

## NEWSLETTERS



### KANSAS LEGISLATIVE INSIGHTS NEWSLETTER | MARCH 18, 2022

March 18, 2022

#### WEEKLY RECAP

High-profile issues predominated this week. The Kansas Senate approved its budget bill and new redistricting maps were proposed in both chambers. There were proposals for constitutional amendments, medical marijuana use, restrictions on sanctuary cities, tax changes, and numerous other issues as many non-exempt committees finished their work for the session. Committees rushed to finish their consideration of non-exempt bills from the other chamber. There were a number of “gut-and-go” bills, so called because such bills combine similar bills together in a stripped single bill. This gut-and-go approach helps committees move forward multiple measures to finish work ahead of deadlines. The calendar for Friday, March 18, includes the Senate Federal and State Affairs Committee discussing medical marijuana and the Senate Judiciary Committee voting on legislation revising Kansas DUI laws. This morning, the Senate Transportation Committee discussed and voted on the latest autonomous vehicle bill.

#### REDISTRICTING UPDATE

Monday, the House Redistricting Committee introduced the Freestate 3, map proposed by the House Republican leadership. On Thursday evening, the House Redistricting Committee made map adjustments resulting from negotiations with House Democrats. The Committee reconvened Friday morning and introduced a new map called Freestate 3C.

Monday, the Senate leadership introduced a new redistricting map dubbed Freedom, which tweaks Liberty 2 filed last week. Freedom adjusts Senate map boundaries to jeopardize re-election bids of four incumbent Democrats: Sen. Tom Hawk, D-Manhattan; Sen. Mary Ware, D-Wichita; Sen. Tom Holland, D- Baldwin City; and Sen. Jeff Pittman, D-Leavenworth.

Tuesday, the Senate Redistricting Committee swiftly approved a new redistricting map named Liberty 3 with minor tweaks to Liberty 2. It adjusts several precincts, which may help several Senate Democrats and Republicans in

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their re-election bids. While Senate Democrats are opposed to the map, they were appreciative of the changes in Liberty 3. Interestingly, the changes attracted five Democratic votes on the Senate floor. Five other newly proposed Senate maps were not considered.

Wednesday, the Senate debated Liberty 3, which is designed to maintain the current ratio of Senate Republicans and Democrats at 29-11. Several Democratic amendments were rejected. Senate Democrats objected to the hurried process without time for public input and lack of consideration of the other proposals. Thursday, Liberty 3 passed the Senate on final action 28-8.

### UPDATE ON HOUSE AND SENATE BUDGET BILLS

Tuesday, the Kansas Senate debated for three hours on its budget bill (Sub. for SB 444). The Senate Ways and Means Committee put the final touches on the proposal last Thursday. Sub. for SB 444, as recommended by the Senate Committee on Ways and Means, contains FY 2022 supplemental funding, FY 2023 funding for most state agencies, and FY 2023 capital improvement expenditures for certain state agencies. The price tag is \$22.8 billion. The bill reduced Gov. Laura Kelly's proposed spending on education and eliminated tax-cut proposals. An amendment to increase special-education programs and services for K-12 failed 16-19. There were only two successful floor amendments. Sen Tom Holland, D-Baldwin City, added a federal E-Verify provision for state hiring and contracts of more than \$50,000. This requires the state and its contractors by July 1, 2023, to verify employees are legal citizens. Sen. Caryn Tyson, R-Parker, added a 15% pay increase for legislative employees (not legislators) who were left out of the last year's budget. During the veto session, this budget will be the foundation for assembling the Omnibus budget bill.

Tuesday, the House K-12 Budget Committee passed HB 2512 with the Kansas State Department of Education budget. It was amended to address numerous policy provisions in other bills. This was a major final piece to complete the House budget. Additionally, the Committee passed HB 2662, referred to as the Parents' Bill of Rights.

Like the Senate Ways and Means Committee, the House Appropriations Committee has spent many long hours assembling the House budget (HB 2588). On Thursday, House Appropriations met three times to finalize and approve the budget. The Committee passed and then inserted the contents of HB 2588 into a 2021 Senate Ways and Means Committee bill, creating House Sub for SB 267. Among the final changes was a budget proviso extending the Medicaid Managed Care Organizations (MCO) contracts for one year.

