

NEWSLETTERS



KANSAS LEGISLATIVE INSIGHTS NEWSLETTER | JANUARY 29, 2021

January 29, 2021

WEEKLY OVERVIEW

On Monday, Gov. Laura Kelly signed the first bill of the session. Senate Bill 14 extends the expiration date of the COVID emergency declaration to Mar. 31, 2021. This week, House and Senate Committees discussed a wide range of subjects including banking, Columbus Day, criminal justice, concealed carry, and taxes, to name a few. Many committees are rehearing issues that had passed in committee and one chamber last session. Due to the pandemic-shortened session, these bills failed to pass through both Houses of the 2020 Legislature. So far in 2021, statehouse hallways are relatively empty compared to typical sessions. Virtual committees and socially distanced floor debates are common.

House Bill 2069 and Senate Bill 15 are good examples of unresolved issues from the 2020 session. On Monday, the House Financial Institutions and Rural Development Committee held a hearing on House Bill 2069. The bill would enact the Kansas economic recovery loan deposit program, update membership requirements for credit unions, and allow privilege tax deductions on agricultural real estate loans and single-family residence loans. The Kansas Bankers Association noted it is similar to the 2020 legislative proposal, with some compromise language. The Senate version, Senate Bill 15, was heard last week by the Senate Financial Institutions and Insurance Committee. Senate Bill 15 passed out of the Senate Committee on Thursday morning.

On Tuesday, the House Federal and State Affairs Committee heard testimony on House Bill 2006, changing the designation of Columbus Day to Indigenous Peoples Day. On Wednesday, that committee heard testimony on lowering the age for concealed-carry guns from 21 to age 18.

On Wednesday, Kansas Supreme Court Chief Justice Marla Luckert presented a virtual State of the Judiciary, highlighting innovations during the pandemic to keep the courts in operation. The Chief requested funding for 70 new court officers and increased judicial salaries.

Next week, the House Appropriations Committee and Senate Ways and Means Committee will be working in subcommittees to start budget hearings for state agencies. Constitutionally, the only action that the Kansas

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Legislature is required to take is to pass a budget.

FLOOR ACTION

On Thursday, both the House and Senate went on General Orders for floor debate on legislation. The House debated three bills: House Bill 2022, concerning abandoned oil and gas wells and the plugging of abandoned wells; House Bill 2026, relating to diversion agreements and creating a certified drug abuse treatment program on diversion; and House Bill 2008, authorizing the attorney general to provide coordination on training on missing and murdered indigenous people for law enforcement agencies. All three bills passed 123 to 0.

The Senate debated House and Senate Resolutions. House Concurrent Resolution 5003 is proposed to amend the bill of rights of the Kansas constitution by adding a new section stating there is no constitutional right to abortion and reserving to the people the ability to regulate abortion through the elected members of the legislature of the state. After several hours of debate, the Senate voted 28 to 11 to approve placing the proposition on the Aug. 2, 2022, primary election ballot. An amendment to place the question on the Nov. general election ballot failed. The Senate also approved the Joint House and Senate Rules and the Senate's permanent rules for the next four years.

DEADLINES START NEXT WEEK

The first deadline for the 2021 Kansas Legislature is Monday, Feb. 1. By Feb. 1, all requests for individual bill drafts must be made. The second deadline is Monday, Feb. 8, for non-exempt committees to request bill drafts. The last day for non-exempt committee bill introductions is Friday, Feb. 12, 2021.

VIRTUAL VIEWING OF 2021 KANSAS LEGISLATURE

We have had several inquiries about how to view House and Senate floor action and committee meetings. To watch a committee or action in either chamber, the legislature offers a link at www.kslegislature.org. Use the "Audio/Video" dropdown at the top right of the page, select "Statehouse Live and Archive" and then select your committee from the calendar. You can also go to the committee's webpage by using the "Committees" dropdown and use the link on the committee page. The Kansas Legislature website will also allow access to daily calendars and journals for each House.

