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Kansas Legislative Report, March 13-17, 2023

The Senate debated and passed their [budget bill](#) early Thursday evening, signaling that the end of the 2023 Kansas Legislative Session is nearing. As important deadlines loom, committees were busy hearing and working bills this week – many with three to four hearings a day. They have one more week to complete their work before March 24 when all non-exempt committees are done meeting for the year. Lawmakers will then debate bills the week of March 27th and return the following week for conference committee work with a First Adjournment (end of regular session) date of April 6. Veto session will begin Wednesday, April 26th.

Education Savings Accounts

After three hours of debate and vote whipping, [House Substitute for Senate Bill 83](#) squeezed by the House with a vote of 64-61. The school choice bill would allow students to use roughly \$5,100 of education state aid toward private school tuition. Students are phased in over four years, depending on financial and academic need.

The bill is now in the Senate, who non-concurred and appointed a conference committee. The tight House vote surprised Republican leadership and is far from being enough to override Governor Kelly's expected veto. Many Republicans who voted against the bill are from rural communities concerned with keeping their public-school districts alive.

Legislator Pay Raise

Nearly every year, bills are introduced to increase the pay for those serving in the part-time Legislature. It's not a secret that Kansas legislators are paid less than neighboring states at only \$29,000 a year, which many believe prevents more Kansans from running for office.

[House Substitute for Senate Bill 229](#) passed the House this week by a vote of 86-26. It's a new idea introduced this year that would keep legislators out of the debate and rather creates an independent commission to study and make recommendations for their compensation, salary, and retirement benefits.

Medical Marijuana

Kansas is still not be ready to legalize medical marijuana. After two days of hearings on [Senate Bill 135](#) this week, members of the Senate Federal and State Affairs Committee voted to table the bill on Thursday, likely killing it for the year.

The House approved a bill in 2021, and a special committee worked throughout the 2022 interim to craft a bill that the Senate could also support. However, those chances decreased when the Senate committee got a new, more conservative chair this year that historically has opposed the issue.

Governor Kelly issued a statement yesterday expressing disappointment in the Senate committee's action and urged supporters to call their elected leaders and ask that the Legislature reconsider legalizing marijuana for medical purposes yet this session.

Food Sales Tax

The House Tax Committee heard on Monday and was scheduled to work on Wednesday the Senate's food sales tax cut bill, but it failed to receive a procedural motion to even come up for consideration.

[Senate Bill 248](#) replaces last year's gradual phase-out of the state food sales tax with a full elimination on healthy food and food ingredient by next January. The controversial piece, however, is that the bill applies to both state and local taxes. Cities and counties strongly opposed the measure warning that property taxes would rise if local governments lost millions of dollars in tax revenue on their food sales.

In response, Senate President Ty Masterson (R-Andover) offered a fix this week that would set aside \$220 million from the State General Fund to assist local governments affected by the tax cut bill, [Senate Bill 309](#). A hearing was held this week in Senate Ways & Means on the bill and local governments expressed concerns about the fund and if it would be funded year after year.

Several other food sales tax cut bills are being considered by the Legislature this year, but according to House Tax Committee Chairman Adam Smith (R-Weskan), SB 248 is not one his committee will consider.

ESG Investing

Two very different bills passed out of their Chamber's respective committees on Wednesday addressing environmental and social governance (ESG) investing in Kansas, an issue gaining national attention in recent years.

The House Federal Institutions and Pensions Committee considered and passed [House Bill 2436](#), which would prohibit state and local governments from showing preferential treatment for or against investments in businesses oriented with fossil-fuels, abortion, gender reassignment, or gun manufacturing. State Treasurer Steven Johnson and KPERS Director Alan Conroy offered an amendment that would reduce the fiscal note significantly.

A stricter and less popular proposal also passed out of the Senate Federal and State Affairs Committee this week, [Senate Bill 291](#), which would mandate ESG notice

requirements on financial advisers to their clients. Committee Chairman Mike Thompson (R-Shawnee) and Attorney General Kris Kobach supported including the disclosure statement in the bill. The Kansas Bankers Association opposed it, saying that the state should not make political statements that could negatively impact returns on investments.

Workforce

On Thursday, Senate Commerce passed out [House Bill 2292](#) the **Apprenticeship Tax Credit Act**. The committee amended the bill to clarify that the grants for nonprofits and education institutions grant reimbursement funds established at the Kansas Department of Commerce do not exceed their approved annual respective amounts of \$2.5 million and \$3 million. The bill now heads to the full Senate for consideration.

On Thursday, the House passed on final action [House Bill 2400](#), the **Adult Learner Grant Program**, by a vote of 116 to 6. This bill provides up to a \$3,000 grant to Kansas residents 25 years or older who are enrolled at least part-time in a baccalaureate program at a Kansas university in one of the following fields of study: information technology and security; healthcare and nursing; science, engineering, aerospace and advanced manufacturing; education, early childhood education and development; business, accounting and data analytics; or one additional program designated by the institution that corresponds to a high wage, high demand or critical need occupation. The bill has been referred to the Senate Commerce Committee.

Economic Development

On Thursday, House Tax worked [Senate Bill 91, which](#) enacts film tax credit and provides for other incentives to grow the **film industry in Kansas**. While several amendments were offered to control what types of films are made in Kansas they did not advance. The only amendment approved by the House committee was to add an economic impact study of the program every 4 years. The bill now advances to the full House for consideration.