### COMMITTEE ACTIONS

This week, the Senate Transportation Committee heard testimony on a new autonomous vehicle bill. SB 546 was presented as a compromise among the proponents for the autonomous bill. The Committee heard opposition testimony from members of law enforcement, who offered some language addressing public safety concerns. Friday morning, the committee debated and passed SB 546.

Thursday, the Senate Public Health and Welfare Committee approved Senate Sub. for HB 2280, allowing the prescribing of Food and Drug Administration (FDA)-approved drugs, including but not limited to hydroxychloroquine sulfate and ivermectin, for the off-label use of preventing or treating COVID-19 infections. The bill provides that recommendations, prescriptions, uses, or opinions of a prescriber related to treatment of COVID-19, including treatment that is not recommended or regulated by the State Board of Healing Arts (BOHA), the Kansas Department of Health and Environment (KDHE), or the FDA, would not be considered unprofessional conduct. The bill would apply these provisions retroactively to any disciplinary action taking place on or after March 12, 2020, and would require the BOHA to independently review all disciplinary action and rescind any such action prohibited by the bill. The bill would amend the Pharmacy Act of the State of Kansas to prohibit pharmacists from refusing to fill or refill any prescription based on such prescription being used to treat or prevent a COVID-19 infection. The bill

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would also amend statutes relating to childcare facilities and schools to provide that children enrolling in a childcare facility, school, or preschool or day care facility operated by a school would be exempt from childhood immunizations required by the Secretary of Health and Environment if such immunizations would violate sincerely held religious beliefs. An amendment to remove the section on immunizations failed. The bill had passed the Senate Committee in February but was referred to back to Committee on Feb. 10 by the Senate leadership.

Thursday, the Senate Public Health and Welfare Committee passed HB 2386 concerning insurance relating to dental benefits, dental benefit plans, and related coverage. The Kansas Dental Association and several dentists provided proponent testimony stating the bill would address issues of transparency between dental providers and insurance companies. The representative from the Kansas Dental Association explained that a compromise was reached with Delta Dental of Kansas (Delta Dental) to not pursue the portion of the bill on prior authorization.

This week, the Senate Federal and State Affairs Committee spent two days of hearings on SB 560, which would enact the Medical Marijuana Regulation Act, regulating the cultivation, processing, distribution, sale, and use of medical marijuana. The bill was introduced last Friday. The Committee is meeting this morning to consider amending and passing the bill. The House has passed medical marijuana several times in recent years, however, the Senate has not passed the issue.

Thursday, the Senate Assessment and Taxation Committee met three times to consider numerous tax bills. The Committee was able to use the “gut-and-go” maneuver to combine tax bills to consider more than 20 measures. One of the approved bills creates a flat 4.7% income tax in Kansas starting in tax year 2024. SB 374, discontinuing the property tax exemption for certain renewable energy facilities, failed twice on voice votes. This week, the Senate Tax Committee also approved a constitutional amendment that requires a two-thirds majority vote of legislators to pass any bill adding a new state tax or increasing a current tax. Currently, tax increases only require a majority vote in each chamber.

### NEXT WEEK

Next week, the House and Senate will be on the floor debating bills three days before the Wednesday, March 23 deadline to consider non-exempt bills not in their originating chamber. First adjournment of the Legislature is now two weeks away on Friday, April 1 (drop-dead day). The legislative debate calendars are full next week.

### BILL INTRODUCTIONS

#### TAXATION

**HB 2394** – As amended by the House Committee on Taxation, Rep. Adam Smith, Chair, would increase the Research and Development Activities Tax Credit from 6.5 percent to 10.0 percent and allow the credit to be claimed by all income taxpayers (current law limits the credit to corporate income taxpayers).

**HB 2569** – As amended by the House Committee on Financial Institutions and Rural Development, Rep. Jim Kelly, Chair, would create the Historic Kansas Act, which would modify and establish certain tax credits for older commercial structures in the state.

**HB 2711** – As amended by the House Committee on Taxation, Rep. Adam Smith, Chair, would make changes to law related to sales and compensating use tax, food sales tax, and the food sales tax credit.

**HB 2724** – As amended by the House Committee on Taxation, Rep. Adam Smith, Chair, would provide that school districts would be deemed to have not exceeded their revenue-neutral rate in the event the revenue in excess of the prior year amount was solely attributable to increased revenue from the 20-mill statewide school finance levy.

