LEGISLATIVE TIMELINE; Halfway Point Reached Next Week

By Paul Johnson

Come March 5, the Kansas Legislature will be at the half way point in the 2021 regular legislative session. Bills that have not been blessed by certain exempt committees must be passed to the other chamber to be considered in this legislative session. Make no mistake - if there is a hot priority issue from legislative leadership there will be a way to bless any bill.

279 Senate bills filed and 424 House bills have been filed to date. While most of these bills will not be worked this year (and most will never have a hearing), these bills are still held over to the 2022 session. March 5th is known as turnaround day marking the middle. April 9 will be the final day of the regular session. May 3rd will be the start of the veto session.

Next week, the Kansas House and Senate will spend the majority of time debating bills that have passed a committee. Bills that are not ‘blessed’ will be given priority so they can be passed to the other chamber. Much of the State budget has been considered by various committees and now passed by the Senate Ways & Means committee or the House Appropriations committee. Starting after March 10, there will be floor votes in each chamber to pass their chamber’s version of the State budget. At that point, a conference committee of House and Senate members will be convened to reconcile the differences between the two budgets. Timing is a bit uncertain after that. When the tax cut legislation is passed will impact what resources are available to pass a balanced State budget.

Many key budget decisions such as staffing and salary increases were taken out of the State budget and left for the final budget bill – the Omnibus Bill – that will be assembled in the veto session in May. The consensus revenue estimating group will meet mid-April to develop new revenue projections for 2021 and 2022 which must be used to finish the 2021 and 2022 State Budgets. In the pending federal Covid-19 pandemic package in Congress there is direct assistance to States and local governments that could impact a final State Budget in Kansas.

SECURITIZATION BOND BLUES

Troubled Kansas electric rate payers – who pay electricity bills higher than the region or nationally – beware. Legislation – Senate Bill 245 – written by EVERGY behind closed doors - is on a fast track. SB 245 could well force captive electric ratepayers to finance ‘securitization bonds’ for 20-30 years to retire unneeded aging coal plants while the investors in EVERGY – the vast majority who do not reside in Kansas – smile.

‘Securitization’ can be a very useful tool to retire unneeded assets and fund least cost options of energy efficiency and renewable energy. Senate Bill 117 does just that by assuring this bonding finance proposal will
lower ratepayer rates and upgrade the electric system for the future through least cost options. This bill was introduced by Sen. Tom Hawk in the Senate Ways & Means committee as a committee bill. Senator Hawk introduced a similar bill last session. SB 117 was introduced on February 1 and assigned to the Senate Ways & Means committee on February 2 where it will likely never see the light of day. Because this is a ‘blessed bill’ in Senate Ways & Means it is still alive for this session or for the 2022 session.

EVERGY’s SB 245 was filed on February 12, assigned to the Senate Financial Institutions and Insurance committee on February 15 and given a hearing on February 18. The fast track was to give this complicated bill a one day hearing before an undereducated committee and kick it out two days later. The Kansas Electric Cooperatives testified they had barely seen the bill and could not ascertain what impact it may have on the REC’s.

The belief is that the Kansas Corporation Commission will have final say on the issuance of any ratepayer-backed bonds and that ratepayers must reap substantial benefits. Right now the choice of whether ‘Mainstreet or Wall Street benefits’ is left with EVERGY. Amendments between the KCC and EVERGY on this bill are now in play. Read more about SB 245 HERE.

STATE ENERGY PLAN TASK FORCE BILL PASSES HOUSE COMMITTEE
Last week, the House Energy, Utilities, and Telecommunications Committee passed HB 2381, which would create a task force to develop a state energy plan, out of Committee. It will be voted on by the full House soon. Creation of a state energy plan was one of the top recommendations from a legislative study last year from London Economics. As Kansas adapts to meet future energy challenges and opportunities, a state plan can better equip Kansas to handle the necessary changes and opportunities to provide stable, secure and affordable energy.

