Welcome to the first issue of the Kansas Rural Center’s “Legislative Policy Watch”. KRC will once more provide weekly updates on State of Kansas legislative policy issues from January through May. Paul Johnson, KRC’s policy analyst, with some assistance from our co-sponsors, will provide coverage and analysis of critical State budget and tax issues, agriculture and food, natural resources, education, environmental, energy, and social service programs. Some federal policy issues related to food, agriculture and climate will also be covered.

We want to thank our co-sponsors for their generous support for another year: League of Women Voters of Kansas, Kansas Farmers Union, Kansas Natural Resource Council, Climate and Energy Project, and Audubon of Kansas.

Editor, Mary Fund

2022 Kansas Legislative Session Preview

2022 has arrived and purports to be an overt, partisan election year food fight for most state lawmakers (except the 40 State Senators whose term runs to 2024). Constitutionally the Legislature has to pass a balanced 2023 State Budget. 2022 also brings mandatory state constitution redistricting of the Congressional districts, 125 House districts, 40 Senate seats and the 10 Kansas State Board of Education districts. While not mandatory, tax cut legislation will be introduced given the tremendous ending balances in the State General Fund (SGF).

Beyond these tasks, there will a scramble to define policy and political priorities in the coming election season. The Governor will give her State of the State Address on January 11 listing her key policy and budgetary priorities. Her proposed State Budget will be released on January 12. A select group of Kansas House and Senate leaders will define their priorities in press conferences, and control committee and floor debates on their selected issues.

While the 2022 Session carries over 300+ Senate bills and 450+ House bills from the 2021 Session, only a very few of these bills will get a committee hearing and any floor debate. The Senate and House Minority Party Leaders will wholeheartedly back the Governor’s priorities and hopefully prioritize their own key issues.

2022/2023 State Budget Debate

The Fiscal Year 2022 State Budget (that ends on June 30, 2022) was $20.5 Billion of which $8.1 Billion is the State General Fund (SGF) portion. The ideal balanced budget ending balance for the SGF is 7.5%, which for 2022 would be around $650 million. Today the projected SGF ending balance for 2022 is $2.9 Billion. The projected SGF ending balance for 2023 is now $3.77 Billion. In this uncertain pandemic impacted economy, there are budgetary caveats such as one-time federal COVID-19 funds and moving tax collections from one fiscal year to another.
A more reliable budgetary indicator is revenue and expenses. For 2023, that number is $883 million of revenues over expenses which must be considered when the ‘free lunch’ tax cut debate begins.

During Governor Brownback’s administration, arbitrary budget cuts were made to state services to respond to the 2009 Great recession and to make room for tax cuts (primarily to the wealthiest Kansans). There has been some restoration of these budget cuts under Governor Kelly but when the 2020 pandemic began and revenues crashed the Governor made budgetary reductions, which were mostly accepted by the Kansas Legislature. The results readily show with a struggling Corrections/prison system, State mental hospitals under staffed, a faltering foster care system, a continually underfunded State Water Plan and a public health system across Kansas on the verge of collapse.

Restoring these basic public service programs should be priority number one. What is the future of this pandemic and its potential economic shutdown impact? Kansas has a very limited ‘rainy day’ fund at best today. This should be a key place to park one-time economic gains as a hedge for uncertain future economic circumstances. Kansas needs $700 million in reserve as a safeguard. In the coming election year, can lawmakers find such discipline and policy/political courage?


TAX CUT BATTLES
Tax cuts seem inevitable but how balanced and progressive and affordable will they be? The first salvo floated by the Governor is to eliminate the ‘state’ sales tax (6.5%) on groceries at an annual cost of $450 million. Most counties and cities rely on a local grocery sales tax of 1-2% which is critical to their budgets. There are a few specific issues on the grocery sales tax that must be settled such as that local sales tax portion and what is the definition of groceries (does soda pop or candy qualify)?

