

NEWSLETTERS



KANSAS LEGISLATIVE INSIGHTS NEWSLETTER | MARCH 10, 2023

WEEK 9 REVIEW

The regular 2023 Legislature session is rapidly drawing to a close with only two weeks left for committees to consider non-exempt bills. Major pieces of legislation are moving through the legislative process. The week started with the House K-12 Education Budget Committee hearing SB 83, providing scholarships to attend non-public schools and tax credits for contributions to private schools. The Committee added amendments increasing funding for special education and another requiring school districts to pay inflation-tracking salaries to public schoolteachers at an estimated cost of \$85 million annually. This would be in addition to anything the school districts have already negotiated with their teachers. The bill passed along party lines.

Tuesday, the Senate Federal and State Affairs Committee started two days of hearings on legislation prohibiting investment decisions of government and pension systems based on Environmental/Social/Governance (ESG) principles. Wednesday, Kansas Public Employees Retirement System (KPERS) Executive Director Alan Conroy testified that prohibiting KPERS from ESG investments could cost more than \$3 billion to the fund during the next 10 years because the bill would force divestitures of existing investments and result in overall reduced returns.

On Thursday, the House Utilities Committee approved a compromise bill between Evergy, the Kansas Corporation Commission, and advocates for lower electric rates that addresses cost savings for transmission charges on customer bills. The bill provides more state oversight on how Evergy recovers costs when investing in local transmission projects. The compromise lowers the amount of return on equity Evergy receives from construction of local transmission lines. The compromise is projected to save ratepayers nearly \$11 million initially and \$2 million annually in the future. House Energy, Utilities and Telecommunications Chair Leo Delperdang, R-Wichita, noted it is a step forward for something that affects the entire state. The compromise bill will result in a 47 cent per month residential savings for customers in Evergy's central Kansas territory (former Westar customers) and 30 cent per month savings for Kansas City metro customers (former KCP&L customers).

Thursday, Pat Hubbell, representing the Kansas Railroad Association, opposed a bill limiting freight trains to a length of 8,500 feet. The railroads noted that the length of trains is growing because of the demand for transportation of products. The length of trains is also growing to meet the need to move freight economically and

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responsibly. He noted that shorter trains means more trucks on the road. Proponents note that the shorter trains reduce time while track crossings are closed.

Thursday, the Senate Ways and Means Committee passed its budget bill. The committee identified items that must wait for final consideration until omnibus budget bill discussions begin. The House is expected to finalize its budget proposal early next week.

FLOOR ACTION

Wednesday, House Concurrent Resolution 5005, for a limited national convention for the exclusive purpose of proposing an amendment to the Constitution limiting terms for members of Congress, failed on a 69-54 vote. The Resolution needed 84 votes. There was concern that a convention of states could not be limited to addressing only one issue.

Thursday, the Senate passed HB 2238, creating the Fairness in Women's Sports Act, restricting participation on women's teams to female students. The measure passed 28-11. Gov. Laura Kelly has vetoed similar bills in 2020 and 2021. In February, the House approved the measure 82-40 with several members absent who have supported the legislation in the past. In 2022, the Senate overrode the veto, and the House was three votes short of the needed 84 votes (two-thirds).

Thursday, the Kansas House approved HB 2106, authorizing a \$17 million annual sales tax exemption for telecommunication companies purchasing machinery and equipment with the promise that the tax break would allow for expansion of high-speed internet in Kansas. A floor amendment was added to end the tax break in 2028. The House voted 108-13 to send the bill to the Senate. AT&T and T-Mobile were advocates for the bill. The House also approved HB 2304, concerning standardizing firearm safety education training in school districts. The vote was 78-43.

WEEK 10 PREVIEW

Next week, the House Taxation Committee will hear Senate bills on the flat tax, sales tax on food, exempting Social Security benefits from income tax, and the Kansas Film and Digital Media Industry Production Development Act.

Both chambers will hear marijuana bills. The Senate Federal and State Affairs Committee will hear SB 135, creating the Medical Cannabis Regulation Act. The House Agriculture and Natural Resources Committee will hear HB 2168, allowing hemp fiber, grain, and seeds to be used as food for livestock, poultry, and pets.