BILL INTRODUCTIONS

HEALTHCARE

HB 2126 – Would help insulate adult-care facilities from civil liability for COVID-19 claims. Referred to the House Committee on Judiciary, Rep. Fred Patton, Chair. A hearing has been scheduled for this matter on Feb. 3, 2021.

SB 41 – Would establish a \$100 per month maximum out-of-pocket cost-share per concerned person for prescription insulin drugs. Referred to the Senate Committee on Public Health and Welfare, Sen. Richard Hilderbrand, Chair.

TAXATION

SB 72 – Would require appraisal courses for county appraisers and members of the State Board of Tax Appeals to be only those courses approved by the Kansas Real Estate Appraisal Board. Referred to the Senate Committee on Assessment and Taxation, Sen. Caryn Tyson, Chair. A hearing has been set for this matter on Feb. 4, 2021.

HB 2106 – Would modify the corporate income tax filing deadline to coincide with the deadline allowed under federal law. Referred to the House Committee on Taxation, Rep. Adam Smith, Chair.

HB 2105 – Would establish income tax withholding requirements for certain, specifically defined employees who work in multiple states. Referred to the House Committee on Taxation, Rep. Adam Smith, Chair. A hearing has

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been scheduled for this matter on Feb. 3, 2021.

SB 50 – Would require marketplace facilitators to collect and remit sales, compensating use tax, transient guest taxes, and prepaid wireless 911 fees made on platforms, and would remove the click-through nexus provisions of existing law. Referred to the Senate Committee on Assessment and Taxation, Sen. Caryn Tyson, Chair. A hearing has been scheduled for this matter on Feb. 3, 2021.

SB 70 – Would, among other things, make the sales-tax exemption permanent for certain cash rebates on sales or leases of new motor vehicles. Referred to the Senate Committee on Assessment and Taxation, Sen. Caryn Tyson, Chair. A hearing has been scheduled for this matter on Feb. 2, 2021.

SB 46 – Would provide a subtraction modification (for Kansas adjusted gross income purposes) on amounts received from employer-sponsored retirement plans. Referred to the Senate Committee on Assessment and Taxation, Sen. Caryn Tyson, Chair. A hearing has been scheduled for this matter on Feb. 2, 2021.

SB 47 – Would enact the Kansas Taxpayer Protection Act, and among other things, require that on and after Jan. 1, 2022, paid tax return preparers sign any income tax return prepared by or substantially prepared by the preparer, and include the preparer's federal preparer tax identification number on any such return. Referred to the Senate Committee on Assessment and Taxation, Sen. Caryn Tyson, Chair. The Committee has recommended the bill be passed and placed on Consent Calendar.

HB 2142 – Would provide for reimbursement of a portion of ad valorem property taxes to private owners operating a business on the assessed property if the business was shut down or had its business operations limited in any capacity by action of the county government. Referred to the House Committee on Taxation, Rep. Adam Smith, Chair.

HB 2141 – Would revise the Kansas income tax standard deduction. Referred to the House Committee on Taxation, Rep. Adam Smith, Chair.

HB 2099 – Would amend K.S.A. 74-2433 to permit attendance at State Board of Tax Appeal hearings through the use of audio or video electronic communication. Referred jointly to the House Committee on Judiciary, Rep. Fred Patton, Chair, and House Committee on Taxation, Rep. Adam Smith, Chair.

SB 70 – Would amend K.S.A. 79-3602 to revise the definition of "sales or selling price" as used in the Retailers' Sales Tax Act. Referred to the Senate Committee on Assessment and Taxation, Sen. Caryn Tyson, Chair. A hearing has been set for this matter on Feb. 2, 2021.

HB 2091 – Would create a new refundable food sales tax credit and repeal the existing non-refundable food sales tax credit effective for the 2021 tax year. Referred to the House Committee on Taxation, Rep. Adam Smith, Chair.

