



KANSAS LEGISLATIVE INSIGHTS NEWSLETTER | MARCH 4, 2022

March 4, 2022

WEEK OVERVIEW

The 2022 legislative session is now officially past the halfway mark. The Kansas Legislature returned on Tuesday to start considering non-exempt bills from the other chamber. There are now only two weeks left for committees to hear and consider those measures before the March 23 deadline when the Legislature must consider all non-exempt bills. First adjournment is scheduled for April 1.

This week, Kansas received national recognition, positive February revenue news, continued progress on the budget, the mega water bill gutted, food sales-tax cuts debated, proposed changes to the selection process for Supreme Court justices and House hearings on medical marijuana. On the Senate floor tax-reduction issues were debated.

On Tuesday, the Kansas Department of Revenue released the February revenue numbers, which exceeded revenue estimates by \$18 million. The only exception: individual income taxes were 3.5% below the estimate. Secretary of Revenue Mark Burghardt said the shortfall in individual tax revenue reflects 281,000 refunds (\$147 million) paid in February. Burghardt noted, "We are pleased to be able to get individual income tax refunds paid more quickly. . ."

On Wednesday, Gov. Laura Kelly announced that Kansas had won *Site Selection Magazine's* 2021 Governor's Cup for the state with the most economic-development investment per capita in the country. This is the first time Kansas has received this national award. In 2019, Kansas was ranked 20th for capital investment and 10th in 2020. The magazine is the official publication of the Industrial Asset Management Council.

On Thursday, the Kansas Senate debated allowing year-round fireworks sales. Several Senators expressed concerns about fire danger during droughts and impact on livestock and those with medical conditions. The bill would not change the period during which Kansans may shoot fireworks. It is designed to make Kansas fireworks sellers more competitive with Missouri. Sen. Carolyn McGinn successfully offered an amendment allowing cities and counties to opt in rather than opt out. Counties may establish a different firework season than the statute. The bill passed on general orders on a voice vote. Final action will be next week.

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The Senate also debated SB 282, providing income-tax credits for aerospace and aviation program graduates and their employers. SB 282 is obviously a priority for Kansas aviation. Benefits flowing from the proposal will allow Kansas to compete more effectively with Oklahoma and other states for aviation employees. Kansas has lost 18% of its aviation employees during the last five years. SB 282 became a two-hour tax-policy debate, with numerous amendments ranging from \$250 tax credits for teachers purchasing school supplies to the Homestead rebate program. Senate Minority Leader Dinah Sykes proposed a onetime \$250 tax refund to single 2021 tax filers and \$500 for couples. Gov. Kelly included this refund in her budget proposal. The amendment was narrowly rejected. The price tag for the amended SB 282 will not be available until next week. Final vote on the bill will be early next week.

Friday morning, the Senate Judiciary Committee heard two Senate Concurrent Resolutions (SCRs) on the selection process for Supreme Court justices. The first, SCR 1621, proposes a constitutional amendment providing the governor would appoint Supreme Court justices subject to Senate confirmation and eliminating the Supreme Court Nominating Commission. The second, SCR 1622, would amend the constitution to provide for partisan, statewide election of justices of the Supreme Court and abolish the Supreme Court Nominating Commission.

COMMITTEE ACTIVITY

During the House Water Committee meeting on March 1, HB 2686, a mega water bill, was significantly amended, reducing it from 283 pages to just 7. As amended, HB 2686 would require each Kansas groundwater management district (GMD) to submit a detailed financial statement to the Legislature for the most recent calendar year prepared according to generally accepted accounting principles and, if that report was unaudited, the most recently audited year. The bill includes detailed requirements for GMD reporting. If enacted, a portion of sales and compensating use taxes collected would be credited to the State Water Plan Fund each year.

Also this week, sales-tax exemption bills were heard in the House Tax Committee. Hearings were held on exemptions for the Area Agencies on Aging and non-profits operating community theaters. Wednesday, the Committee approved a bill request for a sales-tax exemption on rental cars. Thursday, the House Tax Committee heard HB 2485, providing for a sales-tax exemption for sales made by student organizations that contract with schools.

