

March 9, 2021 Legislative Update

We have reached the unofficial halfway point of the 2021 Legislative Session. Last Friday was Turnaround Day. Turnaround marks the last day for non-exempt bills to be considered in their house of origin. (Note: The exempt committees, Appropriations, Tax, and Federal and State Affairs may continue to receive and work House bills.) The House's focus will now shift primarily to working bills that were passed by the Senate during the first half of the session, while the Senate takes up the bills that the House passed.

On March 10, the second half of the Session begins where much of the action will be focused on the state budget. The Legislature's next deadline is First Adjournment on April 9. All bills to be considered this session will be done by that date. A break is taken to allow the staff to finalize all the bills passed by both chambers and deliver to the Governor. The Governor then has ten days to sign, veto, or allow to become law without her signature. The legislature will return to the Capitol on May 3 for a veto session. Veto session is when the legislature decides if those bills vetoed will be subjected to a vote to overturn. It takes a two thirds majority to override a veto. A veto override requires 84 votes in the House and 27 votes in the Senate. By headcount, both the House and the Senate have a super majority. But not everyone sees the same urgency or commitment to pass controversial bills. Expect the press and interviews to become prolific during that time, asking you to contact your representatives to vote one way or the other on the bills.

Last week there were no committee meetings to speak of. We meet in the chamber each day during the week, and after much debate, sixty-eight bills were passed and forwarded to the Senate. To date, the House had 429 bills introduced, 372 are in committees, and 124 were sent to the Senate. The Senate had 287 bills introduced, 249 are in committees, and 88 were sent to the House. The result is 29% passage rate for the House and 31% for the Senate. Remember, bills have a two-year lifespan. The bills that did not make it this session will continue through the 2022 session. In the past I have noted that only 11–14% of all bills entering the legislature will eventually pass.

The three most talked about topics and the most complaints received by all legislators are property taxes, emergency powers held by the Governor, and unemployment insurance. These issues were dealt with by both chambers during the first half of the session. The Senate passed their plan for dealing with property taxes very early in the session and the House has been reviewing, debating, and amending their version and passed it out last week. Both chambers have been working diligently on the unemployment insurance, fraud, and depletion of the trust fund for weeks. The Kansas Emergency Powers Act was debated and finalized by the House Judiciary Committee. The House activity was as follows:

SB 13: Transparency in Property Taxation Bill

On Thursday, the House debated and passed [Senate Bill 13](#), which increases property tax transparency and increases the accountability of local taxing authorities for Kansas taxpayers. Governor Kelly vetoed a similar measure last year. The bill provides for a notification to taxpayers of what taxes they will pay from various taxing entities and creates public hearing requirements when property taxes are more than the taxing subdivision's revenue-neutral rate. The bill prohibits valuation increases based solely on normal maintenance of existing structures. It also assists taxpayers by allowing for payment plans, both for delinquencies and for paying property taxes via partial payments. The bill also removes the property tax lid imposed by the legislature in the past. The House passed the bill, with a vote of 120-3. The bill now awaits Senate consideration of the amendments that the House has made.

HB 2196: The overhaul of the Kansas Department of Labor's (KDOL) Unemployment System.

We labored over [House Bill 2196](#) and how to best help our constituent's suffering due to the problems within the KDOL. Many days in committee were spent trying to get factual information from KDOL staff, hearing from constituents, and businesses affected by the problems. Our solution involves essentially taking control of the KDOL by assigning an oversight council for the update and methods for easing the financial burden facing businesses due to losses in the unemployment trust fund. The three main components are:

