Editor's Note: This is the final issue of 2021 Policy Watch for the regular Kansas Legislative session. Look for an Update issue in mid-summer to address and inform on Legislative Interim Committees and the Redistricting process for Kansas, and any other critical issues that may arise. Thank you for your support this year!

LEGISLATIVE SESSION ENDS: NOW THE LEGISLATIVE CONSEQUENCES
by Paul Johnson

The 2021 Kansas Legislative session has come and gone except for a final closing session – sine die – on May 26, when there could be an effort of a Governor’s veto override if enough members are brought back to Topeka. The Legislative leaders in the House and Senate determine the issues and substance of priorities. The Governor offers legislative proposals and State budget recommendations which the Legislature reacts to in some fashion.

The Speaker of the House and President of the Senate select committee chairs and determine committee assignments for the majority party. Lawmakers understand the rules of ‘get along to go along’ if they want to hold on to their select committee positions. In this partisan political atmosphere, it is more important to criticize the enemy from the other party and certainly the Governor, than to find some sensible compromise for all Kansans.

In this 2021 session, there were 315 Senate bills and 454 House bills filed. Barely 10% of these bills were given a committee hearing. Technically these bills are alive for the 2022 session but some political pressure will have to be brought to force a debate.

With super majorities in both chambers, the first priority was to cut taxes for the wealthiest corporations and Kansans by overriding a certain veto from the Governor. Special interests often determine the key issues such as regulating guns or bailing out private ‘public utility monopolies’ by issuing guaranteed ratepayer-backed bonds.

Even with proclamations by the Republican Secretary of State as to the validity and safeness of the 2020 election in Kansas, anecdotal, half-truths on election fraud was enough to bring bills to limit voter participation.

Expanding private education with public tax dollars is high on the wish list of several lawmakers as a way to destroy public education that must serve all children. Limiting the Governor and even the courts on pandemic funding or election procedures was another priority.

Legislative sessions can also be assessed on important issues that were not addressed. As mentioned above Kansas has no state energy plan. But the legislature cannot find the political will to accomplish that task even though a legislative mandated electric rate study by London Economics (costing ratepayers $330,000) stated the...
energy plan was first on the policy recommendation list.

63% of Kansans - polled by the Docking Institute out of Fort Hays State - support Medicaid expansion but serious political debate was never considered. The Governor has announced the first ‘Statewide Housing Needs Assessment’ in over 25 years. The Legislature did pass legislation on tax credits for first time homebuyers. Having a coordinated housing policy discussion this summer and fall between the executive branch and legislators would be key to proposing policy changes in 2022.

Water policy information was presented throughout the session, but next steps have yet to be determined to solve the funding problem of the State Water Plan and to slow the decline of the Ogallala Aquifer. There is no discussion on the state of agriculture in Kansas as market consolidation by packers and seed/chemical companies continue to take more profits from the market at the expense of the farmer. There is no state discussion to capture more food dollars locally and hopefully improve the diet and health of more Kansans. Governing priorities continue to evolve.

Come June the Legislative Coordinating Council (LCC) will make decisions on important issues to be studied in interim committees the rest of 2021. This would be the opportunity to establish interim committees on housing, state energy planning, and future water policy. These interim committees could lay the groundwork for legislation to be introduced in 2022. Such legislation - from interim committees that have fully vetted complex issues - has a greater chance of passage.

One issue that will we know will be tackled is redistricting of Congressional, Legislative and Board of Education districts from updated 2020 Census counts. Consequential legislation on these fundamental topics for Kansas could give the 2022 session a special significance.

Look for a mid-summer Policy Watch for an update on interim committees and redistricting.

TRANSFORMATIONAL ENERGY CHANGE IN KANSAS IS COMING

Over the last few decades, energy production has changed dramatically and more change is on the way. From one wind farm in 2003, Kansas now has 40 operating wind farms that produced the majority of electricity (43%) in 2020 in Kansas. Utility solar electricity is on the verge of such expansion along with commercial battery storage. The historical importance of oil and natural gas in Kansas has been declining since 1996 with the drawdown of the Hugoton gas field (in use since the 1950’s) and declining oil reserves.

Unfortunately, Kansas has not developed a comprehensive state energy plan to map out our energy future. The energy debate in Kansas has solely been a discussion about production without a significant analysis of how energy is used and the opportunities for measureable utility cost savings for ratepayers. More troubling is the question of who will decide the energy future for Kansans? Will it be the ratepayers and informed policymakers or the speculation on short term gains for Wall Street and the investment firms that are driven primarily by profit for their owners?

There are a few more wind farms under development and a battle with a direct current powerline – Grain Belt Express – to carry power from western Kansas through Missouri and Illinois to Indiana to serve the Northeast part of the country with renewable wind power. The Southwest Power Pool (SPP) - that works with Kansas and 17 other states to coordinate the high voltage electric grid – has gained much greater expertise to handle increasing loads of wind power.

From North Dakota down to west Texas, this Midwest corridor is the Saudi Arabia of wind energy potential. Wind electricity is now the cheapest source of power compared to fossil fueled energy plants and is not subject
to fuel increases or the need for water to cool the plants. Commercial battery storage is just starting to gain traction and the SPP is confident it will develop on a fast track similar to wind.

Utility based solar projects are slated to expand as well. Kansas ranks 45th of the 50 states in terms of installed solar capacity nationwide. Sunflower Electric Cooperative has developed a 20 MW solar farm on 186 acres in Stanton County. There are preliminary discussions for a 500 MW solar farm ranging over 3,500 acres in Johnson County that may involve Douglas County as well. Kansas has no state solar energy plan.