Wednesday afternoon, the House Tax Committee heard two food sales-tax bills. The House Republican leadership is supporting cutting food sales tax from 6.5% to 3.5% on July 1 with a schedule for further reductions if the state can maintain \$100 million in its budget stabilization fund.

Finally this week, the House Federal and State Affairs Committee held hearings on two medical marijuana bills. The first bill would establish standards for laboratory licenses that test medical marijuana and require the Director of Alcoholic Beverage Control to adopt rules and regulations regarding testing laboratories. The second bill, HB 2706, would specify that final hemp products may contain a delta-9 tetrahydrocannabinol concentration of not more than 0.3% and allow certain prohibited hemp products to be manufactured, marketed, sold, or distributed. The proponents were the Kansas Cannabis Chamber of Commerce and Kansans for Hemp. Law enforcement, including the KBI, opposed the bill.

NEXT WEEK'S AGENDA

Next week will be busy with House and Senate Committees hearing bills from the other chamber. The House Appropriations Committee will be hearing HB 2716, authorizing education benefits for spouses and dependents of deceased, injured, or disabled public-safety officers and military personnel. The House Federal and State Affairs Committee will hear SB 34, reviewing rules and regulations every five years.

On Tuesday, the Senate Public Health and Welfare Committee will hear SB 489, removing certain regulatory authority concerning infectious or contagious diseases from the Secretary of Health and Environment. The Senate

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Assessment and Taxation Committee will be hearing SCR 1620, proposing a constitutional amendment to require a supermajority for passage of certain bills containing new or increased state taxes.

Senate Commerce Committee will hear SB 361, concerning, among other things, an employer's maximum liability for permanent total disability compensation.

On Monday, the Senate Judiciary Committee will hear SB 541. SB 541 is largely a reaction to governmental COVID-19 mandates. The bill would, among other things, provide compensation for the use, restriction on use, damage, loss, or destruction of property as a result of certain governmental actions. Also, under SB 541, orders by public officials relating to face-mask mandates, gathering limitations, business restrictions, and religious-gathering limitations shall not exceed 30 days in duration.

BILL INTRODUCTIONS

TAXATION

SB 540 – Would expand the selective assistance for effective senior relief (SAFESR) credit for certain residential property taxes paid. Referred to the Senate Committee on Assessment and Taxation, Sen. Caryn Tyson, Chair.

SB 542 – Would establish new property-tax rules limiting governmental power in certain circumstances. Referred to the Senate Committee on Assessment and Taxation, Sen. Caryn Tyson, Chair

SB 543 – Would allow for the carryforward of certain net operating losses for individuals. Referred to the Senate Committee on Assessment and Taxation, Sen. Caryn Tyson, Chair.

HB 2719 – Would expand the telecommunications machinery and equipment property tax exemption to also include machinery and equipment placed in inventory or work-in-progress. Referred to the House Committee on Taxation, Rep. Adam Smith, Chair.

HB 2720 – Would set the state retail sales and compensation use tax rate on the sale of food at 0.0 percent beginning on Aug. 1, 2022. The bill defines food as only those products and types of food that may be eligible for purchase with benefits from the Supplemental Nutrition Assistance Program issued by the U.S. Department of Agriculture. The bill would allow local governments and Washburn University to continue to charge a local sales tax from the sale of food. Referred to the House Committee on Taxation, Rep. Adam Smith, Chair.

HB 2721 – Would exempt the sale of over-the-counter drugs from sales tax. Referred to the House Committee on Taxation, Rep. Adam Smith, Chair. A hearing has been scheduled for this matter on March 8.

HB 2724 – Would exclude the required 20 mills for school districts from the notice and public hearing requirements to exceed the revenue-neutral rate for property-tax purposes. Referred to the House Committee on Taxation, Rep. Adam Smith, Chair.

HB 2726 – Would impose sales tax on vehicles purchased for rental or lease. Referred to the House Committee on Taxation, Rep. Adam Smith, Chair.