The Governor is requesting a simple grocery sales tax bill without additional tax cuts added. It seems doubtful that Republican leaders will accommodate that request. There will be endless tax reduction proposals. The wealthy and certain special interests have their lobbyists and campaign contributions to grease the skids. The low-income and renters will be on the outside looking on. Will Kansas legislators repeat the same tax cut disaster of 2012/13 that crippled state finances/services and punished public education?

REDISTRICTING FIGHTS
This is one policy power issue that is personal to legislators. As more Kansans relocate to urban areas, a good majority of House and Senate districts will have to be redrawn. Legislators will debate how their districts should be changed and how best to hold onto their ‘key’ voters?

The House and Senate Redistricting committees were appointed in 2021 and held numerous ‘virtual’ meetings - without any proposed redistricting maps for the public to respond. These committees will now adopt ‘legislative guidelines’ early in the 2022 session. These guidelines will spell out certain basics such as defining ‘communities of interest’, avoiding putting incumbents in the same district and trying to avoid dividing cities or counties if at all possible. The legislative map deadline is probably the end of March to have the maps completed and sent to the Governor for her judgement.

The Republican super-majorities can override the Governor’s veto if the troops are held together. The filing deadline for candidates is June 1. In 2012, the Kansas Legislature was unable to agree on maps so the task fell to three Federal District Court judges who delivered their decision on June 7 and the candidate filing deadline was June 11. Incumbents were not protected in that decision. With recent United States Supreme Court rulings, there seems to be no restriction to drawing ‘partisan’ maps. ‘Racial’ gerrymandering could well be contested.
The four Congressional Districts have to be as close as possible to a precise count (734,470) but state legislative districts could vary 5% above or below the ideal count. The 3rd Congressional district now has Johnson, Wyandotte and a portion of Miami county. In 2020, Johnson, Wyandotte and Miami Counties have too many residents (57,816) so they will have to be split in some fashion.

The 4th District is primarily Sedgwick (Wichita) and several surrounding rural counties. If Reno and Sedgwick counties were combined with a few small surrounding counties this would make a more compact ‘communities of interest’ district. The scramble would then be over the configurations of the 2nd District (eastern Kansas) and the Big 1st (the western 2/3rd of Kansas). The Republicans have been blunt with their intention of redrawing the 3rd District to unseat the Democrat incumbent and secure complete Republican Congressional control of the four Districts.

For Congressional and State legislative maps to be presented to the Redistricting committees, they must first be screened by Kansas Legislative Research Department (KLRD) for technical accuracy. The proposed maps must be statewide covering the 4 Congressional Districts plus the 125 House & 40 Senate districts. A number of states have adopted non-partisan redistricting committees to take the task hopefully out of partisan lawmaker hands. However, these committees vary state to state on the exact process. Kansas has never seriously considered such a non-partisan approach. There are organizations advocating for a ‘fair/non-partisan’ map in this 2022 map debate. Partisan map drawing has become a profession with sophisticated computer program manipulations today. This is where the counting really begins in terms of party affiliation for each district. The state legislative districts will be reviewed within 15 days of legislative/executive branch approval by the Kansas Supreme Court. The scope of this review remains somewhat unclear.

http://www.kslegresearch.org/KLRD-web/Redistricting.html
(Check this link for the Senate and House District Maps for population shifts since 2010.)

PUBLIC EDUCATION ASSAULT
Given the problems with the pandemic and the closure of schools over public health, there has been a harsh partisan response. With the challenges of remote learning, Kansas test scores have fallen as in most states. Republican legislative leaders are preparing a fight over increased funding for public schools and the role the Kansas Supreme Court is playing in demanding increased resources for public schools. There may be a constitutional amendment proposed to strip the Kansas Supreme Court of any jurisdiction over financing schools. There may also be a proposed constitutional amendment to eliminate the Kansas State Board of Education and leave complete curriculum control with the Kansas Legislature. (Note: in 1974, 1986 & 1996, such a constitutional amendment was defeated by voters). There certainly will be increased efforts by certain legislators to increase the funding for private/parochial schools with public tax dollars. When the U.S. Supreme Court eliminates any separation of public and private education - which may possibly happen this coming summer - this Kansas Legislature would take that as a green light to underfund public education and move education tax dollars elsewhere.

