

Weekly Legislative Report -----Kansas Legislature 2021

March 15-19, 2021

As usual, the last two weeks of committee meetings are jam packed with back-to-back hearings, final action on bills, and more business on general orders in each chamber.

One key highlight from the week is that the Legislature sent a bill to the Governor's desk that amends the Kansas Emergency Management Act and restricts the powers of future administrations in a statewide emergency. Both chambers passed the conference committee report with veto-proof majorities. While Governor Kelly might not favor the bill, she could let it become law without her signature rather than take the chance of having her veto overridden.

Other than those committees exempted from legislative deadlines (Budget, Tax, Federal and State Affairs), next Friday is the last day for full committees to meet. First adjournment of the regular session is scheduled for April 9, but some are expecting that could get moved up a few days. Veto Session is scheduled to begin on May 3.

While it's certainly been a strange session with masks, social distancing, and more work being done remotely, folks in the Statehouse still seem thankful that business has been able to continue this year without much interruption from the COVID-19.

Unemployment Insurance

The Senate Commerce Committee held three days of hearings on [House Bill 2196](#) this week and is scheduled to take action on the bill early next week. Lawmakers are working toward compromise on unemployment insurance provisions dealing with the length of time for disqualification for benefits, how the trust fund is replenished from fraudulent payments (federal relief, State General Fund, or increased employer taxes), and whether or not 26 weeks of benefits

Significant Dates and Events

Friday, March 31st

Last day to consider non-exempt bills in either chamber.

Friday, April 9th (Drop Dead Day)

First adjournment.

Veto session is anticipated to begin on **Monday, May 3rd**



should be extended past April 1 of this year. The House passed HB 2196 by a vote of 87-36 before Turnaround.

Internet Sales Tax

The House Taxation Committee heard [House Bill 2395](#) on Tuesday, a bill from the Governor's Council on Tax Reform for collecting online sales taxes in Kansas. There is a competing proposal, [House Bill 2173](#), that is backed by the Kansas Chamber and other business groups. It's companion bill, [Senate Bill 50](#), passed the full Senate last week by a vote of 35-3.

Both House bills would require online marketplace facilitators (think eBay, Amazon, Etsy) to collect and remit sales tax on transactions made in Kansas. The main differences between the two proposals deal with the de minimis threshold, exclusion of hotels, and the effective date for prepaid wireless 911 fees.

- HB 2173 limits the requirement to marketplace facilitators with sales of at least \$100,000 in one year. HB 2395 has no threshold limit.
- HB 2173 clarifies that vacation rental services like Airbnb are required to collect and remit transient guest taxes just like brick-and-mortar hotels. HB 2395 excludes them from the requirement.
- HB 2173 requires that marketplace facilitators begin collecting and remitting prepaid wireless 911 fees starting on July 1, 2022. HB 2395 has the effective date starting on July 1, 2021.

Credit Card Surcharges

The House Taxation Committee passed out [House Bill 2316](#) on Monday, which eliminates the prohibition of a surcharge when purchases are made with a credit or debit card and allows retailers to pass on that charge to consumers. The bill is supported by organizations representing convenience stores, restaurants, and alcohol retailers.

There still is more work to be done on the bill, specifically dealing with price disclosure to the consumer. While Kansas is one of only four states that prohibits credit card surcharges, some lawmakers are still hesitant to change current law.

Amazon Delivery

The Senate Commerce Committee on Thursday approved [Senate Bill 161](#), which would provide for the use of personal package delivery devices on sidewalks and



crosswalks. The bill restricts the automated vehicles to 150 pounds and six miles per hour. This would cover Amazon's "Scout" but not FedEx's "Roxo" that weighs 450 pounds and runs closer to 10 miles per hour.

The committee also added an amendment that would increase general liability coverage for such vehicles to \$1 million. The bill now heads to the full Senate for consideration.

Telemedicine

The Senate Committee on Public Health and Welfare will be hearing [House Bill 2209](#) next Wednesday. The bill would enact the Psychology Interjurisdictional Compact that would regulate the day-to-day practice of telepsychology, the provision of psychological services using telecommunication technologies. HB 2209 passed the House by a vote of 121-3 before Turnaround.