The House Appropriations Committee will finalize its budget. The House Elections Committee will take final action on Senate bills addressing advance ballots and write-in candidates.

BILL INTRODUCTIONS AND NOTABLE DEVELOPMENTS

COURTS, LAWS, AND REGULATIONS

HB 2077 – As amended by the House Committee of the Whole, would add requirements for reporting significant cybersecurity incidents by entities maintaining personal information provided by the State or using information systems operated by the State. The bill passed on final action as amended; Yea: 123, Nay: 0. The bill has been referred to the Senate Committee on Ways and Means, Sen. Rick Billinger, Chair.

HB 2388 – As further amended by the House Committee on Commerce, Labor and Economic Development, Rep. Sean Tarwater, Chair, would require licensing bodies to provide verified electronic credentials, in addition to paper-based credentials, to all credential holders and utilize a central electronic record system.

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HB 2455 – Would modify the Kansas business laws in a multiplicity of ways. Referred to the House Committee on Judiciary, Rep. Fred Patton, Chair.

H Sub for SB 83 – As recommended by the House Committee on K-12 Education Budget, Rep. Kristey Williams, Chair, would create the Sunflower Education Equity Act (Sunflower Act) by, among other things, providing for education savings accounts for students.

SB 203 – As amended by the Senate Committee on Ways and Means, Sen. Rick Billinger, Chair, would enact the Kansas Campus Restoration Act for the purpose of reducing deferred maintenance of facilities at state postsecondary educational institutions. This bill would transfer \$240.0 million from the State General Fund (SGF) to the Kansas Campus Restoration Fund.

SB 244 – As recommended by the Senate Committee on Judiciary, Sen. Kellie Warren, Chair, would amend law concerning the prosecutorial authority of the Attorney General. The bill would authorize the Attorney General, concurrently with a county or district attorney, to prosecute any crime, the attempt to commit any crime, or the attempt, conspiracy, or criminal solicitation of any crime when the alleged course of conduct occurs in two or more counties. The Senate Committee of the Whole passed the bill on final action; Yea: 35, Nay: 3.

SB 291 – Would, among other things, enact the Kansas Public Investments and Contracts Protection Act and prohibit the state or a political subdivision from giving preferential treatment to or discriminating against companies based on environmental, social, and governance criteria in procuring or letting contracts. Referred to the Senate Committee on Federal and State Affairs, Sen. Mike Thompson, Chair.

SB 293 – Would credit tax revenue generated by parimutuel, taking 1/3 to the Horse Breeding Development Fund and 2/3 to the Horse Fair Racing Benefit Fund. Referred to the Senate Committee on Federal and State Affairs, Sen. Mike Thompson, Chair.

SB 295 – Would authorize the continuation of the 20-mill statewide levy for schools. Referred to the Senate Committee on Ways and Means, Sen. Rick Billinger, Chair.

SB 301 – Would require annual filing of statements of substantial interest statements by local governmental officers and employees. Referred to the Senate Committee on Transparency and Ethics, Sen. Elaine Bowers, Chair.

SB 303 – Would establish the Kansas Legal Tender Act, reaffirming that gold and silver coins are legal tender and providing an income taxation subtraction modification for gains from the sale of specie. Referred to the Senate Committee on Federal and State Affairs, Sen. Mike Thompson, Chair.

HEALTHCARE AND INSURANCE

HB 2453 – Would enact the Dentist and Dental Hygienist Compact to provide interstate practice privileges for dentists and dental hygienists. Referred to the House Committee on Health and Human Services, Rep. Brenda Landwehr, Chair.

SB 17 – As amended by the House Committee on Insurance, Rep. William Sutton, Chair, would modify requirements for reporting individuals who solicit memberships on behalf of prepaid service plans from semi-annually to annually. The bill would also discontinue payment of annual registration fees.

SB 18 – As amended by the House Committee on Insurance, Rep. William Sutton, Chair, would add “and any other legal entity under the jurisdiction of the commissioner” to the definition of “person” in statute pertaining to insurance laws and enforcement. The change would allow for entities that are currently under the jurisdiction of the Commissioner of Insurance to be more accurately reflected in statute.