REDISTRICTING REPORT
The public process to draw new congressional and legislative districts is still on hold. While the Kansas House has established a redistricting committee and appointed the members, the Kansas Senate has established a redistricting committee but members have yet to be appointed. In 2011, a joint advisory committee on redistricting - consisting of legislative leadership from both chambers - was appointed. This joint committee adopted proposed ‘legislative guidelines’ and a schedule for public hearings that informed the House and Senate standing committees. In fact, the public hearings in 2011 started before the final census numbers were established. The question now is whether a joint committee will be created or will the Legislative Coordinating Council (LCC) comprised of majority and minority party leadership from both chambers will start the redistricting process and suggest ‘legislative guidelines’ for this redistricting.

The 2020 Census numbers have been delayed due to the problems with the pandemic and certain political games played by the Trump administration. Right now the Census Bureau has stated that the State census count will be released on April 30th. These State totals cannot be challenged administratively but might be challenged in Court. A key factor will be assessing ‘disclosure avoidance’ where certain persons have not been counted because there was not adequate public outreach or persons were fearful to be counted. The Census numbers to draw legislative districts will be released on September 30th. Counties or cities can administratively challenge these numbers if there are documented records to establish a different count. The basic delineation of census numbers comes in ‘Census Blocks’ that somewhat track neighborhoods. In 2010 Kansas had 238,600 Census Blocks. The 2020 Census Block numbers have now been released. Overlaying these Census numbers from the Secretary of State will be voter registration numbers listing party affiliation or independent status.

WATER CHALLENGES
The policy debate on the future of Kansas water supply and water quality lingers on and on with little
substantive action. Key lawmakers over the last few decades have always talked of the importance of water and the future of Kansas but little political capital has been spent. Kansas’ lawmakers take highways very seriously and dedicate $560 million of our general sales taxes to fund roads. Kansas’ lawmakers take the State Water Plan very seriously but still cannot find $8 million in state taxes to fund the SWP.

Water challenges will continue to worsen without a serious water plan. Climate disruptions such as extended droughts and more severe or extreme weather are a real possibility. Soil depletion and runoff into the federal reservoirs, that serve as public water storage, deserve far greater action. The depletion of the Ogallala-High Plains aquifer is inevitable without meaningful public policy changes to stop subsidizing the depletion. Fundamental Kansas water law has not been updated since 1956 – some 65 years ago.

With regard to the Ogallala, the title to this article by KSU’s Matthew Sanderson and Washburn Professor of Law Burke Griggs says it all: ‘Farmers are depleting the Ogallala Aquifer because the government pays them to do it’. The Ogallala Aquifer is one of the largest groundwater sources in the world and supports $35 Billion in U.S. crop production each year. Between 1900 and 2008, 89 trillion gallons from this aquifer have been pumped. 30% of the aquifer has hit ‘Day Zero’ when the well runs dry. Within 50 years, 70% is expected to be deleted. Irrigation accounts for 90% of the withdrawals. ‘Government payments create a vicious cycle of overproduction that intensifies water use’. Policy changes are listed in this article. The conclusion to the article states that ‘Depletion is a structural problem embedded in agricultural policies. Groundwater depletion is a policy choice made by federal, state and local officials’. Read the article HERE.

NEW KWO DIRECTOR CONFIRMED
Connie Owen has now been confirmed by the Kansas Senate as the director of the Kansas Water Office. In her presentation before the House Water committee, there were a few questions on drought and water storage issues. Connie laid out drought monitoring, classification and trends. She spelled out the Kansas drought response process and the steps involved. She then responded to questions on the Kansas water supply storage contracts and the connection to the U.S. Army Corps of Engineers Reservoirs (which number 14).

KANSAS RIVERKEEPER APPOINTED TO KWA CHAIR
This past week the Kansas Senate confirmed Dawn Buehler as the chairperson of the Kansas Water Authority that develops water policy for the State. Dawn is the Kansas Riverkeeper and Director of Friends of the Kaw. The Kansas Water Authority was established in 1981 to provide oversight and leadership to ensure that water policies and programs address the needs of all Kansans, including approving the annual Kansas Water Plan. Congratulations to Dawn Buehler!

