hearing during the 2019 session. SB 258 imposed the privilege tax on credit unions and SB 259 reduced some privilege taxes on financial institutions.
- Fall 2019 interim committee work. Following contentious hearings in October before a joint House and Senate Financial Institutions Committee, the Committee chose to not advance SB 258 that imposes financial institutions privilege tax on credit unions compared to SB 259 that reduces a portion of the financial institutions' privilege tax in an attempt to equalize the ability to lend and compete with credit unions that do not pay state taxes on income. During the hearing credit unions made it clear they would not allow a bill that does not impact their business, SB 259, to proceed without opposition.
- Senate Bill 259 was heard in the Senate Financial Institutions and Insurance Committee over three days of hearings in mid-January.
- The committee sought to accommodate credit union demands for some changes to their benefit and the committee added an expanded field of membership for credit unions to the base bill. The change conforms to and does not exceed federal law, so credit unions do not gain a competitive advance beyond that already allowed by federal law.
- It is likely the bill in its current form will pass the Senate this week and face an equally vigorous debate in the House after the turnaround break.

Linked is a [current copy of SB 259](#), as amended by the [Senate committee](#), and includes the compromise language:

“SB 259, as amended, would amend field of membership requirements placed on state-chartered credit unions to increase the permissible geographic area for a credit union’s field of membership. In addition, the bill would permit national banking associations, state banks, trust companies, and savings and loan associations, for all taxable years commencing after December 31, 2019, to deduct from net income the net interest income received from business loans attributed to Kansas and the net interest income received from single family residence loans to the extent such interest is included in the Kansas taxable income of a corporation.”

Update on State tax policy

No tax bills have passed this session, but there is lots of action in several areas: sales tax, income tax, property tax, and local government taxing authority.

Internet sales tax and digital services taxes

- A variety of bills have been introduced that will allow the State to collect sales tax or compensating use tax on internet purchases as well as a sales tax on internet services like Netflix.

- Resolution of internet sales tax is progressing better than the internet facilitators like Netflix.
- No bill has passed either chamber yet, but one key issue is ensuring the tax does not impact very small businesses by setting a minimum threshold for out of state internet sales. The Governor during the 2019 interim attempted to set guidelines with no minimum sales threshold to the objection of the Attorney General. The AG is supporting a House bill that would set a new minimum threshold for out-of-state internet sales tax collections conforming to the 2018 *Wayfair v South Dakota* decision. He supports tax policy on sales tax collections from out-of-state businesses with more than \$100,000 in sales or 200 or more transactions in the state.
- The administration disagrees and attempted to collect internet sales taxes without setting a minimum sales threshold. They argue a threshold of \$100,000 could cost the state about \$10.5 million in revenue. Nonetheless, the Legislature is pursuing internet sales tax based on the Attorney General's recommended \$100,000 threshold.

Income tax issues advancing

- Meanwhile, the discussion about income taxes continues, with House Tax taking the lead.
- The House Taxation committee is pursuing income tax measures: House Tax Committee passed to the full House HB 2538 that increases the standard deduction. HB 2538 raises the standard deduction to \$8,000 from \$7,500 for married couples and to \$4,000 from \$3,000 for single filers. The standard deduction for head of household would increase to \$6,000 from \$5,500. Increasing the standard deduction without the cost-of-living adjustment reduced the cost of the bill to about \$109 million over three years compared to \$148.8 million.
- HB 2005 allows Kansas taxpayers to itemize on their state returns if they didn't itemize on their federal returns. HB 2005, the itemized deduction bill, is intended to deal with the so-called revenue windfall that the state gained as a result of changes made in the federal tax code in 2017. This issue was addressed twice during the 2019 session and Governor Kelly vetoed legislation that included provisions allowing Kansans to itemize even if they took the standard deduction on their federal return. The bill, however, addresses personal tax itemizations but not the more expensive and complicated corporate provisions tackling repatriated income.
- Without changing the law, the state stands to gain millions from a change in the federal tax code that encourages taxpayers to take a generous standard deduction on their federal return rather than itemize. Taxpayers are less likely to itemize on their federal returns after Congress raised the standard deduction to \$24,000 for families and \$12,000 for individuals.
- Changing the law for itemized deductions would cost the state about \$60 million. The number of Kansans who itemized last year dropped in the current tax filing year; itemized filers were down by about 50 percent.
- Republican Rep. Steven Johnson, chairman of the House Tax Committee, is building up a variety of income tax bills, debating and passing them on the House floor to eventually meet in conference committee later at the end of the session. Meanwhile, the Senate is working on property tax issues.

