



KANSAS LEGISLATIVE INSIGHTS NEWSLETTER | FEBRUARY 26, 2021

February 26, 2021

KEY DEADLINE PASSES FOR COMMITTEES

Today is the key deadline for non-exempt committees to complete their work on non-exempt bills¹.

Senate Committees did not meet on Monday to allow members to attend the funeral for Senator Estes, which compressed the timeline for completion of their work. Several Senate committees are finishing today. This week, the Senate did not conduct General Orders regarding pending bills (permitting floor debate) in order to allow extra time to complete committee work.

House and Senate budget committees continued finalizing recommendations for state agency budgets, while House and Senate non-exempt committees raced to meet today's deadline.

Medical marijuana, higher natural gas bills, payday loans, schools reopening, taxes, and unemployment insurance were among the hot topics this week.

The Kansas Department of Labor and the Legislative Post Audit clashed over how much has been paid out in fraudulent unemployment claims. On Wednesday, Legislative Post Audit estimated losses due to unemployment insurance fraud was potentially as high as \$600 million. Fraudulent claims represent appropriately 24% of all claims filed in 2020. Post audit's estimate indicated approximately \$200 million of fraudulent claims payments were drawn from the regular Kansas unemployment program, and an additional \$400 million were paid from pandemic-related special federal programs. The Kansas Department of Labor contested the numbers, noting their own figures released on Tuesday showed \$290 million in fraudulent payments from both state and federal unemployment programs.

COMMITTEE ACTION

The House Commerce, Labor, and Economic Development Committee held two days of hearings on House Bill 2196, addressing their version of the updating and modernizing unemployment compensation system. The committee deliberations began on Thursday with numerous amendments debated. The committee is scheduled to finish today.

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This week, House Federal and State Affairs held two days of hearings on the comprehensive 73-page Kansas Medical Marijuana Regulation Act. There were twelve proponents. The opponents included law enforcement and medical experts. Opponents cited a toxicology statistic indicating that of recent Colorado suicides, more than 70% of the victims had used marijuana. Representative John Barker, Committee chair, indicated that he would poll the committee to determine if it will be considered later in the session.

The Senate Education Committee heard Senate Bill 208, requiring student athletes to compete in gender-specific sports based upon the student's biological gender at birth. Senate Bill 208 is modeled after a 2020 Idaho law. Also, the Committee heard a one-sentence proposal to return Kansas students to school by March 26.

The Senate Assessment and Taxation Committee approved bills requiring internet marketplace providers to collect state sales tax on out-of-state purchases by Kansans. The bill is estimated to generate \$42 million. The Committee also approved a bill that would eliminate virtually all Kansas income tax on pensions. Retired Kansans could potentially save \$125 million in taxes, however the price tag (in lost state revenue) might become a serious issue in a recovering economy.

On Thursday, the Senate Commerce Committee heard testimony on Senate Bill 213, which would prohibit an employer from taking any adverse action against employees based on the employee's vaccination status. Many proponents were from Kansans For Health Freedom arguing that vaccines are harmful to people and unsafe. The proponents argued it is safer to risk getting the virus. Proponents also noted problems within the pharmaceutical industry. The bill was opposed by the Kansas Chamber of Commerce and others.

On Thursday, many House and Senate Committees completed their work, although some committees finished their bills today.

FLOOR ACTION

As indicated, the Kansas Senate did not go on General Orders this week, except to debate resolutions. This allowed Senate committees to complete their work. This week, the Kansas House went on General Orders three times.

The bills debated on the House floor were relatively non-controversial, with most passing by large margins. The closest vote was 97-27 on House Bill 2244, concerning the disposal of industrial hemp.

TURNAROUND WEEK STARTS MONDAY

Next week, both chambers will be working overtime on the floor to debate and pass bills before the March 5 turnaround. Next Friday is the deadline when all non-exempt committee bills must be out of the house of origin and forwarded to the other chamber. Bills that are not considered are dead for this session unless "blessed" by leadership for referral to an exempt committee. After turnaround, only exempt committees can introduce bills for consideration. The Legislature will not be meeting on Monday, March 8 or Tuesday, March 9.