**SB 282** – As amended by the Senate Committee of the Whole, would create new income tax credits for graduates of certain aerospace and aviation education programs and other employers for tax years 2023 through 2027, would

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create a new income tax credit for teacher classroom supplies, would increase the residential property tax exemption from the statewide school finance levy, and would enact the Kansas Housing Investor Tax Credit Act (HITCA) and the Kansas Affordable Housing Tax Credit Act (AHTCA).

**Sub. SB 444** – As amended by the Senate Committee of the Whole, would make appropriations for the fiscal years ending June 30, 2022, June 30, 2023, June 30, 2024, June 30, 2025, June 30, 2026, and June 30, 2027, for state agencies.

**SB 565** – Would provide that agricultural land be classified as grassland for property tax purposes if such land is subject to the federal Grassland Conservation Reserve Program (CRP). Referred to the Senate Committee on Assessment and Taxation, Sen. Caryn Tyson, Chair.

**SCR 1619** – As recommended by the Senate Committee on Assessment and Taxation, Sen. Caryn Tyson, Chair, urges the adoption of the 2021 Special Committee on Taxation's conclusions and recommendations regarding the fiscal future of Kansas.

**SCR 1620** – As amended by the Senate Committee on Assessment and Taxation, Sen. Caryn Tyson, Chair, if adopted by a two-thirds majority of each chamber of the Kansas Legislature and approved by voters, would amend the Kansas Constitution to require a supermajority of two-thirds of the members of each chamber to pass any bill creating a new state tax or increasing the rate of any existing state income, sales, compensating use, excise, property, estate or inheritance tax or any combination thereof.

## COURTS, LAWS, AND REGULATIONS

**H Sub for SB 19** – As recommended by the House Committee on Energy, Utilities and Telecommunications, Rep. Blaine Finch, Chair, would create the Living, Investing in Values and Ending Suicide (LIVES) Act. The Act would implement the established 988 Suicide Prevention and Mental Health Crisis Hotline in Kansas.

**HB 2237** – As amended by the Senate Committee of the Whole, would amend law related to the Rural Opportunity Zone (ROZ) student-loan repayment program and the child-daycare services income tax credit.

**HB 2253** – As amended by the House Committee on Social Services Budget, Rep. Will Carpenter, Chair, would amend provisions of the Prescription Monitoring Program Act.

**S Sub for HB 2416** – As recommended by the Senate Committee on Judiciary, Sen. Kellie Warren, Chair, would create law regarding compensation for the use, restriction of use, loss, or destruction of property as a result of governmental actions related to the prevention of or response to contagious or infectious disease.

**HB 2419** – As further amended by the House Committee on General Government Budget, Rep. William Sutton, Chair, would make several changes to the Kansas Barbering Act.

**HB 2495** – As amended by the House Committee on Judiciary, Rep. Fred Patton, Chair, would enact the Charitable Privacy Act.

**HB 2502** – As amended by the House Committee on Federal and State Affairs, Rep. John Barker, Chair, would amend the Liquor Control Act regarding where a licensed liquor retailer may sell and deliver alcoholic liquor and cereal malt beverage to a public venue, club or drinking establishment licensee for resale by such licensee, to allow such sales to licensees located in a corner located within two miles measured along the adjacent county boundary, as well as in the same or in an adjacent county as the licensee's premises as in current law.

**HB 2528** – As amended by the House Committee of the Whole, would remove inflatable devices from the requirements of the Kansas Amusement Ride Act.

**S Sub for HB 2567** – As recommended by the Senate Committee on Ways and Means, Sen. Rick Billinger, Chair, would alter the calculation of local foundation aid within the Kansas School Equity and Enhancement Act by

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removing federal impact aid from the formula.

**HB 2712** – As recommended by the House Committee on Appropriations, Rep. Troy Waymaster, Chair, would establish the Kansas Commission for the United States Semiquincentennial Act.

**HB 2703** – As amended by the Senate Committee on Commerce, Sen. Renee Erickson, Chair, would amend law related to unemployment compensation regarding out-of-state reimbursing employers, fund control tables, solvency and credit rate schedules, and the My Reemployment Plan program.

**HB 2740** – Would authorize sports wagering under the Kansas Expanded Lottery Act. Referred to the House Committee on Federal and State Affairs, Rep. John Barker, Chair.