The largest electric utility company in Kansas – Evergy – tried to impose severe costs on customers with solar systems but for now that has been halted by the Kansas Corporation Commission (KCC) that regulates rates for the largest privately-owned electric and natural gas ‘public utility monopolies’ in Kansas.

There are real barriers to larger commercial customers such as big box stores or churches to generate solar power and fairly market extra power sold into the grid. Solar power generates maximum electricity at peak times in the summer that would benefit all ratepayers since peak electricity is the costliest. Eleven rural electric cooperatives have been constructing smaller solar projects to lessen buying costly peak power from the large utilities. These smaller solar projects can be constructed in five months. Again the KCC must develop a state energy plan to coordinate the expansion of this lower cost power source for the future.


Kansas also ranks around 45th of the 50 states in energy efficiency programs being offered by public utilities. Evergy is on the verge of opening a docket before the KCC this fall to provide an array of energy conservation programs in Kansas as they do now in Missouri. These programs concentrate solely on electricity and the potential savings.

Without a state energy plan on energy use in Kansas, ratepayers and the KCC are not exploring the complete savings possible. (Before Westar merged into Evergy, Westar owned Kansas Gas Service and there were 300,000 residential customers that heated with natural gas and cooled with electricity). 65% of the 1.2 million residences in Kansas are heated by natural gas. Unfortunately, Kansas Gas Service – the largest natural gas company in Kansas – has never proposed offering any energy conservation programs.

By law, electric and natural gas utilities must offer ‘reasonably efficient and sufficient service’ in their applications to the KCC to be given public monopoly status with a defined service area and captive ratepayers. The KCC has been derelict in its governing responsibility for decades in not developing a state energy plan and requiring energy plans for the regulated public electric and natural gas utilities.

At this point it is difficult to discern who owns Evergy and Kansas Gas Service. By Securities and Exchange Commission (SEC) rule, a company that owns more than 5% of stock in these utilities must be reported. For Evergy, it has been Vanguard, Blackrock LLC, and T. Rowe Price. Two years ago Elliott Management spent $750 million to buy 5% of Evergy. Once they did that Elliott Management directed Evergy to retire four board of directors and put two of Elliott’s team on the board of directors – (which are paid a minimum of $240,000 annually by ratepayers). Evergy then constructed a four-member subcommittee with the two Elliott members to study investor returns.

Elliott Management is a speculative investment firm solely beholden to their owners with no concern for the future stability or cost of electric power in Kansas. The game here is to force another merger of Evergy or takeover so that when the stock price jumps Elliott Management is gone.

In the merger of Westar and KCP&L to create Evergy, Westar thought they could identify 7% of their stockholders as Kansas residents and less than 2% by KCP&L. In 2018, Evergy had $4.23 Billion in total operating revenues and declared that $535 million of that was net revenue. In stock filings, Evergy states that 65% of net revenue goes to stockholders which amounted to just under $350 million. What could Kansas
REDISTRICTING ADVISORY COMMITTEE APPOINTED

Senate President Ty Masterson has announced the membership of the Redistricting Advisory Committee that will start the process of drawing new districts and soliciting public input statewide. The committee has 6 members made up of legislative leaders from both chambers and both parties with four Republicans and two Democrats. The President of the Senate is the chair while the Speaker of the House is vice-chair. The first meeting of the Redistricting Advisory Committee will be May 17. This committee will propose the legislative guidelines that the standing House and Senate Redistricting committees will use to draw up maps during the 2022 legislative session. This committee will probably structure the public hearings that will be held later this summer and into the fall.

PROPOSED CHANGES TO CAFO RULES UNDERMINE PROTECTIONS TO KANSAS NEIGHBORS & WATER QUALITY: Public Hearing to be Held May 26

If proposed changes to the State’s confined animal feeding operation (CAFO) rules goes forward, it will be possible for existing CAFO’s to expand numbers of livestock without triggering increased setback distances from neighbors and water bodies. These setbacks were established in state statute several years ago when swine production was on the rise and citizens fought for greater setback distances and other protections from large swine operations moving into communities.

The proposed changes were crafted after Kansas Department of Health and Environment (KDHE) reps met with the livestock industry, and appear to be a response to a recent District Court ruling obtained by the Sierra Club to prevent a large hog producer in Phillips and Norton counties from evading statutory setbacks to surface water. In that lawsuit, all swine facilities involved were under common management but organized under four separate LLC’s. (See story here: [https://www.cjonline.com/news/20191223/kansas-court-declares-permits-for-hog-facilities-violate-law](https://www.cjonline.com/news/20191223/kansas-court-declares-permits-for-hog-facilities-violate-law))

KDHE is proposing to revise rules and regulations on confined animal feeding operations that could be used to circumvent statutory “setbacks” or separation distances between a facility and neighboring habitable structures and water bodies. Habitable structures include homes, schools, churches, food services, medical facilities, and other places where people congregate.

The most relevant change would allow CAFO operators to create multiple facilities at a single location if each part had its own waste management system. This would allow CAFO operators and owners to divide a larger operation into separately permitted smaller animal unit permits and thus avoid triggering the larger separation distances.

A public hearing on the proposed changes will be held Wednesday May 26, 2021 at 10 a.m.. Written comments are also being accepted until 5 p.m. that day.

Follow this link to read the public notice, find out how to participate in the hearing (only virtual participation is planned), and how to submit your comments:

The Legislative Policy Watch Update is a project of the Kansas Rural Center. KRC promotes the health of the land and its people through research, education and advocacy that advance an ecologically sound, economically viable, and socially just agriculture.

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