While the education funding battles will endure through the entire session, there will also be legislation to control subject matter taught at public schools. ‘Critical Race Theory’ will be seen everywhere and a convenient excuse to start banning books and sanitizing history for Kansas students. Nine states including Texas and Iowa have already adopted CRT state legislation. With this legislation in Texas, one principal instructed teachers that if the Holocaust is taught as fact there should be countervailing instruction as well.

There will be open battles with the Kansas State Board of Education over defining teaching materials and the scope of testing. The 280 school boards across Kansas will come under the microscope on curriculums and testing. The Kansas Legislature may well set specific state educational standards thus undermining local control.

WATER
The Kansas Water Office is updating the 2014 State Water Plan (SWP) and this should be presented in the 2022 session. This SWP updates the information on the continual decline in the Ogallalla aquifer, the increasing soil siltation in federal reservoirs (that serve as public water storage for eastern Kansas) and documents serious water quality issues across all of Kansas. Will specific policy proposals to tackle these serious water problems and to find a guaranteed, reliable funding source for the SWP be presented and acted on?
Today the SWP is funded at around $20 million annually while the past Governor’s Blue Ribbon SWP Funding task force supported a level of $55-60 million annually, but could not find consensus on the revenue source. For comparison Kansas spends $1 Billion annually on highways. Important to note that funding for three key federal USDA conservation programs (CRP, CSP & EQIP) totaled $200 million in Kansas in 2021. Ensuring that the SWP programs better complement or mesh with these could amplify the impact of both state and federal efforts.

The House Water Committee spent the 2021 session listening to a range of water experts across Kansas. It seems very likely legislation will be introduced in 2022 on water policy and funding. Organizational change will possibly be debated given the varying roles played by the Kansas Water Office, Kansas Water Authority, Kansas Department of Agriculture (KDA) and the Kansas Department of Health & Environment (KDHE). In terms of groundwater administration/regulation, this responsibility rests with KDA. Kansas is the sole state with this arrangement.

In terms of water quality issues, the Environment Division in KDHE has the primary responsibility mostly with federal funding and very limited state resources. Funding is the key to improve these generational water resource problems. Certain guaranteed revenue sources such as the Kansas Lottery and the four casinos should be legislatively revised to include the SWP in their disbursement formulas. Time will tell what funding legislation may be proposed by the House Water Committee and agreed to by the legislative leaders.

**ENERGY***

This week’s plunge into single digit temperatures reminds us of last February’s Arctic deep freeze and related power outages and following sky high utility bills. The increasing incidence of extreme weather events, and wildfires and drought across not just Kansas but the nation should prompt our elected leaders to take some action on climate and energy issues. As one of eight states without a State Energy Plan, Kansas’ energy future is often relegated to uncertain market dynamics and the denial based ideology of many including the majority leadership in the Legislature.

Some fear there is a growing division due to the dichotomy of fossil fuels vs. clean energy, and a real threat that instead of moving forward, the State will dig in its heels and move backward with its energy policy. According to Zack Pistora, interim KRC director until the end of 2021, “Some realize the extraordinary upside of a Kansas-based clean energy economy for its in-state investment, jobs, long-term costs and electric rates, resiliency, and climate-positive impact. For those, perhaps increasing our state’s 20% by 2020 voluntary renewable energy goal (which has been met) to a ‘net zero’ among utilities is appealing. Others scoff at the notion of anthropogenic climate change and would rather continue to burn fossil fuels— despite ongoing problems of air pollution, water contamination, manmade earthquakes, and cost disadvantages.”