SOIL HEALTH BILL UPDATE
by Mary Fund
Closely related to Kansas water health is soil. Many of the programs and initiatives of the State Water Plan and outlined in the state’s Water Vision Plan focus on soil conservation and quality. HB 2310, introduced earlier in the session would create the ‘Kansas healthy soils fund and the Kansas healthy soils initiative” within the existing Kansas conservation statutes. While the bill has not received a hearing, and is unlikely to with the short time left for such hearings, it does help elevate healthy soils at the agency and state legislature level. If no action is taken this session, the bill will still be “alive” for the 2022 session, which allows time to review and revise it, and develop a bill that focuses on elevating healthy soils practices in all of the state conservation or relevant other programs.

Basically as written, the bill updates existing conservation statutes that created the State Conservation Commission and conservation districts by inserting “healthy soils” language where ever appropriate, and establishing a “Kansas Healthy Soils Fund”. The bill adds a definition of healthy soils and practices including
the basic principles of soil health. It requires that Commission members “have expertise in healthy soils practices”. The Kansas Healthy Soils Fund does not explain where the funds will come from, only that the Legislature can appropriate money to it, or that it can accept gifts, grants or private contributions, or other sources (which we assume might include federal dollars.)

The bill appears to be part of a nationwide effort by soil advocates to raise awareness of the value of healthy soil and its benefits to food and agriculture and thus the common good, as well as to update state statutes to reflect the new awareness and knowledge.

As stated above, while a hearing and further attention this session has slim to no chance, hopefully it prompts more discussion and consideration of the role healthy soils practices can play in building the state’s farm and food system’s future resiliency.

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**KANSAS PUBLIC EMPLOYEES RETIREMENT SYSTEM UPDATE**

**Good News About KPERS:** KPERS has been making steady progress toward improved funding:

- It reached 70% funding toward a goal of being 100% funded.
- The funded ratio has improved steadily from its all-time low of 56% in 2012.
- The system experienced a 17.5% total annual investment return in 2019 and an 11.5% return in 2020.
- The KPERS Trust Fund reached an all-time high of over $23 billion.
- The State is now making contributions at the actuarially required rate, joining local employers who have been at the required rate since 2015.
- KPERS’s unfunded liability decreased by $200 million. (Having an unfunded liability is not necessarily bad or uncommon as long as there is a plan to pay for it in a reasonable amount of time)

The Governor has recommended extending the existing unfunded liability by 10 years, ending in 2043 instead of 2033. Her proposal constitutes reamortization. Reamortization works the same as refinancing a home; it lowers payments in the short-term but costs more in the long run. Retirement systems often reamortize within the last 10-15 years of the amortization period, but having a sound funding position beforehand is critical. Reamortization does not impact retiree benefits. *(Information provided by Alan Conroy – KPERS Executive Director)*

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**ADMINISTRATIVE RULES AND REGULATIONS:**

**NOXIOUS WEED RULE AND REGULATIONS NEXT STEPS**

The Kansas Department of Agriculture (KDA) is close to finishing the final rules and regulations on noxious weeds. KDA published its draft rules and regulations in the Kansas Register on December 16. This started a 60-day clock that allows the Legislative Joint Committee on Rules and Regulations to comment on the rules before the mandatory public hearing that was held on February 16. KDA is now considering the public comments on the proposed noxious weed rules and regulations before the final noxious weed rules and regulations will be printed in the Kansas Register.

The Joint Committee on Rules and Regulations raised three issues of concern. The first is KAR 4-8-38 that requires local units of government to hire the county weed supervisor as opposed to using an independent contractor. What is the statutory basis for this change and its fiscal impact on counties was asked. Secondly – the Joint Committee requested how various weeds were classified and why allowing more stringent controls on certain weeds? The third item requested was that KDA place the counties annual weed reports on KDA’s website and that the progress on annual weed eradication control be made part of the mandatory annual weed report. KDA is not by statute required to respond to these requests from the Joint Committee but often times the Joint Committee will ask for a response at the next Joint Committee meeting.