SB 26 – As amended by the House Committee on Insurance, Rep. William Sutton, Chair, would amend law relating to the financial documentation demonstrating fiscal soundness that must be submitted by a health maintenance

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organization (HMO) or a Medicare provider organization (MPO) when applying for a certificate of authority to provide health care in the state.

SB 27 – As amended by the House Committee on Insurance, Rep. William Sutton, Chair, would amend provisions in the Uniform Insurance Agents Licensure Act and the Public Adjusters Licensing Act to allow the Commissioner of Insurance to set fees in an amount lower than the maximum amount of fees established in law. The bill would also amend fingerprinting criteria for resident agents.

SB 294 – Would increase state financial assistance to local health departments under specified circumstances. Referred to the Senate Committee on Public Health and Welfare, Sen. Beverly Gossage, Chair.

SB 305 – Would provide for regulation and licensing of massage therapists and prescribe powers, duties, and functions of the State Board of Healing Arts. Referred to the Senate Committee on Public Health and Welfare, Sen. Beverly Gossage, Chair.

TAXATION

HB 2106 – As amended by the House Committee of the Whole, would create a sales tax exemption for the purchase of equipment, machinery, or other infrastructure purchased for use in the provision of internet access service, telecommunications service, or video service and for the purchase of repair, maintenance, and installation services purchased by providers in the provision of such internet access service, telecommunications service, or video service. The House Committee of the Whole passed the bill on emergency final action as amended; Yea: 108, Nay: 13.

HB 2275 – As recommended by the House Committee on Commerce, Labor and Economic Development, Rep. Sean Tarwater, Chair, would make several changes to a tax credit available for certain purchases from qualifying vendors employing individuals with disabilities. Changes would include naming the credit, modifying the duration and extent of the credit, expanding the definition of “individuals with disabilities,” and restructuring and expanding the definition of “qualified vendor” for whom purchases may be made.

HB 2400 – As amended by the House Committee on Commerce, Labor and Economic Development, Rep. Sean Tarwater, Chair, would create the Kansas Adult Learner Grant Act and a workforce retention incentive tax credit and would establish the Kansas Adult Learner Grant Program Fund.

HB 2450 – Would provide a sales tax exemption for the construction or remodeling of a qualified data center in Kansas, the purchase of data center equipment and eligible data center costs, electricity, and certain labor costs to qualified firms that make a minimum investment of at least \$600,000,000 and meet new Kansas jobs and other requirements. Referred to the House Committee on Commerce, Labor and Economic Development, Rep. Sean Tarwater, Chair.

SB 299 – Would provide additional income tax exemptions for unborn children with a detectable heartbeat. Referred to the Senate Committee on Assessment and Taxation, Sen. Caryn Tyson, Chair.

SB 300 – Would decrease the privilege tax rates on banks, trust companies, and savings and loan associations by reducing the normal tax rates. Referred to the Senate Committee on Assessment and Taxation, Sen. Caryn Tyson, Chair.

SB 309 – Would create a sales tax reduction and special fund, the Fixing Revenue Shocks for Taxpayers Fund and Local Extraordinary Needs Fund and would establish the Joint Committee on Local Extraordinary Needs Grants. Referred to the Senate Committee on Ways and Means, Sen. Rick Billinger, Chair.

AGRICULTURE

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HB 2451 – Would allow certain hemp products to be manufactured, marketed, sold, or distributed. Referred to the House Committee on Federal and State Affairs, Rep. Will Carpenter, Chair.

Kansas Legislative Insights is a publication developed by the Governmental Affairs & Public Policy Law practice group of Foulston Siefkin LLP. It is designed to inform business executives, human resources and governmental relations professionals, and general counsel about current developments occurring in current Kansas legislation. Published regularly during the Kansas legislative session, it focuses on issues involving Healthcare, Insurance, public finance, Taxation, financial institutions, business & economic development, Energy, Real Estate & Construction, environmental, Agribusiness, employment, and workers compensation. Bill summaries are by necessity brief, however, for additional information on any issue before the Kansas Legislature, contact Foulston Siefkin's Governmental Affairs & Public Policy Law practice group leader, James P. Rankin at 785.233.3600 or jrankin@foulston.com. Learn more about the authors below:

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