



KANSAS LEGISLATIVE INSIGHTS NEWSLETTER | MARCH 17, 2023

WEEK 10 OVERVIEW

Next week is the last opportunity for committees to consider non-exempt bills from the other chamber. Significant action arose this week in committees and on floors of the House and Senate. The final day for consideration of non-exempt bills from the other chamber is March 29. Also this week, a 45-minute call of the House intended to secure the necessary votes to pass the school voucher bill occurred. Sen. Dennis Pyle, I-Hiawatha, made a motion to adjourn in order to avoid an attempt to kill the school voucher bill in the Senate. Also, pipeline operators were grilled over a recent Keystone oil spill. Further, there was debate on ESG disclosures, legislative pay commission, and approval of the Senate budget.

FLOOR ACTION

Tuesday, the Kansas House debated House Substitute for SB 83, the school voucher bill. The debate continued for three hours before the bill was narrowly advanced on final action 61-59 on Wednesday. The House Committee removed the Senate provisions for a tax credit for contributions to a scholarship fund and replaced that funding with an initial \$150 million from the state general fund. The House Committee added funding for special education. The substitute bill provides approximately \$5,100 for students wishing to enroll in private schools or home schools. Public education advocates expressed opposition, fearing erosion of funding for public education.

Wednesday, on final action, the initial vote was 60-64. After a 45-minute call of the House, House leadership found enough votes to pass the bill 64-61. The drama continued Wednesday afternoon in the Senate when Democrats realized that some Republican Senators were absent and made a motion to concur. If the motion failed, it would have killed the bill. Amid the confusion, Sen. Dennis Pyle, I-Hiawatha, quickly made a non-debatable motion to adjourn, which passed 20-11.

Thursday afternoon, the Senate held a four-hour debate on its budget bill. The price tag for the remainder of the current fiscal year was \$9.239 billion and \$9.420 billion for the new fiscal year beginning July 1, 2023. Gov. Laura Kelly's budget proposals were reduced or eliminated. For example, the governor's proposed state employee pay raises were eliminated but will be reviewed during the conference committee. Sen. Caryn Tyson, R-Parker, successfully offered an amendment cutting agency budgets by 3.5%, resulting in a savings of \$97 million. The motion was approved 17-10.

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While the Senate budget delayed consideration of state employee raises, the House approved House Substitute for SB 229 on a vote of 96-26 Thursday morning. This provision creates a nine-member commission to set rates of compensation and salary for legislators. Younger legislators have noted the difficulty of serving given legislative pay is only \$88 per day with a \$157 per day subsistence allowance. These younger legislators argue that many Kansans cannot afford to serve. Legislative pay has been an issue for several years. Before retiring in January, former Sen. Tom Hawk proposed SB 10, authorizing \$320 per calendar day and also proposed adjusting subsistence allowance effective Jan. 1, 2025.

Thursday, the House approved the compromise on electricity rates contained in HB 2225. The compromise was overwhelming, approved 120-1.

COMMITTEE ACTION

The Senate Federal and State Affairs Committee passed SB 291, enacting the Kansas Public Investments and Contracts Protection Act concerning environmental, social, and governance (ESG). The Act prohibits state and political subdivisions from giving preferential treatment to or discriminating against companies based on ESG. The Senate added mandated language backed by Attorney General Kris Kobach. The language would require financial advisers to get consent from their clients acknowledging that ESG governance guidelines are used to make investing decisions. The Kansas Bankers Association raised concerns about the mandated language. This language is not in the House version.

Wednesday, the House Financial Institutions and Pensions Committee approved HB 2436, creating the Kansas Public Investments and Contracts Protection Act concerning environmental, social and governance (ESG) and providing for enforcement of such act by the attorney general.

After two days of hearings, the Senate Federal and State Committee tabled the medical marijuana bill. Senate President Ty Masterson issued the following statement after the committee's action: "Given the negative consequences other states are experiencing and the resounding rejection of recreational marijuana by Oklahoma voters, the momentum for legalized marijuana appears to be losing steam and that's reflected in the committee's decision."

Wednesday, the Senate Utilities Committee heard a presentation from TC Energy regarding the Keystone pipeline spill. It reported that 300 people had been deployed to the site and 95% of the released oil has been recovered. A weld flaw and bending stress are under investigation as potential causes. Sen. Elaine Bowers reported that Washington County residents were appreciative of their efforts. The House Energy, Utilities and Telecommunications heard the same presentation on Tuesday with some pointed questions from the committee.