On Wednesday, House Commerce held a hearing on [House Bill 2450](#) which proposes a sales tax exemption for the construction/remodeling of a **Kansas qualified data center** as well as the purchases of data center equipment, costs, electricity and labor costs for projects with an investment of at least \$600,000,000. It is not clear if the committee will work the bill next week.

Local Government Regulations

The House Commerce Committee heard on Monday and passed on Thursday a bill that would prohibit cities and counties from **regulating consumer products** that are permitted under state law. [House Bill 2447](#) was amended to exempt zoning and land use, alcohol limits, and business licensing. Another local preemption bill was heard this week, but not worked by committee. [House Bill 2446](#) would preempt cities and counties from banning **plastic bags and auxiliary plastic containers**. We expect committee action on this bill next week.

The Senate Transparency and Ethics Committee heard [Senate Bill 301](#) on Wednesday, requiring an annual filing of a “**statement of substantial interests**” to the Secretary of State by local government officers and employees.

The House Utilities Committee worked [Senate Bill 144](#), changes to the Video Competition Act this week. An amendment that would narrow the bill to current law failed to be added. Local governments have expressed concerns the changes in SB 144 would allow current telecommunications companies to classify services as streaming and exempt themselves from **local franchise agreements**. The bill now goes to the full House for consideration.

Next week, the Senate Local Government Committee will hold a hearing on [Senate Bill 312](#), which would require boards of county commissioners to approve **eminent domain** powers exercised by certain public utilities.

Water Funding and Reporting

The Senate Agriculture and Natural Resources Committee heard [House Bill 2302](#) on Wednesday and Thursday, which would earmark a percentage of the state sales tax toward **funding the State Water Plan**. Current law requires a \$6 million transfer from the State General Fund and \$2 million transfer from the Economic Development Initiatives Fund to the State Water Plan Fund each year. Not until recently, however, did the Legislature fulfill that statutory requirement, shorting water funding \$84.5 million since 1991. The bill is scheduled to be worked next Tuesday.

The committee also heard on Tuesday and began working on Thursday [House Bill 2279](#) that would require **groundwater management districts** (GMDs) to submit annual reports to the Legislature and identify priority areas of concern where water quality or quantity is deteriorating. The committee is scheduled to finish their action on the bill next Monday.

Railroad Legislation

The Senate Transportation Committee heard on Tuesday and passed Wednesday a bill that would require railroads to maintain a **minimum setback** distance of 250 feet between a near-edge crossing and rolling stock stored on sidings if the railroad crossing does not have electronic warning signals. [Senate Bill 271](#) would also prohibit trains from exceeding **8,500 feet in length** on any main or branch line in Kansas, a provision strongly opposed by the Class I railroads but supported by labor unions. It also has raised concerns from the business community the changes could negatively impact supply chains. It's not clear whether the bill will be brought up for a vote on the Senate floor this year.

The committee also heard [House Bill 2335](#) on Thursday that combines two existing short line rail improvement programs into one within the Kansas Department of Transportation, while increasing the total funding from \$5 million to \$10 million. The **Rail Service Improvement Fund** is a 70/30 grant match program that encourages private and public partnerships that invest in short line track maintenance. The bill only applies to Class II and Class III railroads as well as any owner or lessee of industry track located on or adjacent to short line rail. The committee plans to work the bill next week.

Wind and Transmission

The House Energy, Telecommunications and Utilities Committee held a hearing on [Senate Bill 49](#) on Thursday, which would require wind developers to apply to the Federal Aviation Administration for the installation of **light mitigation technology** at all new wind farms in Kansas. The measure includes a retroactive provision that extends the same requirements to existing wind generating facilities when a developer repowers the system. Several conferees asked for a change to the retroactive effective date. Two existing wind farms in northeast Kansas that have recently gone operational in the last few years would not be repowered and eligible for the lights anytime soon under the current language.

The House near unanimously passed [House Bill 2225](#) on Thursday by a vote of 120-1. Introduced by the Kansas Corporation Commission (KCC), the bill is a compromise between committee leadership, Evergy, and ratepayers. It's expected to save Kansas Evergy customers almost \$11 million in **transmission delivery charges** on their electric bills. The Senate Utilities Committee is scheduled to take up the bill next week.

Budget Review

This week saw major movement on the state budget.

The House Appropriations Committee has completed their agency budget reports and will not begin to construct the budget bill next week. This week, the Houses Committee received budget reports for higher education, mostly of the state universities. Funding for technical colleges and larger projects such as the **WSU/KU medical complex** were delayed until the omnibus budget in April.

The full Senate debated and passed their budget bill on Thursday. The bill comes in below the Governor's funding recommendations, with the largest ticket item being \$53 million for water storage debt payments. Senators are looking at short-term investments with those dollars, yielding enough interest payments to make it worth-while.

Three amendments were added on the Senate floor. One was **more funding for targeted case management for people on the IDD** (intellectual and developmental disability) waiver. This should help people on this waiver get better services and could help reduce the waiting list. The second amendment will enable community mental health centers to change their formats quicker to receive more federal funding and offer more services. The final amendment required the use of **E-Verify** for state employer and contractors.

After the House passes their initial budget bill, negotiators on both sides will iron out a compromise bill. After the initial budget is passed, Legislators can turn their attention to the high dollar budget items like school finance, state employee raises, and several human services programs.