



KANSAS LEGISLATIVE INSIGHTS NEWSLETTER | FEBRUARY 19, 2021

February 19, 2021

SENATOR ESTES SERVICES

On Saturday, Feb. 13, Sen. Bud Estes, R-Dodge City, passed away at age 74. He served two terms in the Kansas House of Representatives from 2013-2016. Senator Estes served in the Senate since 2017 and was re-elected last November. Bud was a well-respected lawmaker who will be missed. His service is next Monday in Bucklin. Both the House and Senate will be meeting Pro Forma, allowing members to attend the funeral. Kansas Legislative Insights extends our deepest sympathies to his family.

WEATHER SLOWS SESSION

After the Friday deadline for bill introductions by individual legislators and non-exempt committees, there were more than 600 bills introduced between the House and Senate. Because of the weather state of emergency, there were committee cancellations on Monday and Tuesday, while others met virtually. Many legislators met virtually on Monday and Tuesday. To conserve energy, Statehouse hallway lights were darkened on both days as well. Legislative committees and subcommittees continue to churn through the budgets of state agencies. Next week is the last opportunity for non-exempt committees to debate and pass bills by the Feb. 26 deadline before turnaround.

COMMITTEE ACTION

This week, the Senate Commerce Committee held hearings on SB 177. It is the Senate version of the legislative version to modernize the State's unemployment insurance system and address unemployment fraud issues.

The November 2020 election controversy generated bills about mail-in ballots and other election-related issues. Also, this week the House Elections Committee heard a bill shortening the receipt deadline for mail ballots postmarked by Election Day to be counted. The bill would shorten the receipt time from three days to the day after the election. The Kansas County Clerks and Election Officials Association opposed the bill, noting that the 2020 Kansas elections proceeded smoothly. According to the Secretary of State's Office, 85% of the mail ballots were returned before Election Day. Only 15,000 of the general-election voters had their ballots arrive on Thursday and Friday. This represents approximately 1% of the 1.3 million Kansans who cast ballots. The Kansas County Clerks

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and Election Officials Association did recommend a permanent list of residents who want an advance ballot, saving them from sending duplicate requests for each election cycle. It would be similar the current list for disabled individuals voting by mail.

The House Elections Committee passed a bill preventing cross-party appointments of state treasurers and insurance commissioners. Under current state law, the Governor makes replacement appointments without regard to the political party of the last elected officer. This year Gov. Kelly appointed Lieutenant Governor Lynn Rogers as State Treasurer, replacing Republican State Treasurer Jake LaTurner who was elected to Congress. Under the proposal, the political party of the outgoing Treasurer or Insurance Commissioner would hold a convention to select the successor.

Next week, the legislature's Joint Building Committee will tour the Docking State Office building as the State continues to ponder options for its future.

GOVERNOR'S PRESS CONFERENCE

On Wednesday, Gov. Laura Kelly's press conference featured the announcement of her "Back to School Vaccine Plan" to reopen schools. The Kansas Senate is working on SB 235, mandating that schools reopen no later than March 26. Under the governor's plan, schools would receive additional vaccine for teachers and staff along with the rapid-test kits. Kelly announced that the plan was made possible by an increase in the number of vaccines now entering Kansas. She said the number of vaccine injections received by Kansans had increased from 45,000 to 90,000 as of last week. The governor further indicated that the weekly number of vaccinations could increase to 115,000 relatively soon. Gov. Kelly attributed Kansas' lagging in vaccine administration to flaws in the reporting system and human error.

FLOOR ACTION

On Wednesday, the House of Representatives debated 11 bills and passed them with large margins on final action Thursday morning. The House debated and passed an additional five measures on Thursday.

On Wednesday, the Kansas Senate debated and passed six bills. Senate Bill 60, defining when a crime is committed partly within this state, drew a proposed amendment by Sen. David Haley. Sen. Haley pointed out that marijuana is legal in other states and those non-Kansas residents in possession of marijuana traveling through Kansas may be unfairly ticketed. The rules committee ruled the amendment not germane.