**Sub. SB 34** – As amended by the House Committee on Federal and State Affairs, Rep. John Barker, Chair, would require all rules and regulations adopted under the Rules and Regulations Filing Act to be reviewed by agencies every five years, would establish reporting requirements for agencies, and would establish an alternative revocation procedure for certain rules and regulations.

**SB 340** – As amended by the Senate Committee on Ways and Means, Sen. Rick Billinger, Chair, would make changes to the Kansas Promise Scholarship Act. The bill would address the responsibilities of the State Board of Regents and the responsibilities of postsecondary institutions, and authorize the designation of additional eligible programs and fields of study.

**SB 493** – As amended by the House Committee on Commerce, Labor and Economic Development, Rep. Sean Tarwater, Chair, would prohibit municipalities from adopting or enforcing an ordinance, resolution, or regulation that restricts taxes, prohibits or regulates the use of auxiliary containers. The bill defines “auxiliary container” as a plastic straw or a bag, cup, package, container, bottle, device, or other packaging, without limitation.

**SB 541** – As amended by the Senate Committee on Judiciary, Sen. Kellie Warren, Chair, would create law regarding actions taken by a city related to contagious or infectious disease, COVID-19 vaccination passports, and face-mask requirements.

**SB 560** – Would enact the Medical Marijuana Regulation Act and provide for licensure and regulation of the cultivation, processing, distribution, sale, and use of medical marijuana. Administrative duties and functions would be delegated to the Secretary of Health and Environment, Secretary of Revenue, Board of Healing Arts, Board of Pharmacy, and the Director of Alcohol and Cannabis Control. Referred to the Senate Committee on Federal and State Affairs, Sen. Robert Olson, Chair.

**Sub. SB 563** – As recommended by the Senate Committee on Redistricting, Sen. Rick Wilborn, Chair, would redraw the state’s 40 Senate districts using data obtained from the 2020 Census.

**SB 564** – Would require that lobbyists verbally disclose all litigation or other legal action being taken or pending against a client by any state agency that would be affected by proposed legislation when discussing such legislation with a legislator or when testifying before a committee. Referred to the Senate Committee on Transparency and Ethics, Sen. Elaine Bowers, Chair.

**SB 569** – Would update references and corresponding changes related to the 2021 Executive Reorganization Order No. 48. The bill would also transfer the Division of Tourism from the Department of Wildlife and Parks to the Department of Commerce. Referred to the Senate Committee on Ways and Means, Sen. Rick Billinger, Chair.

## HEALTHCARE

**HB 2386** – As amended by the Senate Committee on Public Health and Welfare, Sen. Richard Hilderbrand, Chair, would establish requirements and restrictions for the payment and reimbursement of dental services.



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**HB 2734** – As recommended by the House Committee on Health and Human Services, Rep. Brenda Landwehr, Chair, would amend licensure requirements for certain professions licensed by the Behavioral Sciences Regulatory Board.

**SB 155** – As recommended by the Senate Committee on Public Health and Welfare, Sen. Richard Hilderbrand, Chair, would update statutes related to newborn screening and designate those statutes as the Newborn Screening Act. The bill would also establish the Universal Newborn Screening Program (UNSP) within the Act.

**SB 200** – As amended by the House Committee on Health and Human Services, Rep. Brenda Landwehr, Chair, would amend the Pharmacy Act of the State of Kansas to include point-of-care testing for and treatment of certain health conditions. Therapies covered would be for influenza, streptococcal pharyngitis, or urinary tract infection.

**SB 453** – As amended by the House Committee on Health and Human Services, Rep. Brenda Landwehr, Chair, would amend statute concerning the required completion of 40 hours of training in basic resident-care skills for unlicensed employees working in adult care homes who provide direct, individual care to residents, who do not administer medications to residents, and who have not completed or are participating in a course of education and training related to resident care and treatment approved by the Secretary of Aging and Disability Services, referred to as “unlicensed employees.”

**SB 489** – As amended by the Senate Committee on Public Health and Welfare, Sen. Richard Hilderbrand, Chair, would amend statute concerning the powers of the Secretary of Health and Environment to issue health orders in response to infectious or contagious diseases.

