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Kansas Legislative Report
January 31 – February 4, 2022

A winter storm cut the week short for the Kansas Legislature. Most legislators went home Tuesday night to beat the snow, with only a few House committees meeting on Thursday. The snow days will put strain on committees next week to hear and work bills. The Turnaround deadline is quickly approaching on February 24.

House Committee Reworks Mega Bill

The House Commerce Committee met on Thursday to consider the $4 billion new development incentive to attract an undisclosed manufacturing facility to Kansas. Only a few lawmakers that have signed nondisclosure agreements are aware of the company.

The Secretary of Commerce touts this as the largest private-sector investment in Kansas history. The project is expected to bring 4,000 jobs and includes a new 3 million square foot plant, the biggest in the state. Kansas is one of two states currently being considered for the project. An announcement is expected by early March, so lawmakers are rushing to get a bill passed.

House members were very critical of the Senate's Bill, SB 347, particularly a $50 million/year provision ratcheting down of the corporate income rate that Senators added to the economic development package. A new proposal was presented that provides a one-time 0.5% corporate income tax rate cut each time a project comes to Kansas under the new incentive program.

Other changes include:

- Restoration of the refundability of an investment tax credit up to 15% of the business' investment over ten years. The Governor's original proposal had it for only three years, and the Senate's bill eliminated the refundability measure all together.
- Reduction of the tax credit for suppliers of the primary business from 15% to 10% and refundability of the tax credit on their first $50 million in capital investment. The original bill did not have a minimum investment.
- Allowing local governments to decide how much of a property tax abatement the project would receive up to 10 years. The original bill called for a 50% of property tax abatement if the company located within a federal trade zone.

- Sunset of two years as opposed to the Senate's one year sunset. The Governor originally proposed five years.

The House Commerce Committee, chaired by Sean Tarwater, Overland Park-R, is expected to work the bill on Monday with floor action as early as Tuesday.

Senate Hears Food Sales Tax Proposals
The Legislature continued the debate on the Governor's food sales tax elimination proposal. The Senate Assessment and Taxation Committee took their turn at hearing two similar bills on Tuesday that would both provide a 0% state tax rate for sales of food and food ingredients, while still allowing cities and counties to levy local taxes. The bills would also discontinue the nonrefundable food sales tax credit.

There was much more support for Senate Bill 339, which would exempt food and food ingredients, including food sold at restaurants, from state retail sales and compensation use tax beginning on January 1, 2023. Food and food ingredients would not include alcoholic beverages or tobacco but would specifically include bottled water, candy, dietary supplements, food sold through vending machines, prepared food (food sold at restaurants), and soft drinks. The Governor's proposal, Senate Bill 342, would not include restaurant prepared food and extends the sales tax exemption for farm products sold at a farmers' market.

An overwhelming opinion amongst Republican leadership and many legislators is that less of the state's budget surplus should be used toward complete elimination of the food sales tax and rather toward buying down KPERS liability and saved in the rainy-day fund.

Budget Review
The Senate Ways and Means Committee discussed two diverse topics this week: economic development grants and drug treatment programs. The Department of Commerce is looking to start a grant program that would make economic development funds available to local interests. The total price of the grants would be $100 million. While there's interest in this program, the committee chair expressed concern that the Secretary of Commerce would be the sole decision maker and prefers more people have input on who receives the various grants.

The drug treatment program, under the Kansas Sentencing Commission, serves inmates in the prison system. The Commission asked that program funding continue and also noted their workforce shortage and staffing challenges.

The House Appropriations Committee held a few more meetings this week. Its budget subcommittees are plowing thru state agency budgets. The full committee met to review the Kansas Department of Transportation's budget and funding for the Children's Cabinet – a group that creates various youth programs funded with state tobacco settlement money. The settlement dollars are shrinking every year due to lower tobacco sales revenue and recent sweeps to the State General Fund.

We expect a busy week next week for all budget committees that will probably meet Monday through Friday to keep up looming legislative deadlines.

Key Action This Week

The Senate Education Committee passed Senate Bill 340 on Monday, making several **changes to the Kansas Promise Scholarship Act** that went into law last year. The scholarship program is designed to assist Kansas resident students pursuing associate degrees and technical education certificates in high wage, high demand industries. Eligible students must live and work in Kansas for at least two years after graduation. SB 340 would further clarify the responsibilities of the State Board of Regents (Board), the responsibilities of postsecondary institutions, and authorize the designation of additional eligible programs and fields of study. No action was taken on a funding cap or sunset, but the committee agreed to further consider them next year. The bill now awaits consideration by the full Senate.

The House Federal and State Affairs Committee passed Senate Bill 181 on Tuesday, a bill from last year that establishes the **Elevator Safety Act** and sets a state regulatory framework for the licensing, inspection, and maintenance of elevators. Elevators used for agricultural and aviation purposes and in wind turbines are currently exempted in the bill. Cities and counties that have equally or more stringent regulation programs already in place are also not covered by the bill. The committee added an amendment before passing the bill that would also grant reciprocity for elevator inspectors and inspection companies that are currently certified in other states. The bill now awaits consideration by the full House.

The Senate Assessment and Taxation Committee passed Senate Bill 326 on Tuesday, a bill that would allow an **income tax credit for qualified railroad track maintenance expenditures of short line railroads** and associated rail siding owners or lessees. The committee first amended the bill to limit the transferability of the tax credit to only direct customers of short lines. The bill heads to the full Senate for consideration.

Looking Ahead

The Senate Financial Institutions and Insurance Committee is expected to act on Senate Bill 335 next Monday. The bill would **exempt self-funded association health plans from the annual state premium tax** that are federally regulated and not under the jurisdiction of the Kansas Insurance Department.

The House Insurance Committee will hold a hearing Monday on SB 199, which provided for **short-term, limited-duration health plan** renewal options to be increased from two years to three years. Proponents of the bill feel these policies offer a less expensive health insurance options since they are not subject to most health care mandates, while opponents argue the limited coverage leave Kansans uncovered and at risk of coverage being cancelled if a serious illness is discovered. Governor Kelly vetoed SB 29, the same bill, last session and there were not enough votes to override the bill.

The House Taxation Committee will hear House Bill 2186 next Tuesday. The bill was introduced last year and would allow the **election to use a single sales factor apportionment of business income** for calculating income taxes. The qualifying taxpayer would be required to have its principal business activity in the following

industries: manufacturing, electricity production or storage, or involved in certain agricultural activities. The election would be effective for the taxable year of the election and the following nine taxable years.

The Senate Assessment and Taxation Committee will hear SB 359 on Tuesday. The bill proposes to expand the eligible uses for the 0% state rate for sales tax for certain utilities, but retains levying authority of sales tax by cities and counties with an authorization for locals to exempt the tax if they chose. The bill was introduced by the Chair, Caryn Tyson, Parker-R.

The Senate Utilities Committee will hear Senate Bill 353 next week, another bill in a series of proposals to further regulate the wind and solar industry in Kansas. This **wind siting bill** would create setback and construction requirements for wind turbines, specify notice procedures for public county hearings, require developers to pay for acoustic noise tests requested by any landowner and retrofit existing turbines to reduce shadow flicker. Proponents will testify on Wednesday and opponents on Thursday for this two-day hearing.

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The House Health and Human Services Committee will hear two **dental bills** next Tuesday. House Bill 2386 would establish requirements for the payment and reimbursement of dental services by a dental benefit plan. House Bill 2545 defines non-covered dental benefits under health insurance plans.