



KANSAS LEGISLATIVE INSIGHTS NEWSLETTER | MARCH 31, 2023

WEEK 12 FLOOR DEBATE

After three days of floor debate, the March 29 deadline to consider non-exempt bills from the other chamber passed with major legislation approved. In addition, two key measures essential for final adjournment cleared the House and are headed to conference committee. The House Taxation Committee compromise tax plan described in our last issue (5.25% flat tax, lower corporate rate, the state food sales tax eliminated July 1, Social Security cliff to \$100,00, increased standard deductions, increased property tax exemption, and cutting taxes on banks) was passed on the House floor with bipartisan support 94-30. The House also approved its version of the budget, which will go into conference committee.

Wednesday, emotional moments were described on the Senate floor. Three female Senators described heartbreaking stories of sexual abuse of children and minors. S. Sub for HB 2127 would permit a criminal prosecution for childhood sexual abuse to commence at any time. It also extends the time to file a civil action for recovery of damages resulting from childhood sexual abuse to no more than 13 years after the date the victim turns 18 years of age or three years after conviction for abuse. The measure passed 40-0.

Why is March 19, 2024, an important date to mark on your calendar? It marks the potential return of a Presidential Preference Primary Election in Kansas. It would be state-funded, with a \$5 million price tag. Unaffiliated voters would be allowed to declare a party affiliation on Election Day. This week, the House voted 76-48 to end the three-day grace period for advance ballots to arrive at election offices. It passed the Senate 23-17. The measure could be vetoed by the governor.

Both chambers experienced emotional debate on the Born Alive Infants Protection Act, requiring physicians to provide high-quality care for an infant born alive after a failed abortion. The Senate vote was 31-9 and the House vote was 88-34.

The age to purchase cigarettes and smoking tobacco products will now be 21 years of age. The bill is headed to the Governor's desk. The SB 49 compromise on light-mitigation technology was approved 118-6 in the House. It is headed to Gov. Kelly's desk.

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The Kansas House approved a bill expanding the work and job training requirements for older Kansans to qualify for food assistance. The measure requires those between 50-59 to work at least 30 hours or participate in training.

The Kansas Senate voted 27-13 to limit trains to 8,500 feet in length despite the opposition of the railroad industry. The bill was promoted as a safety measure, while the industry points out it will be more costly to ship products. Recent train derailments and rail safety were potentially an underlying factor. The bill will now go to conference committee.

The Senate was one vote shy (26-14) of passing a constitutional amendment limiting property value growth to 3% annually. The measure required a two-thirds vote for a passage. The Senate approved a bill requiring the State Board of Education to establish curriculum guidelines for firearm safety education programs that include the NRA's Eddie Eagle GunSafe program as an option. The Senate vote was 31-8. The House vote was 78-43. Gov. Kelly has previously vetoed a similar bill.

The Senate narrowly approved 22-18 SB 315, allowing an exemption for vaccines required by schools and child-care centers based on sincerely held religious beliefs without question. The bill also eliminates a state law allowing universities and colleges to require students living in campus housing to be vaccinated for meningitis. The Senate voted 24-16 to approve SB 314, prohibiting the Secretary of Health and Environment from requiring a COVID-19 vaccination to attend a child-care facility or school.

Compromise bills on the powers of the Governmental Ethics Commission and lowering electric rates passed in both chambers. The Parental Bill of Rights passed the Senate 23-17 and is headed to conference committee. The House voted 83-41 to approve the Women's Bill of Rights, establishing that an individual's sex means the individual's biological sex at birth. The vote was 83-41. The Senate passed it earlier 26-11.

NEXT WEEK

Legislators return on Monday and conference committees will meet to negotiate differences on bills between the chambers. Conference Committees are composed of three members from each chamber. Typically, the sides are represented by the Chair, Vice Chair and Ranking Minority Member of the committees who heard the bill. April 6 is first adjournment. The veto session starts in late April.

BILL INTRODUCTIONS AND NOTABLE DEVELOPMENTS

COURTS, LAWS, AND REGULATIONS

H Sub for SB 42 – As amended by the House Committee of the Whole, would make appropriations for the fiscal years ending June 30, 2023, June 30, 2024, June 30, 2025, June 30, 2026, June 30, 2027, and June 30, 2028, for state agencies. The Committee passed the bill on final action as amended; Yea: 103, Nay: 21.