The Senate also passed Senate Bill 85, requiring that missing foster children be reported to the governor and Legislature within 24 hours.

KEY TURNAROUND DEADLINE NEARS – FEBRUARY 26

The key deadline for non-exempt bills to be considered this session is rapidly approaching. Feb. 26 is the last day for committees in each house to meet and consider bills prior to turnaround. Both the House and Senate will be in session and on the floor of their respective chambers voting on bills each day Mar. 1 through Mar. 4. Turnaround day is Mar. 5, when all bills from non-exempt committees must be forwarded by their chamber of origin. There is no session Mar. 6 through Mar. 9.

BILL INTRODUCTIONS

HEALTHCARE

SB 77 – Would enact the Audiology and Speech-Language Pathology Interstate Compact, relating to the interstate practice and licensure of audiology and speech pathology. Referred to the Senate Committee on Public Health and Welfare, Sen. Richard Hilderbrand, Chair. The Committee recommended the bill be passed.

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SB 227 – Would, among other things, provide dental benefits for Medicaid enrollees. Referred to the Senate Committee on Public Health and Welfare, Sen. Richard Hilderbrand, Chair.

HB 2372 – Would impose a Medicaid assessment on ground ambulance-service providers. Referred to the House Committee on Health and Human Services, Rep. Brenda Landwehr, Chair.

HB 2380 – Would, among other things, amend the Healthcare Stabilization Fund minimum professional-liability coverage requirements. Referred to the House Committee on Insurance and Pensions, Rep. Steven Johnson, Chair. A hearing has been scheduled for this matter on Feb. 22, 2021.

HB 2383 – Would make similar changes to pharmacists' scope of practice as SB. 200, reported on Feb. 12, 2021. Referred to the House Committee on Insurance and Pensions, Rep. Steven Johnson, Chair.

HB 2386 – Would establish certain payment requirements and restrictions by a dental benefits plan relating to dental services. Referred to the House Committee on Health and Human Services, Rep. Brenda Landwehr, Chair.

HB 2388 – Would require health-benefit plans cover certain professional services performed by a pharmacist. Referred to the House Committee on Insurance and Pensions, Rep. Steven Johnson, Chair.

SB 248 – Would require telemedicine practitioners to refer and coordinate care to specialists under certain circumstances. Referred to the Senate Committee on Public Health and Welfare, Sen. Richard Hilderbrand, Chair.

SB 251 – Would update and make changes to the powers, duties, and functions of the State Board of Pharmacy; would also define the practice of telepharmacy and prescribe rules and regulations concerning such practice. Referred to the Senate Committee on Public Health and Welfare, Sen. Richard Hilderbrand, Chair.

SB 244 – Would increase regulations relating to pharmacy-benefits managers and prescribe licensure requirements for such entities. See also HB 2383. Referred to the Senate Committee on Financial Institutions and Insurance, Sen. Jeff Longbine, Chair.

SB 259 – Would permit the admission of a healthcare provider's medical report into evidence without the necessity of certain foundational requirements in workers' compensation cases. Referred to the Senate Committee on Commerce, Sen. Robert Olsen, Chair.

HB 2261 – Would make similar changes to rural emergency hospitals as described in SB 175, reported on Feb. 12, 2021. Referred to the House Committee on Health and Human Services, Rep. Brenda Landwehr, Chair. The Committee has recommended the bill be passed.

HB 2393 – Would make post-traumatic stress disorder suffered by first responders a compensable workplace injury under certain circumstances. Referred to the House Committee on Commerce, Labor, and Economic Development, Rep. Sean Tarwater, Chair.

HB 2400 – Would provide for regulation and licensing of massage therapists. Referred to the House Committee on Health and Human Services, Rep. Brenda Landwehr, Chair.