HB 2727 – Would increase the income limit for the income-tax subtraction modification for Social Security income. Referred to the House Committee on Taxation, Rep. Adam Smith, Chair.

HB 2728 – Would establish a tax credit for contributions to a nonprofit organization for the purpose of installing qualified accessibility-modification projects. Referred to the House Committee on Taxation, Rep. Adam Smith, Chair.

HB 2729 – Would establish a property tax exemption for 50% of the first \$200,000 in assessed value of homesteads of individuals 65 years of age and older. Referred to the House Committee on Taxation, Sen. Adam Smith, Chair

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COURTS, LAWS, AND REGULATION

SB 378 – As amended by the Senate Committee of the Whole, would amend the Kansas Fireworks Act to allow for the retail sale of fireworks throughout the year and to extend the established timeframe for the seasonal retail sale of fireworks upon an opt-in by a governing body of a city or board of county commissioners of a county.

SB 386 – As amended by the Senate Committee on Transparency and Ethics, Sen. Elaine Bowers, Chair, would amend Kansas Open Records Act (KORA) provisions regarding public agency charges for copying and staff time for providing requested records.

SB 439 – As recommended by the Senate Committee on Federal and State Affairs, Rep. Robert Olson, Chair, would require a county election officer to send a notice to a registered voter to confirm such registrant's current address if such registrant has had no election-related activity for any four-calendar year period.

SB 541 – Would require compensation for the use, restriction on use, damage, loss, or destruction of property as a result of certain governmental actions, and would, among other things, provide that orders and similar actions by public officials relating to face-mask mandates, gathering limitations, business restrictions, and religious gathering limitations not exceed 30 days in duration.

Sub. HB 2686 – As recommended by the House Committee on Water, Rep. Ron Highland, Chair, would amend the Kansas Groundwater Management District Act to require groundwater management districts (GMDs) to provide certain reports to the Legislature. The bill would also distribute a portion of retailers' sales tax and compensating use tax revenue to the State Water Plan Fund each year.

HB 2710 – As recommended by the House Committee on Federal and State Affairs, Rep. John Barker, Chair, would amend the Kansas Liquor Control Act's definitions of certain domestic wine classifications to raise the alcohol level and would make a corresponding amendment to current law concerning gallonage taxes.

AGRICULTURE

SB 417 – As amended by the Senate Committee on Agriculture and Natural Resources, Sen. Dan Kerschen, Chair, would establish minimum and maximum permit renewal fees for certain disposal areas and processing facilities for solid waste.

HB 2723 – Would authorize the animal health commissioner to assess a civil penalty for violations relating to transporting animals into the state. Referred to the House Committee on Agriculture, Rep. Ken Rahjes, Chair.

EDUCATION

SB 537 – Would require political entities and their vendors to disclose certain gifts or grants received from foreign sources to the Department of Administration. Also, institutions of higher education would be required to report certain gifts or grants from foreign sources to the Board of Regents and state educational institutions would be required to screen certain foreign applicants seeking employment in certain research positions. Referred to the Senate Committee on Judiciary, Sen. Kellie Warren, Chair.

Healthcare

SB 407 – As amended by the Senate Committee on Public Health and Welfare, Sen. Richard Hilderbrand, Chair, would change the household gross income eligibility requirement for the State Children's Health Insurance Program (CHIP) from 250 percent of the 2008 federal poverty level to 250 percent of the current federal poverty income guidelines, with coverage subject to appropriation of funds and eligibility requirements.

SB 453 – As amended by the Senate Committee on Public Health and Welfare, Sen. Richard Hilderbrand, Chair, would amend statutes concerning training for certified aides to work in adult care homes to allow licensed practical

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nurses to teach certain training courses.

SB 539 – Would permit naturopathic doctors and acupuncturists to engage in the corporate practice of medicine. Referred to the Senate Committee on Public Health and Welfare, Sen. Richard Hilderbrand, Chair.

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 Siefkin's Governmental Affairs & 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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