H Sub for SB 83 – As amended by the House Committee of the Whole, would create the Sunflower Education Equity Act by providing for education savings accounts for students and establishing the Sunflower Education Equity Scholarship Fund. The bill would also amend the Kansas School Equity and Enhancement Act to allow certain unified school districts to utilize current-year enrollment or higher enrollment of any of the previous four years to determine State Foundation Aid. The Committee passed the substitute bill on final action as amended; Yea: 64, Nay: 61.

H Sub for SB 116 – As recommended by the House Committee on Federal and State Affairs, Rep. Will Carpenter, Chair, would amend various provisions of the Kansas Liquor Control Act, Kansas Cereal Malt Beverage Act, and Club and Drinking Establishment Act concerning remittance of gallonage taxes, samples, Sunday sales, the food sales requirement, and common consumption areas. The House Committee of the Whole passed the substitute bill on emergency final action; Yea: 102; Nay: 21.

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H Sub for SB 244 – As recommended by the House Committee on Judiciary, Rep. Fred Patton, Chair, would create a new section of law and substantially update various articles of the Kansas General Corporation Code. The House Committee of the Whole passed the substitute bill on emergency final action; Yea: 121, Nay: 2.

HB 2059 – As amended by the Senate Committee of Whole, would amend various provisions of the Kansas Liquor Control Act (KLCA) and Club Drinking Establishment Act concerning samples and common consumption areas and the KLCA provisions concerning prohibited acts to allow alcoholic liquor or cereal malt beverages to be the prize of a charitable raffle. The Committee passed the bill on final action as amended; Yea: 35, Nay: 5.

S Sub for HB 2016 – As amended by the Senate Committee of the Whole, would enact the Act Against Abusive Website Access Litigation to create a civil action for determining whether litigation that alleges any website access violation under the Federal Americans with Disabilities Act or similar law constitutes abusive litigation. The Committee passed the substitute bill on final action as amended; Yea: 35, Nay: 5.

S Sub for HB 2069 – As recommended by the Senate Committee on Judiciary, Sen. Kellie Warren, Chair, would restrict ownership interests in, and prohibit the conveyance of, certain real property located in Kansas to foreign adversaries, as defined by federal regulation.

Sub HB 2077 – As amended by the Senate Committee on Ways and Means, Sen. Rick Billinger, Chair, 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.

S Sub for HB 2170 – As recommended by the Senate Committee on Federal and State Affairs, Sen. Mike Thompson, Chair, would create the Donor Intent Protection Act, which would provide legal recourse to an individual charitable donor when the donor's gift restrictions are not followed by the recipient charitable organization. The Senate Committee of the Whole passed the substitute bill on final action; Yea: 31, Nay: 8.

HB 2172 – As amended by the Senate Committee on Judiciary, Sen. Kellie Warren, Chair, would enact the Uniform Trust Decanting Act and would amend law in the Kansas Uniform Trust Code, Kansas Probate Code, and Kansas Income Tax Act with respect to the statutory rule against perpetuities (RAP), to make the RAP inapplicable in certain circumstances. The Senate Committee of the Whole passed the bill on emergency final action as amended; Yea: 36, Nay: 4.

HB 2418 – As amended by the House Committee on Appropriations, Rep. Troy Waymaster, Chair, would abolish several acts, boards, and commissions on July 1, 2023. The House Committee of the Whole passed the bill on emergency 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.

SB 34 – As amended by the House Committee on Financial Institutions and Pensions, Rep. Nick Hoheisel, Chair, would expand the use of bond proceeds under the Kansas Rural Housing Incentive District Act with other incentives added.

SB 44 – As amended by the House Committee of the Whole, would enact the Kansas Financial Institutions Information Security Act. The bill would designate covered entities, define terms, outline requirements for covered entities, and provide for responsibilities of the State Bank Commissioner under the Act. The Committee passed the bill on emergency final action as amended; Yea: 114, Nay: 9.

SB 291 – As amended by the Senate Committee of the Whole, would create the Kansas Public Investments and Contracts Protection Act and would amend law governing the Kansas Public Employees Retirement Fund and investment standards to prohibit state agencies and other political subdivisions from giving preferential treatment to or discriminating against companies based on environmental, social, or governance criteria. The Committee passed the bill on final action as amended; Yea: 29, Nay: 11.

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SB 301 – As amended by the Senate Committee of the Whole, would require elected and appointed officers of a governmental subdivision to file annual statements of substantial interest with the office where declarations of candidacy are required to be filed. The Committee passed the bill on final action as amended; Yea: 40, Nay: 0.