COURTS, LAWS, AND REGULATIONS

SB 86 – Would amend provisions in the law governing KPERs and would generally require certain mandatory distributions of retirement benefits to begin at age 72. Referred to the Senate Committee on Financial Institutions and Insurance, Sen. Jeff Longbine, Chair. The Committee recommended the bill be passed.

SB 90 – Would allow vertical renovations of certain buildings for residential purposes to be a permitted use of bond proceeds under the Kansas Rural Housing Incentive District Act. Referred to the Senate Committee on Commerce, Sen. Robert Olson, Chair. The Committee has recommended the bill be passed.

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SB 103 – As recommended by the Senate Committee on Judiciary, would, among other things, amend the Kansas Power of Attorney Act to state that a prospective power of attorney will be deemed sufficient if it is in substantial compliance with a form which will be promulgated by the Judicial Council; would also amend provisions relating to the liability of third persons relying on a power of attorney. We reported on this in the Feb. 5 issue. The Committee has recommended the bill be passed.

SB 107 – Would enact the Uniform Fiduciary Income and Principal Act relating to fiduciary laws and repeal the Uniform Principal and Income Act of 1997. Referred to the Senate Committee on Judiciary, Sen. Kellie Warren, Chair. The Committee has recommended the bill be passed.

SB 219 – Would amend laws relating to real estate brokers and salespersons including, but not limited to, the definitions of brokers, licensure requirements, exemptions, and fines and penalties. Referred to the Senate Committee on Commerce, Sen. Robert Olsen, Chair.

SB 238 – Would, among other things, reduce licensure requirements for professions regulated by the Behavioral Sciences Regulatory Board and expand the board's grounds for discipline. Referred to the Senate Committee on Public Health and Welfare, Sen. Richard Hilderbrand, Chair. A hearing has been scheduled for this matter on Feb. 24, 2021.

HB 2125 – Would allow a will or a copy of a will to be probated at any time after the initial filing. Referred to the House Committee on Judiciary, Rep. Fred Patton, Chair. The Committee has recommended the bill be passed.

HB 2152 – As amended, would provide and clarify how property held under a transfer-on-death deed is distributed when the beneficiary predeceases the grantor. Referred to the House Committee on Judiciary, Rep. Fred Patton, Chair. The Committee has recommended the bill be passed.

HB 2390 – Would make certain temporary disclosure exceptions permanent under the Kansas Open Records Act. Referred to the House Committee on the Judiciary, Rep. Fred Patton, Chair.

HB 2391 – Would make multiple and significant changes to business registration laws relating to, among other things, reporting requirements and fees, minimum information requirements, removing prior exemptions for certain tax records, and other miscellaneous changes. Referred to the House Committee on Commerce, Labor and Economic Development, Rep. Sean Tarwater, Chair.

SB 252 – Would, among other things, prescribe and define fulfillment-house licensure and fulfillment-house licensure requirements regarding shipping of alcoholic liquors. See also HB 2252. Referred to the Senate Committee on Federal and State Affairs, Sen. Larry Alley, Chair.

SB 253 – Would allow a farm winery licensee to transfer under certain circumstances and would allow licensees to receive bulk wine and produce fortified wine. Referred to the Senate Committee on Federal and State Affairs, Sen. Larry Alley, Chair.

SB 254 – Would permit certain licensees under Kansas alcohol laws to sell and serve cereal malt beverages. Referred to the Senate Committee on Federal and State Affairs, Sen. Larry Alley, Chair.

SB 256 – Would change the start time for Sunday sales of alcoholic beverages from noon to 10 a.m. and remove certain sales restrictions on Memorial Day, Independence Day, and Labor Day. Referred to the Senate Committee on Federal and State Affairs, Sen. Larry Alley, Chair.

SB 257 – Would permit clubs and drinking establishments to sell beer and cereal malt beverages for consumption off the licensed premises under certain circumstances. Referred to the Senate Committee on Federal and State Affairs, Sen. Larry Alley, Chair.