- **Oversight & IT Modernization:** **HB 2196** creates oversight to ensure IT system upgrades are implemented at KDOL. The bill also requires the department to implement over 30 features and components in their upgraded IT infrastructure to ensure security and convenience for Kansas workers.
- **Fraud Immunity:** The bill provides protections so that Kansas businesses are not left to pay the price for fraudulent claims paid out by the department over the past year. Prior the pandemic, the unemployment trust fund was stable with more than \$1.2 billion in reserves. Today, less than \$200 million sits in the fund's reserves due to an unknown amount of those dollars being paid out in fraudulent claims. According to the Legislative Post Audit, potentially \$600 million in unemployment benefits were fraudulently disbursed since the pandemic began. Employers should not bear the burden of replenishing funds that were lost due to fraud.
- **Rate Table Adjustments:** Because the trust fund is exclusively paid for by employers, they would be required to pay exorbitant amounts in taxes to refill the trust fund. While employers understand taxes will have to be paid to restore the health of the trust fund, there are structural limitations in the rate tables that, if not addressed, would leave employers to disproportionately pay back the fund. **HB 2196** seeks to remedy that, establishing parity for businesses by proposing new rate tables that will spread the restoration of the trust fund more evenly across the employer community, and time.
- **Use of Federal Covid Relief Funds:** The bill has provisions for some of the funds being sent down to the state to aid recovery from the pandemic to replenish

at least part of the losses due to fraud. If not, money will have to be borrowed and the Unemployment Insurance Trust Fund will be in debt for many years to come.

HB 2416: The Kansas Emergency Powers Act (KEMA)

The bill is controversial in that some legislators feel it gives too much decision authority to a small group of representatives. It closely resembles the bill passed before adjournment last March. I too believe that the legislature is the elected body representing the people and they need to be more involved in the decision process. But the cost and problems with recalling the legislature for a special session could be a severe impediment to managing an emergency. I do believe an amicable solution can be found to satisfy most legislators.

[House Bill 2416](#) makes further changes to KEMA. The bill strengthens legislative oversight during a disaster, and it ensures that local control is retained. Provisions include having the Governor coordinate with the Attorney General and Legislature in the event of a disaster. Citizens are provided the opportunity to go before a judge within 72 hours of an order that affects them. The court is to use strict scrutiny if the order affects business, civic, or religious activity. Other key provisions of the bill include:

- A Governor may declare a disaster for an initial period of only 30 days.
- During those 30 days, only limited powers may be used. After that initial 30-day period, the Legislature, if in session, or Legislative Coordinating Council, if not in session, may extend the disaster declaration and allow for continued use of limited powers. The Legislature or LCC also has the option to extend the disaster declaration without allowing for the exercise of powers.
- Any order issued by the Governor, must be submitted to the Attorney General, who is given 24 hours to review for Constitutional and legal issues and comment. Then the LCC will meet within 24 hours. The LCC may: approve the order; deny the order; or suggest changes to the order, which the Governor may choose to make. If the Governor does not make changes, her order is rejected.
- - The Legislature can revoke any order issued under the more general powers.
 - The bill maintains language from Special Session HB 2016.
 - Counties can still override local health officials.
 - Counties can still be less restrictive than an executive order.
 - Governors cannot seize guns, ammunition, do something illegal or unconstitutional, close schools, or change an election with executive orders.

Many of the bills passed are often referred to as, “Rats and Cats” bills. That simply means bills that are required to correct language in a law to update the contents, change dates, and definition changes. The bills that will affect everyone take longer to debate both in committee and on the floor. Yet to come this session are the big bills concerning the budget (appropriations and tax). As for the bills that have passed so far, you can go to

the Senate and House Action Report found at this link http://kslegislature.org/li/b2021_22/measures/documents/actions_and_subject_index_report for all the information.

Staying Connected:

Due to Covid and other circumstances the public is not welcome in the Capitol. But because of that the Capitol was rapidly transformed into a broadcasting powerhouse. You are now able to watch any committee meeting live. I consider this a great move forward for transparency and accountability. To get there go to the Kansas Legislative website [www.http://kslegislature.org/li/](http://kslegislature.org/li/). At the Home page is a lower right box labeled “Audio/Video Broadcast” and within the box is the line “[House & Senate Video](#).” Simply click on that line and you will find the listings for the committees and House and Senate floor action on YouTube.

My state email address is ron.highland@house.ks.gov. and my phone number is 785-296-7310. I humbly appreciate the opportunity to represent you and keep you informed with my newsletters. At my website, www.ronhighland.com, you can find a syllabus that explains in detail how to get the legislative information you need. As always, it is an honor and privilege to serve you.

With kind regards,

Ron