

Weekly Legislative Report -----Kansas Legislature 2019

Weekly Legislative Report, April 1-5, 2019 – First Adjournment

The Kansas Legislature left for Spring Break on Friday, officially adjourning the regular part of the 2019 legislative session.

Lawmakers spent last week confirming cabinet secretaries and negotiating House and Senate positions in conference committees.

Legislation was passed on several major issues of the year and heading to the Governor's desk. The key to adjournment, however, was approving a K-12 funding response to the Kansas Supreme Court by the April 15 brief filing deadline.

Significant Dates and Events

May 1st

Veto Session

Legislators return to Topeka on May 1 for the Veto Session. Many are predicting it to be short; although with taxes, Medicaid expansion, and budget all still left on the table, it's unclear how they will get their work done so quickly.

Governor Signs School Finance Bill

Governor Laura Kelly signed the Conference Committee Report on [House Substitute for Senate Bill 16](#) into law on Saturday, which appropriates roughly \$90 million in additional state funding toward K-12 education per year. The Kansas Supreme Court ordered the Legislature to account for inflationary increases in the Base State Aid for Pupil in their last opinion in *Gannon vs. Kansas*. The bill also includes funding and student outcome accountability measures for schools, targeted programs for at-risk students, and the budget for the Kansas Department of Education for fiscal years 2020 and 2021.

The plan was backed by the Governor and largely supported in the Senate, approving it 31-8. It was a tougher sell in the House, however, who wanted to see a less expensive K-12 proposal move forward. The House passed the bill 76-47.

Attorney General Derek Schmidt can now file the state's brief by April 15, ahead of oral arguments scheduled for May 9.

Procedural Maneuvering Continues for Medicaid Expansion

Right before the Senate adjourned on Friday, the Minority Leader made a motion to pull [House Bill 2066](#) out of the Senate Public Health and Welfare Committee and onto the Senate calendar for consideration. The Medicaid expansion bill narrowly passed the



House 69-54 last month after an unexpected “gut-and-go” procedure on the House floor. It’s been stalled in committee ever since.

The topic has been a tug-of-war between legislative leadership and Governor Kelly all session. Opponents argue that expanding KanCare to 130,000 additional Kansans will dismantle the state budget and reduce the quality of healthcare for everyone insured. House Republicans were able to amend the bill to ensure the state phases out of expansion if federal funds drop below the current 90 percent rate, add a \$25/month/individual fee, and prohibit Medicaid funds for abortion services.

The motion will be the opening item of business taken up as Senators return for the Veto Session on May 1. It will first require 24 votes to pull the bill out of committee and then 27 votes to force a debate and vote on the floor.

Tax Veto Override Not Likely, Other Tax Bills Moving

Legislators were expected to vote to override the Governor’s veto of [Senate Bill 22](#) this week but never did. The bill passed the Senate 24-16 last month, three votes shy of a veto-proof majority. By the middle of last week, it seemed apparent that the Senate didn’t have the support needed to push it over the line. And even if they did, chances were slimmer in the House with ten votes needed to flip.

The bill decouples Kansas from federal law on a number of tax policy provisions approved in President Trump’s Tax Cuts and Jobs Act of 2017. Specifically, it would allow individual taxpayers the ability to itemize at the lower standard deduction rate on their state tax returns and prevents a new tax increase on Kansas corporations’ overseas income. The measure also lowers the sales tax on food by a penny and requires all internet retailers (even Amazon and eBay) to collect and remit tax on online sales made in Kansas.

While SB 22 seems dead for the year, the provisions of the bill could be considered and included in a tax conference committee report during the Veto Session.

The Tax Conference Committee also began negotiations on a number of other policy items last week. A few to note are: Taxpayer Protection Act and Individual Expensing ([Senate Bill 104](#)), Rural Opportunity Zone Tax Credit Extension ([Senate Bill 125](#)), and Sales Tax Exemption Repeal Mandate ([Senate Bill 178](#)). These are expected to be included in a conference committee report in some form this year.