Property taxes

The Senate Taxation Committee has been focused on property tax-related issues. The Senate is seeking to remove the local government property tax lid that began in 2015, after many have begun to question its effectiveness. The committee is emphasizing transparency and attempting to manage the appraisal process.

Changing the local government tax lid

- SB 294: Creates public notice and public hearings requirements regarding the tax levy and extensive procedures if the tax levy is ever considered for an increase.
- Repeals the current tax lid on local government tax growth beyond an inflationary cap each year.
- SB 294 removes the cap but implements notification and hearing procedures to increase local revenue.
- Instead of allowing increased assessed valuation to be gained under a current mill levy, the proposal would require any increase in the amount of revenue raised to be handled through published notification of citizens, a public hearing, and a vote confirming the city budget.
- In the Senate awaiting action.

Appraisal changes

- Senate Tax Committee is looking at many ways to gain control over what they believe are out of control appraisal processes.
- Property Tax Bills: A variety of bills related to property taxes and the Board of Tax Appeals training, procedures, and evaluation criteria have been introduced in the Senate. Of particular note are:
 - SB 301: Move appraisal to three-year cycle. Hearing in Senate Tax 2/19.
 - May still pass to full Senate by Monday.
 - SB 295: Maintenance improvement of property cannot be the cause to increase appraisal.
 - Passed out of committee, in Senate awaiting action.
 - SB 272: Prohibit BOTA from increasing valuation above appraisal during appeal.
 - Passed out of committee, in Senate awaiting action.

Other related issues

Defeat of the Governor's plan to amortize future KPERS payments.

- For the second year the Governor announced a plan to amortize the KPERS unfunded liability. After several years of underfunding, the liability payments have increased and the governor proposed to pay over \$500 million in KPERS obligations, saving \$200 million in interest payments. The cost, on the other hand, would extend the 25-year payment period by 15 more years at a cost of \$4.4 billion.
- The Legislature has taken no action to consider the Governor's proposal.

A new 10-year state highway plan

- KDOT is moving away from their precedent of a 10-year transportation plan and is instead embracing a more adaptive transportation plan that is responsive to the rapidly changing nature of transportation technology and trends. Instead of a plan that accounts for all projects up front, the plan will be updated every two years to include new projects. The new rolling model will accommodate a variety of projects, from rural rail projects to urban bike and pedestrian initiatives and projects involving drone technology. Over the next decade, KDOT plans to spend a minimum of \$8 million in each county on various projects. One of the department's biggest concerns is protecting the transportation fund from transfers.
- The next 10-year plan is called FORWARD and took shape following two years of interim work. There is significant pressure to fund first the outstanding balance of unfinished projects from the last T-Works plan costing \$500 million. The current cost for the new plan is \$1.2 billion and is estimated to spend a total of \$10 billion over the next decade. The transition to a rolling 2-year plan versus a stagnant 10-year plan will help to safeguard funding for the program.
- FORWARD House Bill 2588: New comprehensive 10-year highway plan.
 - Hearing in House Appropriations 2/18 and Senate Ways & Means 2/18-2/19.
 - Kansas Contractors remain neutral over disagreements with KDOT over alternative delivery and tolling projects. KCA's concern is that bonded projects will be prioritized, but if revenues are lost through the course of the program, funding for preservation work is lost.
 - Funding issues up for debate include a motor fuel tax, tolling, and preservation of the highway fund from raise by the Legislature and Governor.
 - Bill to be worked after Turnaround.

Renewal of the State's largest economic development program

- STAR Bonds Renewal: House Bill 2529.
 - House version of renewal with expansion of projects, including medical and business facilities.
 - Hearing in House Commerce 2/17.
 - Senate version introduced 2/19. Will be worked after Turnaround.

Please let us know if you have questions.

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