¹ Exempt Committees: House Appropriations, House Federal and State Affairs, House Taxation, Senate Assessment and Taxation, Senate Federal and State Affairs, and Senate Ways and Means. Exempt Bills are those sponsored by, referred to or acted upon by any exempt committee.

BILL INTRODUCTIONS

COURTS, LAWS, AND REGULATIONS

SB 106 – Would enact the revised uniform law on notarial acts and repeal the prior version of the uniform law. Referred to the Senate Committee on Judiciary, Sen. Kellie Warren, Chair. The Committee recommended the bill be passed.

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SB 122 – Would make changes to certain rules of evidence in civil procedure, including, but not limited to, the business records hearsay exception and authentication requirements for writings and copies of records. Referred to the Senate Committee on Judiciary, Sen. Kellie Warren, Chair. The Committee recommended the bill be passed.

SB 262 – Would authorize a vote in Sedgwick County to allow the operation of electronic gaming machines at a racetrack gaming facility and prohibit betting on greyhound races. Referred to the Senate Committee on Federal and State Affairs, Sen. Larry Alley, Chair.

HB 2404 – Would provide a death and long-term disability employer contribution moratorium under KPERS. Referred to the House Committee on Appropriations, Rep. Troy Waymaster, Chair.

SB 267 – Would make appropriations for fiscal years 2022 through 2024 for various state agencies. Referred to the Senate Committee on Ways and Means, Sen. Rick Billinger, Chair.

HB 2229 – Would amend laws relating to fraud and theft by changing value of loss thresholds that would make the penalty of certain crimes a felony; would also make multiple thefts of mail from separate locations that occur within a certain time period all one transaction under certain circumstances. Referred to the House Committee on Judiciary, Rep. Fred Patton, Chair. The Committee recommended the bill be passed as amended.

HB 2412 – Would enact the “Kansas Fights Addiction Act” and, among other things, provide how monies received through opioid litigation might be spent. See also S.B. 264. Referred to the House Committee on Judiciary, Rep. Fred Patton, Chair.

HB 2224 – As amended, would modify the law governing court-ordered testing for infectious diseases. Referred to the House Committee on Federal and State Affairs, Rep. John Barker, Chair. The Committee recommended the bill be passed as amended.

SB 273 – Would amend the Kansas Emergency Management Act to provide, among other things, new procedures for declaration and extension of state of disaster emergencies. Referred to the Senate Committee on Judiciary, Sen. Kellie Warren, Chair.

HB 2417 – Would make similar changes to law relating to alcoholic beverages as SB 257, reported on Feb. 19, 2021. Referred to the House Committee on Federal and State Affairs, Rep. John Barker, Chair.

HB 2252 – As amended, would make similar changes to law relating to fulfillment house licensure as SB 252, reported on Feb. 19, 2021. Referred to the House Committee on Federal and State Affairs, Rep. John Barker, Chair. The Committee has recommended the bill be passed as amended.

HB 2262 – As amended by the House Committee of the Whole, would make changes to law relating to cremation documents and reporting requirements. The bill passed on final action as amended: Yea: 122; Nay: 1. Referred to the Senate Committee on Public Health and Welfare, Sen. Richard Hilderbrand, Chair.

HB 2390 – Would continue sixteen exceptions to the Kansas Open Records Act. Referred to the House Committee on Judiciary, Rep. Fred Patton, Chair. The Committee recommended the bill be passed and placed in Consent Calendar.

HB 2227 – Would amend law governing orders issued by the Chief Justice to secure the health and safety of court users, staff, and judicial officers during a state of disaster emergency. Referred to the House Committee on Judiciary, Rep. Fred Patton, Chair. The Committee recommended the bill be passed as amended.