### AGRICULTURE

**HB 2531** – As further amended by the House Committee on Agriculture, Rep. Ken Rahjes, Chair, would allow, upon approval by a board of county commissioners or board of township trustees, any person engaged in an agricultural activity to construct, maintain, and operate pipelines in pursuit of an agricultural activity along, upon, under, and across the right-of-way of any county or township road, as defined in law and in conformity with laws and regulations of the state and county in which the pipeline is located.

**HB 2563** – As amended by the Senate Committee on Agriculture and Natural Resources, Sen. Dan Kerschen, Chair, would create new law regarding industrial hemp testing services and seed treated with an irritating or poisonous substance, and update laws that are administered by the Plant Protection and Weed Control Program of the Kansas Department of Agriculture.

**HB 2605** – As amended by the Senate Committee on Agriculture and Natural Resources, Sen. Dan Kerschen, Chair, would expand and clarify the requirements for the Veterinary Training Program for Rural Kansas at Kansas State University College of Veterinary Medicine (KSU CVM) and create an advisory committee to oversee the Program.

**SB 451** – As amended by the House Committee on Agriculture, Rep. Ken Rahjes, Chair, would remove a requirement for a Kansas resident to provide satisfactory proof that the person is at least 1/16 Indian by blood for purposes of receiving a free, permanent license to hunt, fish, and furharvest in the state.

**H Sub. SB 261** – As recommended by the House Committee on Agriculture, Rep. Ken Rahjes, Chair, would prohibit the use of identifiable meat terms on the labels of meat analogs when the labels do not include proper qualifying language to indicate that such products do not contain meat.

**SB 346** – As amended by the House Committee on Agriculture, Rep. Ken Rahjes, Chair, would allow for the on-farm retail sale of milk or milk products, regulate the labeling and advertising of such products, and extend the sunset date for certain milk and dairy license fees.

### TRANSPORTATION

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**HB 2595** – As amended by the Senate Committee on Transportation, Sen. Mike Petersen, Chair, would amend law regarding titling procedures for certain antique vehicles.

**SB 529** – As amended by the Senate Committee on Transportation, Sen. Mike Petersen, Chair, would require the Secretary of Revenue to permit electronic online renewal of nondriver's identification cards under certain circumstances.

## INSURANCE

**HB 2510** – As amended by the Senate Committee on Financial Institutions and Insurance, Sen. Jeff Longbine, Chair, would amend certain investment limitation requirements to increase the permissible investment options in equity interests and preferred stock for Kansas-domiciled life insurance companies. The bill would also correct certain delegation of authority language in current statutes.

**HB 2564** – As amended by the Senate Committee on Financial Institutions and Insurance, Sen. Jeff Longbine, Chair, would amend the effective date specified in the Insurance Code for the risk-based capital (RBC) instructions promulgated by the National Association of Insurance Commissioners (NAIC) for property and casualty companies and for life insurance companies. The bill would also amend the NAIC Credit for Reinsurance Model Regulation codified in statute in 2021 to correct a misnumbered paragraph citation.

**H Sub. SB 28** – As recommended by the House Committee on Insurance and Pensions, Rep. Steven Johnson, Chair, would enact law and amend requirements requiring registration of pharmacy benefits managers (PBMs) with the Commissioner of Insurance to instead require licensure under the Pharmacy Benefits Manager Licensure Act (PBM Licensure Act).

## EDUCATION

**Sub. HB 2466** – As amended by the Senate Committee on Education, Sen. Molly Baumgardner, Chair, would create the Promoting Advancement in Computing Knowledge Act (PACK Act), the Computer Science Pre-service Educator Program, and authorize the State Board of Education to provide grants to high-quality professional learning providers.

**Sub. HB 2615** – As amended by the House Committee on K-12 Education Budget, Rep. Kristey Williams, Chair, would require school districts to allow nonresident students to enroll in and attend school in any school district.

**HB 2631** – As amended by the House Committee on Education, Rep. Steve Huebert, Chair, would create the Career Technical Education Credential and Transition Incentive for Employment Success Act, which would provide state aid to school districts for the reimbursement of assessment costs for students who earn certain credentials.

**SB 215** – As amended by the House Committee on Education, Rep. Steve Huebert, Chair, would transfer authority for driver's education, motorcycle education and truck driver training programs operated by postsecondary institutions from the State Board of Regents to the Department of Revenue and authority for driver training schools from the State Board of Education to the Department of Revenue.

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Kansas Legislative Insights is a publication developed by the Governmental Affairs & 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

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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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