



# Kansas Legislative News



KEARNEY AND ASSOCIATES, INC.

FEBRUARY 6, 2012

GOVERNMENTAL AFFAIRS SOLUTIONS SINCE 1993

Welcome to Kansas Legislative News from Kearney and Associates, Inc. This edition is a highlight summary of Week Four (Jan. 30-Feb. 3) happenings at the Kansas Legislature.

## CONTENTS

Senate Highlights .....	1
Senate Floor Action .....	1
Senate Committees .....	3
House Highlights .....	7
State Revenue .....	8
Redistricting .....	8

## SENATE HIGHLIGHTS

The Senate passed its first set of bills this week, sending 25 pieces of legislation to the House for consideration. The approved bills focused on issues related to budgeting, financial institutions, the courts, transportation, agriculture, local government and health care. Among the bills were:

**Respecting our veterans.** For generations, respecting the sacrifices made by our veterans has been a Kansas tradition. The Senate this week approved a resolution (HCR 5016) urging Congress to extend benefits for treatment to all veterans who have been impacted by Agent Orange. Thousands of our Vietnam War veterans have suffered from the effects of this powerful and toxic chemical, which was used during the War to clear heavy vegetation and expose enemy hideouts. Right now, our country only offers treatment benefits for those who served in the country of Vietnam. However, our military men and women who were exposed while served in surrounding areas, such as Thailand, are unable to access these same benefits for treatment. This resolution urges Congress to work with the Department of Veterans Affairs to ensure that all veterans exposed to Agent Orange receive the support and treatment they need. The Senate also passed legislation (Senate Bill 303) that will ensure a proper burial for Kansas veterans whose family members are unable to claim the remains. This bill allows Kansas funeral homes to put the remains of veterans in the care of the Kansas Commission on Veterans Affairs or the U.S. Department of Veterans Affairs so that Kansas veterans can receive the burial they deserve.

**Preserving Kansas resources.** The Senate took action this week to address the impact of last year’s drought conditions and water usage on our state’s agricultural community. Senate Bill 272 will amend water law to provide Kansas farmers and ranchers with the flexibility they need to carefully manage their water resources and balance usage in years where a lack of rainfall may require additional resources. Known as multi-flex accounts, this legislation gives Kansas producers the option to spread the amount of groundwater they pump over a five-year period, which allows them to fully protect their crops in dry conditions while holding the line on overall water usage. This legislation will go a long way toward preserving our state’s water resources and protecting the agricultural foundation of our economy.

## SENATE FLOOR ACTION

**Final Action.** The Senate approved the following bills and resolutions this week:

- **Senate Bill 266.** This bill would change the current law defining “risk-based capital instructions” to include the latest version of the instructions available. The definition includes reference to instructions that are in effect on December 31, 2010. Passed 39-0.

- **Senate Bill 270.** This bill allows the Department of Revenue to release or publish gaming information obtained from bingo licensee applications and renewals. Passed 39-0.
- **House Concurrent Resolution 5016.** This resolution asks to extend equal benefits for the treatment of Agent Orange exposure to Vietnam veterans who served outside of Vietnam. Passed 39-0.
- **Senate Bill 275.** This bill removes the requirement for a salesperson permit, repealing all related statutes. Passed 39-0.
- **Senate Bill 274.** This bill authorizes the Department of Revenue to issue one temporary permit for a special event for no longer than thirty consecutive days. It also allows the vendor to sell back to the supplier unopened alcoholic liquor, with the written permission from the director of ABC, within three days of the end of the event. The temporary permit allows the consumption of alcoholic liquor on any roadway that has been closed to motor vehicle traffic. Passed 39-0.
- **Senate Bill 280.** This bill addresses amendments to change the status of confidentiality, stating that interviews will be public record. Further, it states that parties may call for expert testimony in any proceeding, not just a trial. Passed 39-0.
- **Senate Bill 292.** This bill would clarify current law regarding the Uniform Trust Code providing for automatic revocation of inheritance rights of an ex-spouse. Passed 39-0.
- **Senate Bill 249.** This bill would allow the Legislative Division of Post Audit to require a person to be fingerprinted for a state and national criminal history record check for current and prospective audit and staff members. Passed 39-0.
- **Senate Bill 279.** This bill amends current statute to amend the definition of unlawful sexual relations for people 16 and older to include agents or contractors of SRS as well as those in the custody of SRS. Passed 39-0.
- **Senate Bill 291.** This bill would amend the uniform trust code related to non-charitable irrevocable trusts, creditor claims against settlors, and certification of trusts. This bill passed out of committee. Passed 39-0.
- **Senate Bill 293.** This bill amends current laws regarding who delivers a will to a district court and the protocol for filing an affidavit concerning the will. Passed 39-0.
- **Senate Bill 265.** This bill clarifies language for amending credit union bylaws by requiring that if the Credit Unions Administrator has not acted on a proposed bylaw amendment within 60 calendar days, then the amendment would be considered approved. The bill also allows a credit union to appeal the decision of the Administrator in accordance with the Kansas Administrative Procedures Act. Passed 39-0.
- **Senate Bill 264.** This bill allows a life insurance company to designate a trust company as a trustee of an insurance company's securities. This would resolve this law with a similar law that was amended during the 2011 Legislative Session. Passed 39-0.
- **Senate Bill 300.** This bill extends the 30-day temporary vehicle registration permits to 60 days. Passed 39-0.
- **Senate Bill 275.** This bill removes the requirement for a salesperson permit. Passed 39-0.
- **Senate Resolution 1803.** This resolution urges Congress to allow outdoor highway advertising signs, especially in rural areas where communities are bypassed by major interstates and highways. Passed 39-0.
- **Senate Resolution 1804.** This resolution requests a multi-year federal transportation funding program at current funding levels. Passed 34-5.