HB 2231 – Would exclude from the crime of conducting a pyramid promotional scheme plans and operations in which participants give consideration in return for the right to receive compensation based upon purchases, provided that the plan or operation does not cause “inventory loading.” The bill would define “inventory loading” to mean the requirement or encouragement by a plan or operation to have an independent salesperson purchase

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inventory in an amount that exceeds the amount the salesperson can expect to resell or to use or consume in a reasonable time period. Proponents include Amway and the Direct Sellers Association. Referred to the House Committee on Commerce, Labor, and Economic Development, Rep. Sean Tarwater, Chair. The Committee recommended the bill be passed.

HB 2416 – Would amend law concerning the Kansas Emergency Management Act to modify the procedure for the declaration and extension of a state of disaster emergency and to limit the powers granted to the governor during a state of emergency. Referred to House Committee on Judiciary, Rep. Fred Patton, Chair.

SB 268 – Would amend law concerning appropriations for state agencies for the fiscal years ending June 30, 2021, June 30, 2022, June 30, 2023, June 30, 2024, and subsequent years. The bill also authorizes certain transfers, capital improvement projects and fees, and imposes certain restrictions and limitations, and directs certain receipts, disbursements, procedures, and acts incidental to the aforementioned transfers, capital improvement projects, and fees. Referred to the House Committee on Ways and Means, Rep. Bill Billinger, Chair.

SB 270 – Would amend law concerning law enforcement and prohibiting the hiring of certain officers with a history of serious misconduct or use of excessive force, and to make certain law enforcement and disciplinary records subject to the Kansas Open Records Act. Referred to the House Committee on Judiciary, Rep. Kellie Warren, Chair. **SB 271** – Would amend K.S.A. 2020 Supp. 60-523 concerning the statute of limitations in civil actions and extending the time to file a claim for damage caused by childhood sexual abuse. Referred to the House Committee on Judiciary, Rep. Kellie Warren, Chair.

TAXATION

SB 263 – Would eliminate the reduction of the child day care services assistance tax credit in subsequent years and provide a credit for employer payments to organizations for child day care services access. Referred to the Senate Committee on Assessment and Taxation, Sen. Caryn Tyson, Chair.

HB 2402 – Would make similar changes to property taxation as SB 222, previously reported on Feb. 19, 2021. Referred to the House Committee on Appropriations, Rep. Troy Waymaster, Chair.

HB 2418 – Would permit a quarterly option, in addition to the biannual option, for payment of property taxes; limited to taxpayers ages 65 and older. Referred to the House Committee on Taxation, Rep. Adam Smith, Chair.

SB 277 – Would continue the 20 mill statewide property tax levy for schools and the exemption of a portion of residential property from the levy. Referred to the Senate Committee on Assessment and Taxation, Sen. Caryn Tyson, Chair.

HB 2421 – Would provide income tax modifications for global intangible low-taxed income, business interest, capital contributions, FDIC premiums, business meals, and payment protection program loans and expenses. The bill would also, among other things, permit Kansas income taxpayers to itemize deductions on their Kansas return despite not having itemized on the federal return. Referred to the House Committee on Taxation, Rep. Adam Smith, Chair.

HB 2420 – Would require prior year tax information to be included on classification and appraised valuation notices. Referred to the House Committee on Taxation, Rep. Adam Smith, Chair.

SB 282 – Would provide certain tax credits for graduations of aerospace and aviation-related educational programs and employers of program graduates. Referred to the Senate Committee on Assessment and Taxation, Sen. Caryn Tyson, Chair.

HB 2239 – As amended, would allow Kansas income taxpayers to carry forward net operating losses indefinitely, beginning with such losses incurred in the tax year 2018. Current law provides for net operating losses to be carried forward for 10 years. Referred to the House Committee on Taxation, Rep. Adam Smith, Chair. The Committee

recommended the bill be passed as amended.

VOTING AND ELECTION

HB 2051 – Would require vacancies in the Office of State Treasurer or Office of the Commissioner of Insurance to be filled by the state party delegate convention. Under current law, these vacancies are filled by the governor's appointment. Referred to the House Committee on Elections, Rep. Blake Carpenter, Chair. The Committee recommended the bill be passed as amended.