Budget Review for April 8, 2019.

Budget action at the end of the session finally brought the work of the House and Senate to negotiate their budget differences. For a number years now, the Legislature has not produced a budget before the April break. This year it looked on track to have a bill, but in the end they were unable to come to an agreement on all items.



While the big item of school finance has been agreed to, other items like the structure of paying off a multi million dollar loan by the Pooled Money Investment Board are still in play.

There was agreement in funding for the State Water Plan, the Board of Regents (including funding for community and tech colleges), funding for delayed T-WORKS transportation projects, and adding staff for foster care cases. Many budget items so far was language about spending, not actual dollars.

Some items, like state employee pay, have been put off until they return in May. The conventional wisdom is that legislators want to see the tax revenue numbers from April before they make any more decisions on the budget. That, in recent years, has generally set the tone for legislative willingness to add or decrease funding for various agencies. There were a number of social service agency/program budget items delayed until after April for that very reason.

The Governor and the Legislature still have different budget priorities. Delaying the rest of the budget decisions until the end of the session will enhance those differences. It won't be surprising if the budget is one of the last items to be voted on before the 2019 session closes.

Senate Confirms Cabinet Secretaries

Several more of Governor Kelly's agency head nominees were confirmed by the Senate last week. Laura Howard, Secretary of the Departments of Children & Families and Aging & Disability; Mike Beam, Secretary of Agriculture; Brad Loveless, Secretary of Wildlife Parks & Tourism; and Donald Brownlee, Executive Director of the Racing & Gaming Commission, were all confirmed by a vote of 37-1.

A more contentious vote was on David Toland as the new Secretary of Commerce on Monday. The Senate confirmed his nomination by a vote of 23-14 and not before several legislators spoke out in opposition. Toland has been under scrutiny in recent weeks regarding his background in economic development and controversial social media.

Acting Secretary of Labor Delia Garcia is scheduled to have her confirmation hearings in the Senate Commerce Committee on May 2.

Industrial Hemp, Medical CBD Advance in Kansas

The Legislature approved and sent to the Governor the Conference Committee Report on [Senate Substitute for House Bill 2167](#), which establishes a commercial industrial hemp program in Kansas. The Kansas Department of Agriculture (KDA) will submit a plan to the U.S. Department of Agriculture outlining how the KDA will monitor and regulate crop production, in accordance with federal law.



After House and Senate negotiators ironed out the details, mainly around prevention and prosecution of criminal activity, the bill was on the fast track before Spring Break to allow farmers enough time to plant this season. The bill passed both chambers almost unanimously on Friday.

As previously reported, the House approved [House Bill 2244](#) last month, which creates an affirmative defense provided by the state for anyone arrested or charged with possession of medical CBD with up to five percent THC that is under direct physician treatment. The bill has been blessed and could be included in a Judiciary conference committee report during the Veto Session.

Eco Devo Transparency Awaits House Vote

The economic development transparency bill was included in the Conference Committee Report on [House Bill 2223](#) and approved by the Senate last week. The bill didn't make it to the House in time for first adjournment but is expected to be approved and sent to the Governor during the Veto Session.

As a reminder, the measure authorized a systematic and comprehensive review, analysis, and evaluation of state economic development programs every three years and establishes an online database to collect and disclose non-confidential data on the recipients of the tax credits and incentive programs.

Scrap Metal Legislation Still Alive

The House Judiciary Committee will hold a hearing on [Substitute for Senate Bill 219](#) when lawmakers return for the Veto Session. The bill was considered in conference committee last week but stalled prior to adjournment. House negotiators requested a formal hearing before moving forward on the bill, and it's been scheduled for May 2. Sub for SB 219 has already passed the Senate is expected to be included in a conference committee report this year.