FIRST ADJOURNMENT

First adjournment is rapidly approaching. Next Friday, March 24, is the last day for non-exempt committees. March 29 is the last day for non-exempt bills to be considered in either chamber. There is no session March 30-April 2, although conference committees may meet. April 6 is Drop Dead Day for non-exempt bills and first adjournment. The Veto Session opens on April 26. The 90th day is April 29.

BILL INTRODUCTIONS AND NOTABLE DEVELOPMENTS

COURTS, LAWS, AND REGULATIONS

H Sub for SB 229 – As recommended by the House Committee on Legislative Modernization, Rep. Barb Wasinger, Chair, would establish a nine-member Legislative Compensation Commission consisting of individuals who are not members of the Legislature, legislative employees or registered lobbyists. Among other things, the Commission would be authorized to study compensation, salary, and retirement benefits of legislative members, make recommendations on legislator retirement benefits, and set compensation rates for legislators. The House

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Committee of the Whole passed the bill on final action; Yea: 96, Nay: 26.

HB 2015 – As amended by the Senate Committee on Judiciary, Sen. Kellie Warren, Chair, would modify the law governing court-ordered infectious disease testing.

HB 2020 – Would prohibit the altering of employment status for requiring safety improvements on a vehicle in the motor carrier industry. The bill passed the House Committee of the Whole on final action; Yea: 122, Nay: 0. Referred to the Senate Committee on Transportation, Sen. Mike Petersen, Chair. The Committee recommended the bill be passed as amended.

HB 2042 – As amended by the Senate Committee on Commerce, Sen. Renee Erickson, Chair, would add self-storage unit operators to the list of persons who may direct the towing of a vehicle and permit the operators to have motor vehicles, trailers, and watercraft towed when the occupant of the storage space is in default for a period of 60 days.

HB 2105 – As further amended by the House Committee on Financial Institutions and Pension, Rep. Nick Hoheisel, Chair, would create the Kansas Earned Wage Access Services Act and authorize the office of the State Bank Commissioner (Commissioner) to regulate earned wage access services providers. Those are institutions offering services to allow employees early access to earned wages outside the normal payment cycle. The bill would establish registration criteria, including annual reporting and business record requirements, as well as assign powers and duties to the Commissioner including examination and enforcement to ensure compliance with the Act. The House Committee of the Whole passed the bill on emergency final action as amended; Yea: 108, Nay: 13.

HB 2400 – As amended by the House Committee of the Whole, 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. The Act would provide grants to eligible students enrolled in eligible programs at eligible postsecondary educational institutions. The Act would also provide a tax credit to individuals who received a grant and meet certain conditions. The Committee passed the bill on final action as amended; Yea: 116, Nay: 6. The bill has been referred to the Senate Committee on Commerce, Sen. Renee Erickson, Chair.

HB 2459 – Would provide a definition for safe yields and, under certain circumstances, prohibit the change of the point of diversion of a water right. Referred to the House Committee on Water, Rep. Jim Minnix, Chair.

Sub HB 2414 – As recommended by the House Committee on Commerce, Labor and Economic Development, Rep. Sean Tarwater, Chair, would create a matching grant program within the Department of Commerce to provide grants to eligible institutions of higher education based on the number of engineering program graduates of the institution.

SB 106 – As amended by the House Committee on Transportation, Rep. Shannon Francis, Chair, would amend the Uniform Act Regulating Traffic on Highways to add law to prohibit counterfeit airbags and amend law to authorize certain ground-effect lighting on vehicles.

HEALTHCARE AND INSURANCE

HB 2089 – As amended by the Senate Committee on Financial Institutions and Insurance, Sen. Jeff Longbine, 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.

HB 2090 – As amended by the Senate Committee on Financial Institutions and Insurance, Sen. Jeff Longbine, Chair, would revise 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.

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HB 2094 – As amended by the Senate Committee on Financial Institutions and Insurance, Sen. Jeff Longbine, Chair, would amend law relating to the financial documentation demonstrating fiscal soundness that must be submitted by a health maintenance organization (HMO) or a Medicare provider organization (MPO) when applying for a certificate of authority to provide health care in the state.

SB 25 – As amended by the House Committee on Insurance, Rep. William Sutton, Chair, would amend a provision in the Insurance Code pertaining to the premium tax assessed for surplus lines business that is transacted on behalf of insureds (policyholders) whose home state is Kansas. The bill would reduce the prescribed tax rate from 6% to 2%.

SB 119 – As amended by the House Committee on Insurance, Rep. William Sutton, Chair, would clarify the definition of “insurance company” and make other technical corrections and reconciling changes in the Insurance Code. See also HB 2285.

Sub SB 131 – As amended by the House Committee on Health and Human Services, Rep. Brenda Landwehr, Chair, would authorize certain health care professionals licensed in a home state other than Kansas and traveling with a sports team to practice their profession within Kansas for a short period of time during certain sporting events under a sports waiver issued by the State Board of Healing Arts.