TRANSPORTATION

HB 2296 – As amended, would, among other things, permit the Secretary of Transportation to use tolls to support other improvements on a toll project. Referred to the House Committee on Transportation, Rep. Richard Proehl, Chair. The Committee recommended the bill be passed as amended.

HEALTHCARE

HB 2208 – As amended would, among other things, authorize a licensed out-of-state physician with a telemedicine waiver issued by the State Board of Healing Arts to practice telemedicine in Kansas. Referred to the House Committee on Health and Human Services, Rep. Brenda Landwehr, Chair. The Committee recommended the bill be passed as amended.

SB 275 – Would amend existing law permit naturopathic doctors to engage in the corporate practice of medicine. Referred to the Senate Committee on Public Health and Welfare, Sen. Richard Hillerbrand, Chair.

SB 274 – Would amend aspects of Article 65 of existing law to better manage and regulate the practice of naturopathic doctors. Referred to the Senate Committee on Public Health and Welfare, Sen. Richard Hillerbrand, Chair.

HB 2279 – As amended, would enact the Physical Therapy Licensure Compact and authorize criminal history record checks. Referred to the House Committee on Health and Human Services, Rep. Brenda Landwehr, Chair. The Committee recommended the bill be passed as amended.

SB 175 – As amended, would enact the Rural Emergency Hospital Act. The bill would also provide for the licensure of such hospitals. Referred to the Senate Committee on Public Health and Welfare, Sen. Richard Hillerbrand, Chair. The Committee recommended the bill be passed as amended.

HB 2234 – Would amend the Emergency Medical Services Act to clarify oversight to be provided by medical directors with regard to emergency medical services and to provide an alternate procedure for appointment of a medical director. Referred to the House Committee on Health and Human Services, Rep. Brenda Landwehr, Chair. The Committee recommended the bill be passed.

HB 2259 – As amended, would permit use of expedited partner therapy to treat sexually transmitted diseases. Referred to the House Committee on Health and Human Services, Rep. Brenda Landwehr, Chair. The Committee recommended the bill be passed as amended.

HB 2209 – As amended, would enact the Psychology Interjurisdictional Compact and provide for the interjurisdictional authorization of psychologists across the state boundaries to practice telepsychology using telecommunication technologies and to provide temporary in-person, face-to-face psychology services. This was reported on in our Feb. 5 issue. Referred to the House Committee on Health and Human Services, Rep. Brenda Landwehr, Chair. The Committee recommended the bill be passed as amended.

EDUCATION

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SB 62 – Would amend state standards for free school-administered vision screenings to add new definitions and amend others. Referred to the Senate Committee on Education, Sen. Molly Baumgardner, Chair. The Committee recommended the bill be passed.

Substitute for SB 43 – Would create the Kansas promise scholarship fund for eligible students attending certain two-year associate degree programs, career and technical educational programs, and other certain stand-alone programs. The Committee has recommended the substitute bill be passed by the Senate Committee on Education, Sen. Molly Baumgardner, Chair.

AGRICULTURE

SB 89 – Would amend law on securing loads (typically, agricultural forage) on vehicles to create an exemption for trucks, trailers, or semitrailers when hauling agricultural forage commodities intrastate from the place of production to a market or place of storage. Referred to the Senate Committee on Agriculture and Natural Resources, Sen. Dan Kerschen, Chair. The Committee recommended the bill be passed and placed on Consent Calendar.

SB 145 – As amended, would, among other things, update and rearrange definitions regarding grain and grain warehouses. Referred to the Senate Committee on Agriculture and Natural Resources, Sen. Dan Kerschen, Chair. The Committee has recommended the bill be passed as amended.

HB 2244 – Would amend several laws regarding the Commercial Industrial Hemp Act to transfer the duties and responsibilities for registration and regulation of industrial hemp processors that are currently assigned to the Kansas Department of Agriculture (KDA) to the State Fire Marshal, and to require the Fire Marshal to create and maintain a registry of all Kansas hemp producers where the annual registration fees would be deposited in the Fire Marshal Fee Fund. Referred to the House Committee on Agriculture, Rep. Ken Rahjes, Chair. The bill passed on emergency final action: Yea: 97; Nay: 27.