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HB 2396 – Would make supplemental appropriations for fiscal years 2021 through 2032 for various state agencies. Referred to the House Committee on Appropriations, Rep. Troy Waymaster, Chair.

HB 2397 – Would make appropriations for fiscal years 2022 through 2024 for various state agencies. Referred to the House Committee on Appropriations, Rep. Troy Waymaster, Chair.

HB 2399 – Would amortize a certain portion of KPERS unfunded actuarial liability over a 24-year period and eliminate certain level-dollar employer contribution payments. Referred to the House Committee on Insurance and Pensions, Rep. Steven Johnson, Chair. A hearing is scheduled for Feb. 24, 2021.

BANKING AND FINANCE

SB 218 – Would amend the Uniform Consumer Credit Code relating to consumer loans; would provide for restrictions and other requirements for certain alternative small installment loans. Referred to the Senate Committee on Financial Institutions and Insurance, Sen. Jeff Longbine, Chair.

SB 242 – Would consolidate mortgage lending law and incorporate consolidated provisions into the Kansas Mortgage Business Act. Referred to the Senate Committee on Financial Institutions and Insurance, Sen. Jeff Longbine, Chair.

SB 124 – As recommended by the Senate Committee on Commerce, would extend eligibility to, and reauthorize the STAR bonds program. This was first reported in our Feb. 5 issue.

HB 2398 – Would enact the Technology-Enabled Trust Bank Act, which would change law relating to trust banks by providing requirements, fiduciary powers, duties, functions, and limitations for trust banks and the administration thereof by the bank commissioner and creating an income and privilege tax credit for certain qualified distributions from trust banks. Referred to the House Committee on Financial Institutions and Rural Development, Rep. Jim Kelly, Chair.

HB 2237 – Would extend the sunset on the Rural Opportunity Zone Student Loan Repayment program to Jul. 1, 2023 and extend the sunset on the income tax credit therefrom to Jan. 1, 2024. Referred to the House Committee on Financial Institutions and Rural Development, Rep. Jim Kelly, Chair. The Committee has recommended the bill be passed.

TAXATION

SB 222 – Would exclude hypothetical leased fees when determining fair market value for property taxation purposes. Referred to the Senate Committee on Assessment and Taxation, Sen. Caryn Tyson, Chair.

SB 226 – Would provide for a sales tax exemption on certain nonprofit Area Agencies on Aging for certain purchases of tangible personal property and services. Referred to the Senate Committee on Assessment and Taxation, Sen. Caryn Tyson, Chair.

SB 228 – Would permit retailers to retain the state rate of sales and compensating use taxation on the sales of movie tickets and concessions. Referred to the Senate Committee on Assessment and Taxation, Sen. Caryn Tyson, Chair.

SB 233 – Would increase sales-tax collection thresholds relating to time frames for filing returns and paying sales tax by certain retailers. Referred to the Senate Committee on Assessment and Taxation, Sen. Caryn Tyson, Chair.

HB 2357 – Would create and establish the Property Tax Relief Act which would, among other things, create certain residential property tax refunds and provide for an expiration of the Senior Relief credit and the Homestead Property Tax refund. Referred to the House Committee on Taxation, Rep. Adam Smith, Chair.

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HB 2358 – Would create and define a nonprofit integrated community care organization and provide a sales-tax exemption for such organization. Referred to the House Committee on Taxation, Rep. Adam Smith, Chair.

SB 13 – As amended by the House Committee on Taxation, would change city and county property tax law by, among other things, prohibiting valuation increase of real property solely as the result of normal repair, replacement, or maintenance of existing structures and discontinuing the city and county tax lid. The bill passed as amended on emergency final action; Yea: 34, Nay: 1. It has now been referred to the House Committee on Taxation, Rep. Adam Smith, Chair. The House Committee has recommended the bill be passed.