KDA is now required by statute (KSA-77-421) to write a summary statement upon adoption of the final rules and regulations which is to include KDA’s reasons for not adopting substantial arguments made in the public testimony. If substantial changes were made to the subject matter or the changes are not a ‘logical outgrowth’ of the proposed rules and regulations, the process starts over and a new set of rules and regulations developed.
BATTLE OVER ADMINISTRATIVE RULES AND REGULATIONS
The battle over ‘administrative rules and regulations’ has now begun in the Kansas Legislature as constitutional amendments have been proposed to give control to the Kansas Legislature over select rules and regulations. The Kansas Supreme Court ruled a number of years ago that there is a bright line between the Executive Branch and the Legislative Branch so the Legislature cannot ‘veto’ administrative rules and regulations.

While this is true - the Joint Administrative Committee on Rules and Regulations has certain power to question the intent of rules and regulations. State agencies take these concerns very seriously and respond. The Legislature has the power of the purse to limit the implementation of rules and regulations by staffing and budgetary cuts. The Legislature can always pass new legislation to clarify their specific intent of the policy. There are limits on how precise legislation can be written to micromanage specific state programs but given the current environment at the Kansas Statehouse, one must wonder why such issues were never raised with the previous Republican governor? Proponents of the so called “legislative veto” argue that in addition to the three separate branches of government (Executive, Legislative and Judicial) a fourth “administrative” branch is grown “unchecked”.

It appears to be one more attempt to further erode Executive Branch power while a pandemic influenced population is easily manipulated. See more HERE.

FEDERAL FARM AND FOOD NEWS
An Old New Ag Secretary Confirmed… and Policy Recommendations for a More Sustainable, Resilient Food System
Agriculture groups across the country lauded the confirmation this past week of Tom Vilsack to a second go around as U.S. Secretary of Agriculture. See more HERE. Vilsack provides a familiar face to farm and ag business as he served as USDA secretary for eight years under President Obama. Comments were glowing in their confidence in Vilsack and their willingness to work with him. Top concerns among the groups were the challenges that Covid -19 has presented to the food and farm system, and trade and climate issues.

Back in December the National Sustainable Agriculture Coalition (NSAC) provided the incoming administration detailed policy recommendations for all of those and more. Their list focuses on the climate crisis, building a more resilient food supply chain, addressing longstanding issues of racial inequities, strengthening anti-trust enforcement, and scaling up investments in public research. See the full article HERE
See the full transition document HERE

HOW TO ACCESS STATE COMMITTEE HEARINGS, SCHEDULES, BILLS
To access House and Senate Calendars:
Published daily; and on Thursdays, calendars are published for the next week. They provide Committee Schedules, list bills or informational hearings to be heard, and possible votes.
Go to http://kslegislature.org/li

To access copies of bills introduced:
Go to the Kansas Legislature’s homepage at http://kslegislature.org/li/ and on the right side of the page click on the House and Senate pre-filed bills.

To view and listen to a committee hearing:
Go to the very top of the Legislature’s homepage http://kslegislature.org/li/ and click on the Audio-Visual tab and scroll down to ‘Statehouse Live & Archive’. There will be a listing of the committees for that day and the start time. In order to testify on a bill before a given committee, you will need to contact the ‘committee assistant’ (listed in the Calendar) a day or so before the hearing to be able to testify in person or virtually.
To view Senate & House Chambers in session:
Go to http://kslegislature.org/li/ Audio/Video Broadcast and click on House or Senate.

The Legislative Policy Watch Update is a project of the Kansas Rural Center. KRC promotes the health of the land and its people through research, education and advocacy that advance an ecologically sound, economically viable, and socially just agriculture.

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