Energy issues to watch this session:

**Wind siting**—SB 279 (Establishing the wind generation permit and property protection act and imposing certain requirements on the siting of wind turbines.) is likely to show back up, and may be updated to include solar farm projects. If passed, the bill could limit siting of additional wind and/or solar farms and thus expansion of renewable energy, in the state.

**Net Metering**—HB 2291 is still in play, and would apply the net metering and easy connection act to electric cooperatives and municipal utilities, increasing compensation to customer generators, and authorizing larger renewable energy systems and increasing the total net metered facility cap.

Other: Watch for possible consideration of bills on both securitization as well as the ten-year exemption on renewable energy projects.

*by Mary Fund with assistance from Zack Pistora and Dorothy Barnett*

**COVID-19 AND STATE RESPONSE***

Covid 19 will once more be a critical issue, as hospitals and the health care community urge officials to take steps to help them address the State’s current health care crisis, as the current surge in cases takes its toll on health care workers and the public. On January 5, doctors across Kansas banded together to issue a dire warning of “health care rationing” impacting quality of care, and with stories of emergency room deaths due to inability to transfer patients for critical care. Understaffing and burn out among a work force
itself hard hit by Covid-19 are mounting just as the virus itself is surging among the Kansas population.

Following the health care workers’ plea, on January 6 Governor Kelly declared a new Covid-19 disaster emergency and issued executive orders suspending temporarily certain regulations and certifications on health care providers, including some working in long term care facilities. The declaration is only for 15 days, but the Governor is hopeful that the Legislature will extend the order up to or through March.

While Legislative leadership endorsed the relaxation of regulations on health care providers, they were also quick to question the timing of the orders (just days before the session starts) and to issue warnings that the Governor should not go beyond her powers and issue any “unnecessary mandates”. The Legislature, in the form of the Legislative Coordinating Committee, took basic control from the Governor last summer over Covid-19 emergency orders, limiting her emergency powers. We can expect more political wrangling and positioning to get an extension of the emergency declaration. But will simply expanding the range of work health care workers provide really change much as long as the number of infections rise?

See Topeka Capital Journal article on Corona and health care crisis here: [HERE](#)
See Kansas Reflector article on Governor's Covid-19 Disaster Declaration: [HERE](#)

* by Mary Fund

**ADDITIONAL LEGISLATIVE ISSUES**

Several joint/special interim legislative committees met in 2021 – covering topics such as mental health reform, juvenile justice, corrections, state buildings, etc. If these committees propose legislation, there is a greater chance of passage since much of the basic homework has been done.

Other issues we are likely to see:

- **Sales tax exemptions for fencing and construction materials** and repairs for the residents/victims of the December wildfires in four western Kansas counties:
- **Medicaid (KanCare) expansion** seems unlikely given the strong opposition from legislative leadership. But state funding is certainly available. As federal Corona-virus funding ends in 2022, more rural hospitals will likely close, which may possibly refocus the Medicaid debate in Kansas;
- **The first Statewide Housing Needs Assessment Study** in 30 years will be presented to the 2022 Kansas Legislature. Given the dire straits of housing in Kansas, there may be some policy proposals presented.
- **The State’s child support enforcement system** involves 582,000 Kansans of which 246,000 are children. Kansas child support collections rank 44th of the 50 states. Governor Brownback’s privatization approach in 2013 should be re-evaluated and the child support system in Kansas restructured.

Contributors to KRC are automatically on the Policy Watch e-list, if they provide an e-mail address. KRC provides Updates to the sponsoring organizations including League of Women Voters of Kansas, Kansas Natural Resource Council, Kansas Farmers Union, Climate and Energy Project, and Audubon of Kansas, who make the Updates available to their memberships.

If you are receiving KRC Policy Watch through one of these organizations and have questions, contact the organization directly.

If you wish to be removed from the KRC list, contact info@kansarsruralcenter.org

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