The committee will also hear [House Bill 2280](#) next Friday, a bill that amends and updates the Kansas Pharmacy Act with regard to the powers, duties, and functions of the State Board of Pharmacy. The bill makes several changes, most notably defines the practice of telepharmacy and requires the Board to adopt rules and regulations for its oversight and administration. HB 2280 passed the House by a vote of 116-8 before Turnaround.

The Legislature is taking a closer look at policies dealing with telemedicine as the practice has been essential for medical professionals to continue to see patients during the pandemic. The House Health and Human Services Committee held roundtable discussion this week with various stakeholders on telehealth payment parity.

All-terrain Vehicles

The House Transportation Committee passed [Senate Bill 67](#) on Tuesday, which expands the definitions of all-terrain vehicles from 50" to 55" wide and recreational off-highway vehicles from 2,000 to 3,500 pounds. Cities continue to have the authority under their police powers to adopt ordinances regarding the operation of ATVs and other nonhighway vehicles within city limits. The bill is scheduled to be considered by the full House next Monday. SB 67 was placed on the consent calendar and passed the full Senate unanimously last month.

Occupational Licensing

The Senate passed [House Bill 2066](#) by a vote of 36-2 on Wednesday. The bill was originally introduced as a way to shorten the time in which regulatory bodies are required to issue occupational credentials to military servicemembers and their spouses seeking to establish residency in Kansas. It has since been



expanded to non-military prospective residents. The intent of the bill is to make it easier and quicker for people to move to Kansas to work and spur economic development. HB 2066 already passed the House 103-21 before Turnaround.

Public Utility Securitization

The Senate Financial Institutions and Insurance Committee held two days of hearings on [Senate Bill 245](#) this week. The bill provides for the financing of electrical corporations through the issuance of securitization bonds and includes an agreement on an amendment to require cost savings achieved through bonding to be passed through to rate payers. In what appears to be a compromise among most interested parties, Evergy, Kansas Gas Service, and the Kansas Corporation Commission all testified in support of the bill during the hearing.

Decoupling

The House Taxation Committee heard [House Bill 2421](#), which includes several decoupling provisions from the federal Tax Cuts and Jobs Act passed in 2017. It also allows Kansans who don't itemize on their federal income tax returns to itemize on the state level. After the hearing, the committee briefly took up its sister bill, [Senate Bill 22](#), which was amended on the Senate floor back in February to make non-state pension benefits tax exempt. This provision alone raised the fiscal note from \$175 million to \$450 million. The House committee plans to take action on HB 2421 next week.

Sports Wagering

The House Federal and State Affairs Committee held a hearing on [Senate Bill 84](#) this week, which legalizes sports betting in Kansas. The bill would allow the Kansas Lottery to contract with the four state-owned casinos to manage both in-person and online sports betting and passed the Senate before Turnaround by a vote of 26-12.

The House committee also passed out their bill that expands sports wagering to 1,200 retailers and dog and horse track racing facilities. The House's proposal has a much higher tax rate that would be collected by the state. The plan is to negotiate on the differences between the two bills in conference committee.

State Budget Recap

After a couple of relatively quiet weeks on the budget front, both the House and Senate took big moves this week. The Senate debated their first budget bill on the floor and the House finished its budget committee work on their budget proposal.



The Senate floor debate took around four hours and resulted in some amendments:

- Lift the moratorium of admissions to Osawatomie State Hospital. This has been a longtime and complex issue. There are federal regulations to consider as well as the makeup of Kansas' overall mental health system.
- Require stronger measures to ensure performance-based budgeting by state agencies. If agencies don't comply their budget is cut by 2%.
- Have the Adjutant General report on state supplies of PPE and other items bought during the pandemic.
- Have state agencies and contractors use E-Verify, except for small contracts. In the past E-Verify was a very contentious issue. This amendment went on very quickly and with little debate.

Amendments on school finance and cutting the budget by a blanket 3% failed. This budget bill has now been sent to the House for their consideration. This also means that both the House and Senate could go right to a conference committee on the base budget since it's now been debated in one of the chambers. This would be useful if the Legislature had to leave suddenly, but it's now unlikely since the House is moving on their base budget bill.