SB 307 – As recommended by the Senate Committee on Ways and Means, Sen. Rick Billinger, Chair, would amend the Kansas Fights Addiction Act to include for-profit private entities in the definition of “qualified applicant”. Under continuing law, the Act allows qualified applicants to apply for grants from the Kansas Fights Addiction Fund for projects and activities that prevent, reduce, treat, or mitigate the effects of substance abuse and addiction. These grant applications must be approved by the Kansas Fights Addiction Grant Review Board. The Senate Committee of the Whole passed the bill on final action; Yea: 40, Nay: 0.

SB 308 – As recommended by the Senate Committee on Ways and Means, Sen. Rick Billinger, Chair, would enact provisions to be cited as “Kathy’s Bill” and would require the State to give preference to individuals with disabilities in hiring and promotion. The bill would not apply to agencies under the legislative and judicial branches of government.

SB 322 – Would authorize any compact with a federally recognized Indian tribe to include provisions governing sports wagering outside the boundaries of Indian lands. Referred to the Senate Committee on Federal and State Affairs, Sen. Mike Thompson, Chair.

TAXATION

HB 2002 – As amended by the Senate Committee on Assessment and Taxation, Sen. Caryn Tyson, Chair, would amend law related to the revenue-neutral rate hearing notice, require property valuation notices to include additional information, permit the use of fee simple appraisals performed by Kansas Certified Residential Real Property Appraisers in certain valuation appeals, and codify agricultural land adverse influences for property valuation purposes. The Senate Committee of the Whole passed the bill on emergency final action as amended; Yea: 34, Nay: 6.

HB 2036 – As amended by the House Committee of the Whole, would create, beginning in tax year 2024, a graduated property tax exemption for homestead property owned by and actually and regularly occupied by certain disabled veterans or surviving spouses of disabled veterans. The Committee passed the bill on final action as amended; Yea: 123, Nay: 1.

HB 2106 – As amended by the Senate Committee on Assessment and Taxation, Sen. Caryn Tyson, Chair, would provide a sales tax exemption for certain purchases related to telecommunications services and would provide for a sales tax price reduction in certain cases of non-simultaneous motor vehicle transactions.

S Sub for HB 2201 – As recommended by the Senate Committee on Assessment and Taxation, Sen. Caryn Tyson, Chair, would make changes to the refund option providing for a refund of the amount of tax excess of the base year amount under the Homestead Property Tax Refund Act.

HB 2254 – As amended by the House Committee of the Whole, would specify, beginning in tax year 2021, 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. The Committee passed the bill on final action as amended; Yea: 106, Nay: 18.

SB 8 – As amended by the House Committee on Taxation, Rep. Adam Smith, Chair, would amend law related to property tax filings and penalties for late remittance of withholding taxes. The House Committee of the Whole passed the bill on final action as amended; Yea: 122, Nay: 2.

SB 40 – As amended by the Senate Committee of the Whole, would allow taxpayers to subtract certain net operating losses in determining their Kansas adjusted gross income and would make changes to the Homestead

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Property Tax Refund Act. The Committee passed the bill on final action as amended; Yea: 40, Nay: 0.

SB 128 – As amended by the Senate Committee on Assessment and Taxation, Sen. Caryn Tyson, Chair, would create the Ad Astra Opportunity Tax Credit, providing an income tax credit for certain Kansas residents with children enrolled in an accredited nonpublic school or a nonaccredited private elementary or secondary school registered with the Department of Education.

H Sub for SB 169 – As amended by the House Committee of the Whole, would make multiple changes to income, sales, and property tax law. The Committee passed the substitute bill on final action as amended; Yea: 94, Nay: 30.

SB 295 – As recommended by the Senate Committee on Ways and Means, Sen. Rick Billinger, Chair, would authorize the continuation of the 20-mill statewide property tax mill levy for schools.

SB 303 – As recommended by the Senate Committee on Federal and State Affairs, Sen. Mike Thompson, Chair, would establish the Kansas Legal Tender Act to exempt recognized legal tender and specie from being characterized as personal property for taxation and regulatory purposes.

SB 309 – As recommended by the Senate Committee on Ways and Means, Sen. Rick Billinger, Chair, would create the Fixing Instant Revenue Shock for Taxpayers Fund and the Local Extraordinary Needs Fund and abolish the Local *Ad Valorem* Tax Reduction Fund.

SB 311 – As recommended by the Senate Committee on Assessment and Taxation, Sen. Caryn Tyson, Chair, would prohibit the sale price at which a property sells in an Internal Revenue Code Section 1031 exchange from being considered an indicator of fair market value or used in arriving at fair market value for property tax purposes. The bill would exclude 1031 exchanges from being considered valid sales for purposes of the sales ratio study used for measuring tax appraisal accuracy.