The proposal makes several changes to the scrap metal theft reduction act passed in 2015, mainly implementing the statewide scrap metal database with a \$180,000 appropriation in the omnibus budget.

Conference Committee Reports (CCRs) to the Governor

The following are a few of the bills we've been tracking that were negotiated in conference committees last week and are now heading to the Governor's desk:

AHPs, Farm Bureau Member Benefit – [CCR on House Bill 2209](#)

This measure makes several changes to the state Insurance Code to allow for broader



Association Health Plans in Kansas. It also exempts the Kansas Farm Bureau (KFB) from state jurisdiction in providing non-insurance healthcare benefits to their members with no pre-existing conditions. There has been speculation on whether or not Governor Kelly will veto the bill, as she's not been supportive of the KFB provision. Both the House and Senate votes on the CCR last week were veto-proof, receiving 84 in the House and 28 in the Senate.

Corporate Practice of Medicine – [CCR on House Bill 2119](#)

This allows businesses authorized by the Kansas Board of Healing Arts to employ physicians for the purpose of providing healthcare services to employees. The bill includes compromise language negotiated between the business and medical interests.

Transportation Task Force Recommendations

- Allowing local communities to authorize new toll projects to partially pay for transportation improvements – [CCR on Senate Substitute for House Bill 2007](#)
- Increasing the oversize/overweight vehicle annual permit fee to \$200 and single trips to \$40 – [CCR on Senate Substitute for House Bill 2225](#)
- Increasing registration fees on electric and hybrid vehicle registration fees to \$100 and \$50, respectively – [CCR on Senate Substitute for House Bill 2214](#)

Fixed Annuity Contracts – [CCR on House Bill 2177](#)

This will permit life insurance companies that offer fixed index annuities (FIAs) to utilize an alternative methodology accounting for certain reserves. The bill also makes several amendments to current state Insurance Code, including registration requirements related to enterprise risk reports and clarification of language dealing with criminal penalties.

ATVs on Highways – [CCR on Senate Bill 63](#)

This measure authorizes All-terrain Vehicles (ATVs) to cross federal or state highways, and allows ATVs used for agricultural purposes on federal and state highways outside of city limits under certain conditions.

Bill Number	Bill Sponsor	Bill Subject	Current Status	Last Action	Notes
SB 9	Molly Baumgardner, R-37th	Authorizing the transfer of \$115,000,000 from the state general fund to the Kansas public employees retirement fund during fiscal year 2019	Approved by Governor	3/8/19 Approved by Governor Laura Kelly	
SB 13	Caryn Tyson, R-12th	Increasing and allowing Kansas itemized deductions, allowing individual expensing deduction, providing for certain income tax credits, allowing rural opportunity zone for certain counties, extending certain counties countywide retailers' sales tax, providing for sales tax definitions and exemptions for certain sales	In Senate Federal Tax Code Implementation	01/18/2019 - Senate Withdrawn from Assessment and Taxation; referred to Federal Tax Code Implementation	

SB 22	Senate Federal and State Affairs Committee	Kansas itemized deductions, election, providing for deferred foreign income, global intangible low-taxed income, business interest, capital contributions and FDIC premiums income tax modifications	Vetoed by Governor	3/25/19 Vetoed by Governor Laura Kelly	
SB 47	Senate Assessment and Taxation Committee	Creating the student opportunity scholarship program	In Senate Education	02/13/2019 - Senate Scheduled Final Action in Education: Wednesday, 2/20, 1:30 PM, Rm 144-S	
SB 57	Mike Petersen, R-28th	Requiring review of information technology contracts by the joint committee on information technology	In Senate Ways and Means	03/18/2019 - Senate Scheduled Hearing in Ways and Means: Wednesday, 3/20, 10:30 AM, Rm 548-S	
SB 71	Senate Education Committee	Eliminating the expiration of the postsecondary technical education authority and requiring a report to the legislature	Pending action by Governor	04/02/2019 - Senate Enrolled and presented to the Governor	