SB 22 – As amended by the Senate Committee of the Whole, would make similar changes to income tax law as SB 21 reported on Feb. 12, 2021. Referred to the House Committee on Taxation, Rep. Adam Smith, Chair

HB 2394 – Would increase and expand the availability of the research and development tax credit and would permit the transfer of the credit under certain circumstances. Referred to the House Committee on Taxation, Rep. Adam Smith, Chair.

HB 2395 – Would, among other things, define marketplace facilitators and require them to remit sales and compensating use taxes and provide for a nexus for certain retailers that make remote sales in Kansas. Referred to the House Committee on Taxation, Rep. Adam Smith, Chair.

EDUCATION

HB 2085 – Would require that all students, grades 7 through 12, receive certain information relating to postsecondary education, employment options, and salary projections. Referred to the House Committee on Education, Rep. Steve Huebert, Chair. The Committee recommended the bill be passed.

HB 2124 – Would allow schools statutorily exempt from the State Board of Regents to provide healing arts services. Referred to the House Committee on Education, Rep. Steve Huebert, Chair. The Committee recommended the bill be passed.

HB 2359 – Would make similar changes relating to at-risk education funds and student reporting, as SB 173 reported on Feb. 12, 2021. Referred to the House Committee on K-12 Education Budget, Rep. Kristey Williams, Chair.

SB 235 – Would require all school districts in the state to provide full-time, in-person attendance options to all K-12 students by Mar. 26, 2021. Referred to the Senate Committee on Education, Sen. Molly Baumgardner, Chair. A hearing has been scheduled for this matter on Feb. 25, 2021.

HB 2119 – As amended by the House Committee on K-12 Education Budget, would create state-sponsored education savings accounts for students who are academically at-risk. The House Committee on K-12 Education Budget recommended this bill be passed.

SB 232 – Would, among other things, provide COVID-19 hazard pay for certain teachers as determined by the department of education. Referred to the Senate Committee on Ways and Means, Sen. Rick Billinger, Chair.

SB 91 – Would allow companies to transfer up to 50% of their high-performance incentive program tax credits per year to certain other companies or individuals. Referred to the Senate Committee on Commerce, Sen. Robert Olson, Chair. The Committee has recommended the bill be passed.

HB 2378 – Would create the Kansas Work and Save Program to allow certain working individuals to contribute to individual retirement accounts under the administration of the state treasurer. Referred to the House Committee on Insurance and Pensions, Rep. Steven Johnson, Chair.

INSURANCE

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SB 78 – As amended, would make several changes to insurance law relating to, but not limited to, service contracts, surplus lines insurance, the standard nonforfeiture law for individual deferred annuities, and registration requirements affecting professional employer organizations. Referred to the Senate Committee on Financial Institutions and Insurance, Sen. Jeff Longbine, Chair. The Committee has recommended the bill be passed.

HB 2368 – Would increase the motor vehicle liability insurance minimum policy limit for bodily injury. Referred to the House Committee on Insurance and Pension, Rep. Steven Johnson, Chair.

TRANSPORTATION

SB 99 – Would increase the bond amount required for a vehicle dealer license from \$30,000 to \$50,000. Referred to the Senate Committee on Transportation, Sen. Mike Peterson, Chair. The Committee recommended the bill be passed and placed on the Consent Calendar.

HB 2379 – Would amend K.S.A. 2020 Supp. 50-656 to create the Peer-to-Peer Vehicle Sharing Program Act, which, among other things, requires (with some exceptions) that a peer-to-peer vehicle sharing program assume liability of a shared vehicle owner for bodily injury or property damage to third parties for uninsured and underinsured motorist or personal injury protection losses. Referred to the House Committee on Transportation, chaired by Rep. Richard Proehl. A hearing has been scheduled for this matter on Feb. 24, 2021.