SB 194 – As amended by the Senate Committee of the Whole, would require members of a board of a hospital district organized under township law (Chapter 80, Article 25) to be qualified electors of either the county where the hospital is located or any county adjacent to such county and own real property within the taxing district of the hospital. The bill would require a majority of the members of the hospital district board to be residents of the county in which the hospital is located. The Senate Committee of the Whole passed the bill on final action as amended; Yea: 38, Nay: 2. The bill has been referred to the House Committee on Local Government, Rep. Emil Bergquist, Chair. The Committee recommended the bill be passed.

SB 310 – Would create the Medical Cannabis Regulation Act, providing, among other things, for licensure and regulation of the cultivation, processing, distribution, sale, and use of medical cannabis. Referred to the Senate Committee on Federal and State Affairs, Sen. Mike Thompson, Chair.

TAXATION

HB 2232 – As recommended by the House Committee on Taxation, Rep. Adam Smith, Chair, would provide that appraisal courses and continuing education appraisal courses for the designation of registered mass appraiser could include courses developed by the Director of Property Valuation specifically related to the administration of assessment and tax laws of Kansas.

HB 2254 – As amended by the House Committee on Taxation, Rep. Adam Smith, Chair, would specify, beginning in tax year 2023, that land devoted to agricultural use would include land and buildings utilized as part of a registered agritourism activity at a registered agritourism location by a registered agritourism operator.

HB 2317 – As amended by the House Committee on Taxation, Rep. Adam Smith, Chair, would authorize county treasurers to electronically deliver tax statements, tax notices, and tax information forms to taxpayers electronically upon consent of the taxpayer.

HB 2457 – Would provide a 4.95% tax rate for individuals and decrease the normal tax for corporations while discontinuing possible future corporate rate decreases as a result of agreements under the Attracting Powerful Economic Expansion Program Act. Referred to the House Committee on Taxation, Rep. Adam Smith, Chair.

Sub SB 155 – As amended by the Senate Committee of the Whole, would make appropriations for the fiscal years ending June 30, 2023, June 30, 2024, June 30, 2025, and June 30, 2026, for state agencies.

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SB 311 – Would exclude Internal Revenue Code Section 1031 exchange transactions as indicators of real property fair market value for purposes of property taxation. Referred to the Senate Committee on Assessment and Taxation, Sen. Caryn Tyson, Chair.

SB 312 – Would require approval of the Board of County Commissioners prior to the exercise of eminent domain by an electric or transmission-only public utility. Referred to the Senate Committee on Local Government, Sen. Carolyn McGinn, Chair.

SB 313 – Would, with regard to the SALT Parity Act, clarify the determination of taxable income of an electing pass-through entity. Referred to the Senate Committee on Assessment and Taxation, Sen. Caryn Tyson, Chair.

UTILITIES

HB 2225 – As amended by the House Committee on Energy, Utilities and Telecommunications, Rep. Leo Delperdang, Chair, would amend law authorizing a Kansas Corporation Commission-regulated utility to recover costs associated with the transmission of electric power through a transmission delivery charge and require public utilities to evaluate the regional rate competitiveness and impact to economic development in rate proceedings. The House Committee of the Whole passed the bill on final action as amended; Yea: 120, Nay: 1. The bill has been referred to the Senate Committee on Utilities, Sen. Robert Olson, Chair.

HB 2226 – As recommended by the House Committee on Energy, Utilities and Telecommunications, Rep. Leo Delperdang, Chair, would amend the Kansas Underground Utility Damage Prevention Act regarding excavation notification and whitelining. The House Committee of the Whole passed the bill on emergency final action; Yea: 121, Nay: 0. The bill has now been referred to the Senate Committee on Utilities, Sen. Robert Olson, Chair. The Committee recommended the bill be passed.

TRANSPORTATION

SB 271 – As amended by the Senate Committee on Transportation, Sen. Mike Petersen, Chair, would add law regarding the maximum length of a train, distances between railroad crossings and rail cars stored on sidings, and enforcement of those provisions.

BANKING

HB 2247 – As amended by the House Committee on Financial Institutions and Pensions, Rep. Nick Hoheisel, Chair, would amend the State Banking Code to allow any person, regardless of age, to become a depositor in a bank and to enter into an agreement with a bank for the lease of a safe deposit box. The bill would also specify that any bank that accepts deposits from certain minors ages 16 or older cannot require a cosigner or the consent of a custodian for deposit of the minor's funds. The House Committee of the Whole passed the bill on emergency final action as amended; Yea: 114, Nay: 7.

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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