COURTS, LAWS, & REGULATIONS

SB 65 – Would clarify rules applicable to the high-performance incentive fund and workforce training program participation requirements. Referred to the Senate Committee on Commerce, Sen. Robert Olson, Chair. A hearing has been scheduled for this matter on Feb. 3, 2021.

HB 2020 – Would amend the law concerning the filing of complaints and investigations pertaining to abandoned wells, responsible parties for plugging abandoned wells, and funds used by the Kansas Corporation Commission ("KCC") for plugging abandoned wells. The bill would also grant authority to the KCC to adopt regulations to establish a program to reimburse non-responsible parties for plugging abandoned wells. Referred to the House Committee on Appropriations, Rep. Troy Waymaster, Chair. The Committee passed this bill on Jan. 28 and the House passed the bill on an emergency final action on Jan. 28.

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HB 2066 – Would amend the occupational and professional licensing standards for regulatory agencies to receive and review applications from military service members, military spouses, or others who have established or plan to establish residency in Kansas; to define the meaning of a complete application; and would apply newly revised standards to any individual applicant seeking occupational licensure, reciprocity, or reinstatement. Referred to the House Committee on Commerce, Labor and Economic Development, Rep. Sean Tarwater, Chair.

HB 2096 – Would amend the Kansas Open Records Act to authorize various employees, including employees of the Department of Corrections, local correctional or detention officers, Judicial Branch employees, administrative hearing officers, and other employees specified in the bill to have identifying information restricted from public access on public websites that identify home address or home ownership of the aforementioned persons. Referred to the House Committee on Judiciary, Rep. Fred Patton, chair.

HB 2103 – Would establish the Kansas Pesticide Waste Disposal Program within the Kansas Department of Agriculture to administer the pesticide waste disposal grant supported by federal funds, and would create the Kansas Pesticide Waste Disposal Fund, which would receive annually a transfer of not more than \$50,000 from the Kansas Agricultural Remediation Fund. Referred to the House Committee on Agriculture, Rep. Ken Rahjes, Chair.

HB 2112 – Would amend K.S.A. 58-816 and K.S.A. 2020 Supp. 58-817, specifying that a storage operator's liability for a lessee's claim of damage to or loss of stored property would be limited to the maximum value of property that may be stored under the rental agreement. The bill would further require storage rental agreements to include language ascertaining whether the occupant desired to designate an alternative contract to receive notices required by the Self-Storage Act. Referred to the House Committee on Commerce, Labor and Economic Development, Rep. Sean Tarwater, Chair.

HB 2145 – Would amend K.S.A. 66-104 to exempt electricity purchased through a retail electric supplier for the sole purpose of provision of electric-vehicle-charging service to end users from the regulation of the Kansas Corporation Commission. Referred to the Committee on Energy, Utilities and Telecommunications, Rep. Joe Seiwert, Chair.

SB 56 – Would amend K.S.A. 75-759 to require, among other things, that notices offering help to victims of human trafficking be posted in multiple places throughout the state where other statutory notices are required to be posted. Referred to the Senate Committee on Judiciary, Sen. Kellie Warren, Chair. A hearing has been set for this matter on Feb. 2, 2021.

SB 58 – Would amend K.S.A. 2020 Supp. 58-4301 and 58-4302 related to liens or claims against real or personal property and require that courts include specific language in orders setting aside liens and claims. Referred to the Senate Committee on Judiciary, Sen. Kellie Warren, Chair. A hearing has been set for this matter on Feb. 3, 2021.

SB 84 – Would amend provisions of Kansas Expanded Lottery Act to, among other things, authorize and permit sports wagering in this state; to expand the authority of the Kansas Lottery and Kansas Racing and Gaming Commission to allow for sports wagering at lottery gaming facilities; and to revise the provision of the act related to the Kansas Racing and Gaming Commission's authority to promulgate rules and regulations. The bill excludes sports wagering revenues from the definition of lottery gaming facility revenues. Referred to the Senate Committee on Federal and State Affairs Sen. Larry Alley Thompson, Chair.

