



**2022 Kansas Legislative Session
Weekly Legislative & Regulatory Update
Week 2**

At a Glance

- State of the State & Week One recap
- Redistricting committee could pass a proposed new Congressional map
- Sale tax discussion, health care EO extension and wildfire relief

Looking Ahead

- 21 January – Governor’s COVID Health EO’s expire

Racing into Week Two

The first week of the Kansas Legislature got underway on Monday, January 11th with the traditional start to the committee process as new members were introduced, new chairs walked committees through additional committee rule changes, and members largely talked gossip in the hallways. On Tuesday evening, January 12th, Governor Kelly delivered the traditional State of the State Address before a joint session of the House and Senate in the House Chambers, and upon delivery of her address and then the delivery of the Governor’s budget the following morning, the speed of session always picks up considerably.

The State of the State was notable for the Governor because she delivered her address remotely last year due to the pandemic, so though this was her fourth State of the State, it was only her third before the joint chambers and came after two years of considerable upheaval around the state, nation, and world. Interestingly, on the day the Governor delivered the 2021 State of the State speech, Kansas posted approximately 1,900 new COVID cases. This year, on the day of the Governor’s State of the State speech, Kansas posted more than 5,700 new COVID cases – a new peak for the state.

State of the State Highlights:

- Eliminate the state portion of sales tax on food (approximately \$450M price tag in year one increasing to \$500M annually thereafter. The Governor’s proposal reduces the state portion to 0% rather than repealing the state sales tax, this allows the local/county sales tax to be decided by locally elected officials.)
- \$250 rebate to every adult Kansan (approximately \$450m price tag)
- Tuition freeze for one year at all Regents Institutions

- Fully fund K-12 Public Education
- Close the “Bank of KDOT” (no more transfers from the highway fund to the general fund, transfers thus far have totaled more than \$2.3 billion)
- Fully fund the State Water Plan (First time since 2008 that the \$8M in state and EDIF funding would be infused leaving about an \$80M outstanding budget deficit)
- Set aside \$600 million for the Budget Stabilization Fund (Kansas is one of only two states that has posted a \$0 balance in a “rainy day fund”).

The State of the State is typically both a speech laying out priorities (eliminating the sales tax on food, tuition freezes, the tax rebate and funding the Water Plan) and an opportunity to champion success, including funding public education, building the rainy-day fund, and closing the bank of KDOT. This administration is also closing one of the largest stretches of private investment in the state’s history, which was mentioned frequently during the speech. The Governor also called for the House and Senate to send her a “clean bill” with only thirteen words to eliminate the State sales tax on food by Kansas Day. She said she would sign the bill into law immediately upon receipt.

Speaker Ron Ryckman delivered the response and spent much of his time outlining that Republicans were willing to look at reducing the sales tax on food, but perhaps also looking at reducing the overall sales tax rate, not just on food purchases. The Speaker also said he intended to see more put into the rainy-day fund rather than be spent on a one-time rebate to all Kansans.

Week Two

This week the session kicks into high gear with three large initiatives. First, the House hopes to kick out the first drafts of the Congressional maps for consideration. The 3rd District will become more compact, the 1st will assume more landmass, the boundaries of the 4th District which includes Wichita will shift and the 2nd will likely assume more territory too. There has been talk, similar to a decade ago, of drawing the 1st District to stem from Johnson City in the far southwest corner of the state all the way east, cutting through the 2nd District, to include part of Wyandotte County in an effort to ensure the entire Congressional delegation is comprised of Republicans. That would not likely pass a legal challenge, but it does make for political theater. The 3rd District has had more than 14 years of Democratic representation in Congress over the last two decades.

Second, the House and Senate are expected to send the Governor legislation providing tax relief to the farmers/ranchers and communities impacted by the Four Corners wildfires and other natural disasters stemming from the December 15th, 2021 wind event. Third, on Friday, January 7th, Governor Kelly issued two new Executive Orders designed to provide staffing assistance and some relief to nursing homes and the health care system. Per last year’s Emergency Management Act changes, the EO’s related to

COVID can only last 15 days without Legislative action. Both Chambers are expected to debate the Governor's EO early this week.