The House Appropriations Committee finished up their version of the budget bill after meeting most of the day on Thursday. Their budget is different in some significant ways from the Senate version:

- K-12 is fully funded using the Governor's recommendations. The Senate is looking at using federal COVID relief money for school finance. Right now, the House is not considering that. And technically it's in separate bill, but that will likely get merged into the big base budget bill later in the process.
- The House is paying half of a loan the state got from one of its finance agencies, the Pooled Money Investment Board. The Senate made the full payment. This will likely be a negotiation tool during the conference committee for other items.
- Judicial Branch salaries has been another long-time issue. The House has added money to their budget for salary raises including judges. The Senate is holding that discussion off until the end of the session.



- The Dolly Parton Imagination Library got funding to enable the program to be available in all Kansas counties.
- One of the longer debates was on refunds for students at the Regents schools. An amendment made days ago to refund students for online classes during the pandemic was withdrawn. The Regents came in and discussed how that amendment could cost them up to \$150 million. The new amendment essentially says the Regent schools will get additional funding if they make stronger efforts to deal with deferred maintenance of their buildings and infrastructure, which has been another contentious issue with lawmakers.
- The committee also added a similar provision on performance-based budgeting that the Senate did on the floor.

The House will debate their version of the base budget on the floor early next week. Both chambers could then start conferencing on the budget and vote on a compromise before they leave for their April break.

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| SB 23 | Senate Assessment and Taxation Committee | Providing for abatement of property tax for certain buildings or improvements destroyed or substantially destroyed by natural disaster | In House Taxation | 03/04/2021 - House Referred to Taxation | |
| SB 32 | Senate Education Committee | Authorizing school districts to pay the tuition for a student's dual or concurrent enrollment in a postsecondary educational institution and requiring a tuition waiver for foster children who are dually or concurrently enrolled | In House Education | 03/10/2021 - House Scheduled Hearing in Education: Wednesday, 3/17, 1:30 PM, Rm 218-N | |
| SB 34 | Senate Federal and State Affairs Committee | Sunsetting administrative rules and regulations five years after adoption unless extended by the legislature | In Senate Federal and State Affairs | 01/21/2021 - Senate Scheduled Hearing in Federal and State Affairs: Tuesday, 1/26, 10:30 AM, Rm 144-S | |

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| SB 44 | Senate Education Committee | Expanding the low-income family postsecondary savings accounts incentive program to include military servicemembers and veterans and allowing contributions by charitable organizations | In Senate Education | 01/22/2021 - Senate Withdrawn from Ways and Means; referred to Education | |
| SB 61 | Senate Education Committee | Amending the tax credit for low income students scholarship program act to expand student eligibility | In House K-12 Education Budget | 02/22/2021 - House Scheduled Hearing in K-12 Education Budget: Tuesday, 2/23, 3:30 PM, Rm 546-S | |
| SB 64 | Senate Education Committee | Amending the private and out-of-state postsecondary educational institution act to clarify the state board of regents' authority and provide additional student protections and institutional accountability | On Consent Calendar in House (1st day) | 03/18/2021 - House Committee Report recommending bill be passed and placed on Consent Calendar, by Education | |

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| SB 96 | Virgil Peck, R-15th | Repealing the provision of Kansas residency for purposes of tuition and fees at a postsecondary educational institution for individuals who are not lawfully present in the United States | In Senate Federal and State Affairs | 01/29/2021 - Senate Referred to Federal and State Affairs | |
| SB 208 | Senate Federal and State Affairs Committee | Creating the fairness in women's sports act to require that female student athletic teams only include members who are biologically female | In House Education | 03/22/2021 - House Referred to Education | |
| Sub for SB 267 | Senate Ways and Means Committee | Appropriations for FY 2022, FY 2023 and FY 2024 for various state agencies | In House Appropriations | 03/22/2021 - House Referred to Appropriations | |