SB 72	Senate Ways and Means Committee	Supplemental appropriations for FY 2019, FY 2020, FY 2021, FY 2022, FY 2023 and FY 2024 for various state agencies	In Senate Ways and Means	03/08/2019 - Senate Scheduled Hearing in Ways and Means: Tuesday, 3/12, 10:30 AM, Rm 548-S	
SB 74	Senate Ways and Means Committee	Providing a post-retirement benefit increase (COLA) for certain KPERS retirants	In Senate Ways and Means	02/01/2019 - Senate Referred to Ways and Means	
HB 2005	Elizabeth Bishop, D-88th	Allowing an individual to itemize deductions in Kansas despite not itemizing on their federal return	In House Taxation	01/15/2019 - House Referred to Taxation	
HB 2011	Nick Hoheisel, R-97th	Sales tax exemption for required textbooks	In House Taxation	02/07/2019 - House Scheduled Hearing in Taxation: Tuesday, 2/12, 3:30 PM, Rm 112-N	
HB 2100	House Financial	Providing a post-	In House Financial	02/06/2019 - House	

	Institutions and Pensions Committee	retirement benefit increase (COLA) for certain KPERS retirants	Institutions and Pensions	Scheduled Hearing in Financial Institutions and Pensions: Monday, 2/11, 9:00 AM, Rm 281-N	
HB 2112	Kenneth Collins, R-2nd	Adding Crawford and Dickinson counties to the list of eligible rural opportunity zone counties	Stricken from Calendar in House	02/28/2019 - House Stricken from Calendar	
HB 2121	House Appropriations Committee	Supplemental appropriations for FY 2019, FY 2020, FY 2021, FY 2022, FY 2023 and FY 2024 for various state agencies	In House Appropriations	03/13/2019 - House Scheduled Discussion and Possible Action in Appropriations : Tuesday, 3/19, 9:00 AM, Rm 112-N	
HB 2153	House Federal and State Affairs Committee	Repealing statutes pertaining to student religious associations	In House Federal and State Affairs	02/07/2019 - House Referred to Federal and State Affairs	
HB 2216	John Alcala, D-57th	Establishing state employee student loan repayment assistance act	In House Higher Education Budget	02/13/2019 - House Scheduled Hearing in Higher Education: Wednesday, 2/20, 1:30 PM, Rm 281-N	

HB 2264	Brandon Whipple, D-96th	Providing a tax credit to pell grant recipients at a postsecondary educational institution	In House Taxation	02/13/2019 - House Referred to Taxation	
HB 2265	Brandon Whipple, D-96th	Award of college credit hours for passing CLEP and other college examination programs	In House Higher Education Budget	02/15/2019 - House Scheduled Hearing in Education Budget: Wednesday, 2/20, 1:30 PM, Rm 281-N	
HB 2266	Brandon Whipple, D-96th	Prohibiting universities from charging fees for certain scholarship applications	In House Higher Education Budget	02/13/2019 - House Referred to Higher Education Budget	
HB 2288	Renee Erickson, R-87th	Creating the Kansas student and educator freedom of religious speech act	In House Education	02/18/2019 - House Scheduled Hearing in Education: Thursday, 2/21, 1:30 PM, Rm 218-N	
HB 2297	Barbara Ballard, D-44th	Permanently exempting postsecondary educational institutions from the public buildings law under the personal and family protection act	In House Federal and State Affairs	02/14/2019 - House Referred to Federal and State Affairs	

HB 2301	Brandon Whipple, D-96th	Establishing the tax credit for low income postsecondary students scholarship program act and providing for the elimination of the tax credit for low income students scholarship program act	In House Taxation	02/14/2019 - House Referred to Taxation	
HB 2312	Tim Hodge, D-72nd	Establishing the rural revitalization student loan repayment program	In House Commerce, Labor and Economic Development	02/14/2019 - House Referred to Commerce, Labor and Economic Development	