SB 313 – As amended by the Senate Committee on Assessment and Taxation, Sen. Caryn Tyson, Chair, would clarify that the tax on electing entities under the SALT Parity Act would be levied on: the *pro rata* or distributive share of the entity's income for each nonresident owner that is attributable to Kansas; and the *pro rata* or distributive share of the entity's income for each resident owner calculated either before or after allocation and apportionment to Kansas. Entities would be required to use the same method of calculation for all resident owners. The bill would provide that tax credits attributable to the electing entity would be passed through to and claimed by the entity owner. The provisions of the bill would be retroactive to tax year 2022. See also HB 2465.

SB 323 – Would amend provisions of the Kansas tax code applicable to county appraisers. Referred to the Senate Committee on Federal and State Affairs, Sen. Mike Thompson, Chair.

SCR 1610 – As recommended by the Senate Committee on Assessment and Taxation, Sen. Caryn Tyson, Chair, would, with five significant exceptions, amend the Kansas Constitution to generally limit, for property tax purposes, the valuation growth of any real property to 3 percent per year.

Healthcare

HB 2263 – As amended by the Senate Committee on Public Health and Welfare, Sen. Beverly Gossage, Chair, would amend a provision in the Pharmacy Act of the State of Kansas to allow pharmacy technicians to administer vaccinations and would create the Kansas Child Mutilation Prevention Act. The Senate Committee of the Whole passed the bill on final action as amended; Yea: 26; Nay: 10.

HB 2264 – As amended by the Senate Committee on Public Health and Welfare, Sen. Beverly Gossage, Chair, would establish the No Patient Left Alone Act. The Senate Committee of the Whole passed the bill on emergency final action as amended; Yea: 31, Nay: 9.

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HB 2325 – As amended by the Senate Committee on Public Health and Welfare, Sen. Beverly Gossage, Chair, would amend the Health Care Provider Insurance Availability Act to add certain maternity centers to the definition of “health care provider” and to add facilities where elective abortions are performed to the list of entities that are not health care providers as defined in the bill, which would make such facilities ineligible to purchase professional liability insurance from the Health Care Stabilization Fund. The Senate Committee of the Whole passed the bill on final action as amended; Yea: 33; Nay: 6.

HB 2340 – As amended by the Senate Committee on Public Health and Welfare, Sen. Beverly Gossage, Chair, would modify several requirements for some of the professions licensed by the Behavioral Science Regulatory Board, add new temporary licensure categories, and establish requirements for an expedited application process.

Sub SB 131 – As amended by the House Committee of the Whole, would permit the issuance of a sports waiver for certain health care professionals; would establish the No Patient Left Alone Act; and would amend a provision in the Pharmacy Act of the State of Kansas to add pharmacy technicians, who meet age and supervision oversight parameters, to the list of those authorized to administer vaccinations after successfully completing an appropriate course of study and training. The Committee passed the bill on emergency final action as amended; Yea: 114, Nay: 9.

SB 314 – As Amended by the Senate Committee on Public Health and Welfare, Sen. Beverly Gossage, Chair, would prohibit the Secretary of Health and Environment from requiring a COVID-19 vaccine for any child cared for in a child-care facility, any student enrolling or enrolled in a school for the first time in Kansas, any child enrolling or enrolled for the first time in a preschool or daycare program operated by a school, and any other such students as may be designated by the Secretary, prior to admission or attendance at school. The bill would define the COVID-19 vaccine as an immunization, vaccination, or injection against disease caused by a variant of the novel coronavirus identified as SARS-CoV-2 or diseased caused by a variant of the virus. The bill would also make technical amendments. The Senate Committee of the Whole passed the bill on final action; Yea: 24, Nay: 16.

SB 315 – As amended by the Senate Committee on Public Health and Welfare, Sen. Beverly Gossage, Chair, would create an exemption provision to vaccine requirements for individuals at child-care centers and schools for sincerely held religious beliefs, as defined by the bill, and no further inquiry of the sincerity of the belief would be allowed. The Senate Committee of the Whole passed the bill on final action as amended; Yea: 22, Nay: 18.

AGRICULTURE

S Sub HB 2302 – As further revised and as recommended by the Senate Committee on Agriculture and Natural Resources, Sen. Dan Kerschen, Chair, would establish funding for the State Water Plan and water infrastructure projects. The Senate Committee of the Whole passed the substitute bill on final action; Yea: 39, Nay: 1.

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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