SB 269 – Would amend several laws concerning public health and safety related to dangerous regulated animals, and, among other things, prohibits the sale, slaughter, and acquisition of such animals. The bill also defines nonhuman primates and non-hybrid wolves as dangerous regulated animals. Referred to the Committee on Agriculture and Natural Resources, Sen. Dan Kerschen, Chair.

INSURANCE

HB 2136 – Would amend insurance law regulating service contracts (i.e., contracts sold with certain consumer goods providing for repairs, etc.) and remove language in the original bill relating to powers and authorities of the insurance commissioner. Referred to the House Committee on Insurance and Pensions, Rep. Steven Johnson, Chair. The bill passed as amended on final action Yea: 124; Nay: 0.

SB 37 – Would amend provisions governing agent licensing and renewal licensure requirements in the Uniform Agents Licensing Act and in the Public Adjusters Licensing Act, and would also amend a statute governing the examination of application for agent licensure. Referred to the Senate Committee on Financial Institutions and Insurance, Sen. Jeff Longbine, Chair. The Committee recommended the bill be passed as amended.

SB 281 – Would modify unemployment insurance disqualification provisions with the case of fraud, part-time employment for educational institutions, and receipt of pensions. Referred to the Senate Committee on Ways and Means, Sen. Rick Billinger, Chair.

UTILITIES

SB 279 – Would establish the Wind Generation Permit and Property Protection Act. The bill would impose certain requirements on siting wind turbines. Referred to the Senate Committee Utilities, Sen. Mike Thompson, Chair.

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HB 2321 – As amended, would require certain electric utilities to take steps before exercising eminent domain to acquire an interest in land related to the construction of an “urban electric transmission line,” as defined by the bill, or before beginning work on such land. Referred to the House Committee on Energy, Utilities, and Telecommunications, Rep. Joe Seiwert, Chair. The Committee recommended the bill be passed as amended.

HB 2022 – Would amend K.S.A 55-150 to include an exclusive listing of parties that could be considered responsible for plugging abandoned wells, as well as grant authority to the Corporation Commission to adopt regulations to establish a program to reimburse non-responsible parties for plugging abandoned wells. The bill would also amend existing law concerning funds used by the KCC to plug abandoned wells, would transfer all monies in and liabilities of the Well Plugging Assurance Fund to the Abandoned Oil and Gas Well Fund, and would abolish the Well Plugging Assurance Fund. Referred to the House Committee on Appropriations, Rep. Troy Waymaster, Chair. The bill passed on emergency final action; Yea: 123, Nay: 0. The bill is now referred it to the Senate Committee on Ways and Means, Sen. Rick Billinger, Chair.

SB 27 – Would amend the Kansas Storage Tank Act to, among other things, increase the maximum per facility liability of the Underground Petroleum Storage Tank Release Trust Fund and the Aboveground Petroleum Storage Tank Release Trust Fund from \$1 million to \$2 million; extend the sunset dates for certain funds from July 1, 2024, to July 1, 2034; and extend the maximum amount the KDHE could reimburse facilities for approved underground storage tank replacement from \$50,000 to \$100,0000 per facility. This bill would also increase deductible amounts and liability and replacement limits for certain funds within the Kansas Storage Tank Act. Referred to the Committee on Agriculture and Natural Resources, Sen. Dan Kerschen, Chair. The bill passed the Emergency Final Act; Yea: 39, Nay: 0. The bill was then referred to the House Committee on Agriculture, Rep. Ken Rahjes, Chair. The bill passed the House on Final Action; Yea: 123, Nay: 0.

BANKING AND FINANCE

SB 178 – Would amend provisions governing organization and supervisions in the Kansas Banking Code to permit a national bank, federal savings association, or federal savings bank to convert to a state trust company. The bill would also permit a trust company to convert its charter to one of the above-named financial institutions.

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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PRACTICE AREAS

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