AGRICULTURE

HB 2155 – Would amend K.S.A. 65-171w, concerning water and soil pollutants, the spill program and related penalties, to among other things, allow the Secretary of Health and Environment to adopt rules and regulations that are necessary to respond to the release of a pollutant; designate a statewide telephone number for giving notice of any release of a pollutant; and order a person responsible for the release of a pollutant to perform a cleanup of the release. Referred to the Committee on Agriculture, Rep. Ken Rahjes., Chair. The bill passed the House on Emergency Final Action; Yea: 85, Nay 36. It has now been referred to the Senate Committee on Agriculture and Natural Resources.

HB 2172 – Would amend K.S.A 82a-736, relating to the Department of Agriculture's Division of Water Resources, modifying multi-year flex accounts, base average-usage calculations and fees and permitting alternative base average-usage calculations and prorated terms. Referred to the Committee on Water, Rep. Ron Highland, Chair. The House passed the bill on Final Action; Yea 122, Nay: 0. It has now been referred to the Senate Committee on Agriculture and Natural Resources.

SB 224 – A bill concerning railroads to create a maximum train length (8,500 feet in length on any mainline or branch line) allowed for operation in Kansas. Referred to the Senate Committee on Utilities, Sen. Mike Thompson, Chair.

SB 243 – Would amend K.S.A. 2020 Supp. 50-656 to create the Peer-to-Peer Vehicle Sharing Program Act which among other things requires (with some exceptions) that a Peer-to-Peer Vehicle Sharing Program assume liability of a shared vehicle owner for bodily injury or property damage to third-parties for uninsured and underinsured motorist or personal injury protection losses. See also HB 2379. Referred to the Senate Committee on Financial Institutions and Insurance, Sen. Jeff Longbine, Chair.

UTILITIES

HB 2367 – Would amend K.S.A. 66-104 to confirm that the Corporation Commission maintained jurisdiction to regulate wiring stringing performed by any otherwise jurisdictional entity. Referred to the House Committee on Energy, Utilities and Telecommunications, Rep. Joe Seiwert, Chair.

HB 2381 – Would establish the State Energy Plan Task Force. The Task Force would be comprised of members of the relevant House and Senate Committees and members from the electric, natural gas, oil and gas industries, and

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associated energy groups and organizations. The Task Force would be required to submit a comprehensive state energy plan and make recommendations to the governor, the Legislature, including the House Committee on Energy, Utilities and Telecommunications, and the Senate Committee on Utilities by Jan. 31, 2023. Referred to the House Committee on Energy, Utilities and Telecommunications, Rep. Joe Seiwert, Chair. A hearing has been scheduled for this matter on Feb. 23, 2021.

SB 223 – Would amend K.S.A. 17-618 concerning eminent domain to include carbon dioxide in pipes as one of the substances that may be conducted through land appropriated by various types of companies or corporations including road, oil, pipeline, hydraulic, and public utilities using eminent domain to gain access to land. Referred to the Senate Committee on Utilities, Sen. Mike Thompson, Chair.

SB 245 – Would amend K.S.A. 66-1239 and K.S.A. 2020 Supp. 84-9-109 to create the Kansas Grid Resiliency, Innovation, and Dependability Act. The bill would grant the Kansas Corporation Commission the authority to oversee and authorize the issuance of ratepayer-backed securitized bonds (energy transition bonds) in order to finance property that is currently included in the rate base of an investor-owned utility. Referred to the Senate Committee on Financial Institutions and Insurance, Sen. Jeff Longbine, Chair.

Kansas Legislative Insights is a publication developed by the Governmental Relations & 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 Relations & 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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As a partner at Foulston Siefkin, Eddie represents clients in matters before state regulatory commissions, courts, and local governmental bodies. He has built and maintained relationships with key individuals – including lobbyists, elected and appointed officials, and staff members – that prove valuable in advancing clients' interests and issues. Drawing on his experience as a regional governmental affairs attorney for AT&T in Chicago, he helps clients navigate the maze of federal policies and agencies, advises on how processes work in Washington, and provides introductions to those who can help them accomplish their goals.

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PRACTICE AREAS

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