HB 2152 – Would clarify how property held under a transfer on death deed is to be distributed in the event a beneficiary predeceases the grantor. The idea is to prevent lapse of the transfer where the predeceased beneficiary leaves issue. Referred to the House Committee on Judiciary, Rep. Fred Patton, Chair. A hearing has been scheduled for this matter on Feb. 4, 2021.

HB 2161 – Would rename the Board to the "Kansas Board of Cosmetology" and create new categories of businesses required to hold licenses, thereby extending the Board's enforcement authority. Referred to the House

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Committee on Health and Human Services, Rep. Brenda Landwehr, Chair.

HB 2125 – Would amend the probate code to allow a will or a copy of a will filed within six months after the death of the testator to be admitted to probate at any time. Referred to the House Committee on Judiciary, Rep. Fred Patton, Chair. A hearing has been set for this matter on Feb. 4, 2021.

EDUCATION

HB 2124 – Would exempt healing arts school clinics from the general prohibition against non-professional businesses engaging in the practice of healing arts. Referred to the House Committee on Education, Rep. Steven Huebert, Chair.

SB 61 – Would clarify the credit rules for low-income student scholarship programs by expanding student eligibility for such programs. Referred to the Senate Committee on Education, Sen. Molly Baumgardner, Chair.

SB 64 – Would revise the law applicable to postsecondary education and make clear that private and out-of-state educational institutions are regulated by the state Board of Regents, which is empowered to issue certificates of approval. Referred to the Senate Committee on Education, Sen. Molly Baumgardner, Chair.

SB 55 - Would amend K.S.A. 2020 Supp. 17-2707, 17-7668, and 65-2877a to clarify that healing arts school clinics may provide healing arts services and also to allow offsite clinics owned or operated by the healing arts schools in partnership with other providers to engage in the practice of healing arts; the bill would exempt healing arts school clinics from the prohibition against a nonprofessional business engaging in the practice of healing arts. Referred to the Committee on Education, Sen. Molly Baumgardner, Chair.

INSURANCE

HB 2134 – Would adopt the 2019 revisions to the National Association of Insurance Commissioners (NAIC) Credit for Reinsurance Model Law and would also codify the 2019 revisions of the NAIC Credit for Reinsurance Model Regulation. These two revisions would implement the reinsurance collateral provisions of covered agreements that were entered into between the United States, the European Commission, and the United Kingdom, which would require states to eliminate collateral requirements within five years or be subject to federal preemption. Referred to the House Committee on Insurance and Pensions, Rep. Steven Johnson, Chair.

SB 82 – Would limit utilization review conducted by health plans as to certain claims involving treatment of mental illness or substance-abuse disorder. Referred to the Senate Committee on Insurance, Sen. Jeff Longbine, Chair.

HB 2136 – Would update certain insurance regulatory laws and grant the Insurance Commissioner certain investigatory and procedural powers. See also SB 78. Referred to the House Committee on Insurance and Pensions, Rep. Steven Johnson, Chair. A hearing has been scheduled for this matter on Feb. 1, 2021.

HB 2157 – Would establish restrictions on the use of step therapy protocols by health insurance plans. Referred to the House Committee on Health and Human Services, Rep. Brenda Landwehr, Chair.

HB 2135 – Would establish the Kansas Securities Act Restitution Fund to provide financial assistance to victims of securities fraud. Referred to the House Committee on Insurance and Pensions, Rep. Steven Johnson, Chair. A hearing has been scheduled for this matter on Feb. 1, 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; order a person responsible for the release of a pollutant to perform a clean-up of the release. Referred to the House Committee on Agriculture, Rep. Ken Rahjes, Chair.

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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; extend the maximum amount the KDHE could reimburse facilities for approved underground storage tank replacement from \$50,000 to \$100,000 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 Senate Committee on Agriculture and Natural Resources, Sen. Dan Kerschen, Chair. The Committee Report recommended that the bill be passed.