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| Sub for SB 273 | Senate Federal and State Affairs Committee | Amending the Kansas emergency management act, modifying the procedure for declaring and extending a state of disaster emergency, limiting powers granted to the governor, defining public health disasters and establishing special provisions therefor, creating the joint committee on emergency management, prescribing certain powers, duties and functions of the secretary of health and environment, city and county government, the board of education of each school district, the governing body of each community college and the governing body of each technical college and establishing | In House Judiciary | 03/03/2021 - House | |
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| | | and local health officers | | Referred to Judiciary | |
| HB 2003 | Jim Kelly, R-11th | Providing for county treasurers to establish a payment plan for the payment of delinquent or nondelinquent taxes | In House Taxation | 01/12/2021 - House Referred to Taxation | |
| HB 2023 | Ron Highland, R-51st | Changing to an eight-year simple average when determining values of agricultural land for purposes of property taxation | In House Taxation | 01/27/2021 - House Scheduled Hearing in Taxation: Wednesday, 2/3, 3:30 PM, Rm 346-S | |
| HB 2045 | Stephen Owens, R-74th | Revising the Kansas angel investor tax credit act with respect to the definition of qualified securities, tax credit limitations and amounts, investor requirements and extending the date that credits may be allowed | In Senate Commerce | 03/05/2021 - Senate Referred to Commerce | |

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| HB 2048 | House Federal and State Affairs Committee | Extending certain provisions of the governmental response to the COVID-19 pandemic in Kansas and providing certain relief related to health, welfare, property and economic security during this public health emergency | On General Orders in House | 01/19/2021 - House Committee Report recommending bill be passed as amended by Judiciary | |
| HB 2058 | House Federal and State Affairs Committee | Allowing reciprocity to recognize out-of-state licenses to carry a concealed handgun | In Senate Federal and State Affairs | 03/17/2021 - Senate Scheduled Hearing in Federal and State Affairs: Monday, 3/22, 10:30 AM, Rm 144-S | |
| HB 2063 | Joint Committee on Pensions, Investments and Benefits | Providing certain KP&F tier II spousal and children's benefits for death resulting from a service-connected disability | Pending enrollment | 03/18/2021 - Senate Final Action: Passed; Yeas 35, Nays 0 | |
| HB 2085 | House Education Committee | Creating the students' right to know act to | In Senate Education | 03/17/2021 - Senate | |

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| HB 2173 | House Taxation Committee | Requiring marketplace facilitators to collect and remit sales, use, transient guest taxes and 911 fees from sales made through their platforms, providing nexus for certain retailers and removing click-through nexus provisions | In House Taxation | 02/03/2021 - House Scheduled Hearing in Taxation: Wednesday, 2/10, 3:30 PM, Rm 346-S | |
| HB 2188 | House Appropriations Committee | Requiring review by the joint committee on information technology of state agency contracts for certain information technology projects | In House Appropriations | 2/17/21 Scheduled Info Briefing in Committee on Information Technology: Tuesday, 2/23, 11:30 AM, Rm 218-N | |
| HB 2264 | House Judiciary Committee | Permitting student athletes at postsecondary educational institutions to receive compensation for the use of their name, image, likeness rights or athletic reputation | In Senate Federal and State Affairs | 03/11/2021 - Senate Scheduled Hearing in Federal and State Affairs: Thursday, 3/18, 10:30 AM, Rm 144-S | |

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| HB 2265 | Brandon Woodard, D-30th | Providing a sales tax exemption for required textbooks and authorizing a local sales tax on required textbooks | In House Taxation | 02/17/2021 - House Scheduled Hearing in Taxation: Monday, 2/22, 3:30 PM, Rm 346-S | |
| HB 2286 | Randy Garber, R-62nd | Creating the campus intellectual diversity act to establish an office of public policy events at each public postsecondary educational institution | In House Appropriations | 02/10/2021 - House Referred to Appropriations | |

| Bill Number | Bill Sponsor | Bill Subject | Current Status | Last Action | Notes |
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| HB 2396 | House Appropriations Committee | Making supplemental appropriations for fiscal years 2021 through 2032 for various state agencies and revising the pooled money investment portfolio repayment schedule | In House Appropriations | 03/03/2021 - House Scheduled Hearing in Appropriations : Wednesday, 3/10, 9:00 AM, Rm 112-N | |
| HB 2397 | House Appropriations Committee | Appropriations for FY 2022, FY 2023 and FY 2024 for various state agencies | In House Appropriations | 03/03/2021 - House Scheduled Hearing in Appropriations : Wednesday, 3/10, 9:00 AM, Rm 112-N | |
| HB 2407 | House Federal and State Affairs Committee | Requiring postsecondary educational institutions to adopt a policy on sexual assault, domestic violence, dating violence and stalking | In House Federal and State Affairs | 02/23/2021 - House Referred to Federal and State Affairs | |