Committee Work

House Energy and Utilities and Senate Utilities both got underway last week with the House committee, under the new leadership of Speaker Pro Tem Blain Finch, having a hearing on the extraordinary costs associated with the cold weather event last February. That presentation was made by Justin Grady of the Kansas Corporation Commission. The Senate Utilities Committee had their annual report of the Oil and Gas industry delivered by Ed Cross, the Executive Director of the Kansas Independent Oil and Gas Association (KIOGA). Kansas is a leading producer of oil and gas in the nation but that production continues to fall, coming down from a recent high of 113,000 barrels a day in 2012 to 76,000 barrels a day in 2021. Both committees are continuing the informational meeting process this week. The Senate Utilities Committee Chair is bringing in Robert Bryce as a guest speaker and he is slated to give a talk entitled "Renewables, Natural Gas and the Fragilization of the US Electric Grid" which should be a provocative presentation.

House Water had presentations from Earl Lewis, the Chief Engineer of the Division of Water Resources, and Leo Henning, Deputy Secretary of the Kansas Department of Health and Environment. Perhaps the most interesting conversation in committee came when the committee discussed the Nebraska decision this week to execute a power granted to them in a 1923 Interstate Water Compact with the state of Colorado regarding the South Platte. **Colorado granted Nebraska condemnation rights** in Colorado to build a canal to divert water straight to Nebraska (What?!). Though this provision has been idle for 98-years, Nebraska just announced it has earmarked \$500 million dollars for the project. This water action, without a doubt the boldest taken in a non-Colorado River basin state in recent memory, will send ripples through the world of water policy far outside the Midwest.

House Judiciary last week heard and then passed out on the same day the extension of the order passed down from the Governor that would temporarily loosen regulations on health care providers during the pandemic. As the state and nation are swamped with Omicron cases of COVID-19, staffing at health care facilities has reached a critical place and these temporary actions would allow health care professionals from other states and perhaps different licensing structures to work in Kansas.

Senate Public Health and Welfare had three days of hearings on a Board of Healing Arts decision during the fall that would recognize Anesthetist Assistants. This category of provider is currently an unlicensed assistant to an Anesthesiologist, whose power is delegated from the Anesthesiologist. The concern comes from Certified Registered

Nurse Anesthesiologists (CRNAs), who are licensed but do not have delegatory authority, so they cannot create their own category of assistants and are concerned that doctors – through the Board of Healing Arts – have simply created a way to have a cheaper assistant that has less autonomy.

On Thursday the Legislative Post Audit (LPA) Committee met to determine the chair for the next year and to hear the report about competition between government and the private sector. The report on the competition was largely bland because the auditors struggled to find private businesses that wanted to participate, thus leaving a small sample pool for data. Some legislators consider the matter closed due to inconclusive data while other legislators believe they need to find the information via alternative methods. However, the election of the new chair provided plenty of intrigue for both. Caryn Tyson, the Republican and Vice-Chair and presumed incoming chair was not elected to the Chair on a five/four vote and replaced by Rob Olson, also of the Senate Republican Caucus. The Legislative Post Audit committee has oversight of Legislative Post Audit, the auditing division of the Legislature that can issue reports about various elements of state government. During a fall LPA Committee meeting, a motion was made to introduce a bill for consideration giving the LPA audit authority over any business or entity regulated by the Kansas Corporation Commission (KCC) or doing business with an entity regulated by the KCC. The motion failed on a 5-4 vote.

Bills Introduced

Three bills have been introduced by the Chair of the Senate Utilities Committee, Mike Thompson. All three deal with the siting of wind and solar facilities and are largely the elements of Senate Bill 279 from last session that was held up in committee. Two were referred to the Senate Utilities Committee and the most sweeping was referred to Senate Local Government. Kansans for Lower Electric Rates requested introduction of a bill that would cap rate increases and rates for investor-owned electric utilities. Everygy requested introduction of a bill that would modify last year's securitization bill by allowing coal and natural gas units to remain in rate base as part of the generating fleet to be used during emergency events.

Senator Tyson introduced a bill in the Senate Tax Committee to remove sales tax from utility bills for businesses.

The City of Hays requested introduction of a bill that would allow the City to consider a water transfer and still be able to use federal funds during the transfer process. Current statute does not allow federal funding to be used for infrastructure that facilitates a water transfer.

As always, please call/email or text anytime with questions! We are here to help!

Jennifer Svatek
PUBLIC AFFAIRS