SB 38 – A parallel bill to HB 2103 would establish the Kansas Pesticide Waste Disposal Program within the Kansas Department of Agriculture to administer the pesticide waste disposal grant supported by federal funds, and would create the Kansas Pesticide Waste Disposal Fund, which would receive annually a transfer of not more than \$50,000 from the Kansas Agricultural Remediation Fund. Referred to the Senate Committee on Agriculture and Natural Resources, Sen. Dan Kerschen, Chair.

SB 39 – Would change the date on which livestock market operators, owners or operators of electronic auctions, feedlot owners or operators, and others that now pay their annual license fee on or before June 30 to now pay on Sept. 30. The bill would also allow the Animal Health Commission to assess the cost of calfhood vaccination tags rather than limiting the price to 25 cents, and the amendment would codify the current practice of charging veterinarians the cost of the tags. Referred to the Senate Committee on Agriculture and Natural Resources, Sen. Dan Kerschen, Chair.

SB 40 – Would amend K.S.A. 2-1916, 49-605, 49-611-49613, 49-618, 49-620, 49-623 and other statutory provisions to clarify the powers and duties that exist within the current relationship between the State Conservation Commission, the Kansas Department of Agriculture, and the division within the Kansas Department of Agriculture that manages conversation, and to specify, among other things, the types of surveys, investigations, and research that the conservation districts have the power to conduct. Referred to the Senate Committee on Agriculture and Natural Resources, Sen. Dan Kerschen, Chair.

HB 2156 – Would authorize on farm retail sale of new, unpasteurized milk provided specific labeling and advertising rules are met. Failure to meet the rules could result in civil penalties. Referred to the House Committee on Agriculture, Rep. Ken Rahjes, Chair.

UTILITIES

SB 80 – Would amend K.S.A. 66-1237 to prohibit electric public utilities from seeking to recover costs associated with the transmission of electric power through a separate delivery charge included in the customer's bill; provided, however, that any electric public utilities that are already assessing their existing customers a transmission-delivery charge may continue to do so if they file an application with the Kansas Corporation Commission for a general retail rate change. Referred to the Senate Committee on Utilities, Sen. Mike Thompson, Chair.

SB 81 – Would amend K.S.A 66-117b to require the Kansas Corporation Commission to provide to the legislature, as part of its annual report, information regarding the average residential, commercial, and industrial electric rates of Kansas electric public utilities in comparison to the rates of at least nine states in the region, including states contiguous to Kansas. Referred to the Senate Committee on Utilities, Sen. Mike Thompson, 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,

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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:

James (Jim) P. Rankin

Co-Editor and Governmental Relations & Public Policy Law Team Leader
785.233.3600
jrankin@foulston.com | [View Bio](#)

As a partner at Foulston Siefkin, Jim's practice focuses on employee benefits law relating to public, private, governmental, and tax-exempt organizations. A large part of his work involves insurance regulatory and compliance issues in many industries, including healthcare. Jim has been selected by his peers for inclusion in *The Best Lawyers in America*® and the *Missouri & Kansas Super Lawyers*® list. He is the firm's representative with State Law Resources, Inc., a national network of independent law firms selected for their expertise in administrative, regulatory, and government relations at the state and federal level.

Gary L. Robbins

Co-Editor and Governmental Affairs Consultant
785.640.2651
garyrobbinsconsulting@gmail.com

Gary, a governmental affairs consultant to Foulston Siefkin's Governmental Relations & Public Policy practice group, provides legislative monitoring and lobbying services for Foulston's governmental relations clients. He holds a bachelor of science degree in history and political science from Southwestern College and a master's degree in labor economics from Wichita State University. Throughout his extensive career, Gary has served as CLE Director to the Kansas Bar Association and as Executive Director of the Kansas Optometric Association.

C. Edward Watson, II

Contributing Author and Governmental Relations & Public Policy Law Partner
316.291.9589
cewatson@foulston.com | [View Bio](#)

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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