- **Senate Bill 207.** This bill allows a county to accept a credit or debit card for any payment. The county is able to add a fee to each transaction equal to what the county is charged for the payment made using the card, but the county must provide notice of the fee. Passed 39-0.
- **Senate Bill 259.** This bill allows retired teachers to return to work without having their retirement benefits penalized by KPERS. Passed 35-4.
- **Senate Bill 258.** This bill allows a state university employee to provide factual information on negotiated or research agreements between the university and the company for which the employee may have a substantial interest, but the employee must not have the authority to negotiate or approve the agreement or have a direct financial benefit. Passed 39-0.
- **Senate Bill 290.** This bill will change the Addictions Counselor Licensure Act to require applicants to have a minimum number of semester hours of coursework on substance use disorders for licensure. Applicants also have to merit public trust. In addition, applicants have to provide proof of at least two years postgraduate supervised professional experience. Passed 39-0.
- **Senate Bill 303.** This bill will allow a funeral establishment, branch establishment, or crematory to dispose of cremated remains if the remains have not been claimed within 90 days, they have sent a notice of disposal by mail, and if they have not received a claim within 30 days of sending the notice. This bill also clarifies language on disposition of cremated remains allowing each establishment to relinquish possession to the Kansas Commission on Veterans Affairs or a national cemetery for disposition. Passed 39-0.
- **Senate Bill 272.** This bill establishes a five year multi-year flex plan for water allocation. Passed 39-0.
- **Senate Bill 289.** This bill clarifies that the Board of Veterinary Examiners has the authority to inspect and audit licensee compliance with current existing minimum standards of veterinary practice. It also establishes a new fee for the inspection and audit. The fee is at least \$50 and no more than \$150 per licensee. The bill also allows the board to assess the qualifications of veterinarian technician applicants, gives the board the ability to seek a sanction against a licensed veterinarian entering into a diversion agreement in lieu of a conviction of a felony, and clarifies the Board's authority to assess a fine. Passed 38-1.
- **Senate Bill 294.** This bill contains the Joint Committee on Special Claims Against the State recommended payments. Passed 39-0.
- **Senate Bill 297.** This bill includes spousal gifts in the list of sole and separate property that remains the property of a married person. Passed 38-0.

## SENATE COMMITTEES

**Agriculture.** This week the committee continued work on **Senate Bill 272**, which would establish a five year multi-year flex plan for water allocation. SB 272 passed out of committee. They also held hearings on the following bills:

- **Senate Bill 276.** This bill would establish a five year multi-year flex plan for water allocation.
- **Senate Bill 289.** This bill clarifies that the Board of Veterinary Examiners has the authority to inspect and audit licensee compliance with current existing minimum standards of veterinary practice. It also establishes a new fee for the inspection and audit. The fee is at least \$50 and no more than \$150 per licensee. The bill also allows the board to assess the qualifications of veterinarian technician applicants, gives the board the ability to seek a sanction against a licensed veterinarian entering into a diversion agreement in lieu of a conviction of a felony, and clarifies the Board's authority to assess a fine. They passed the bill out of committee.

- **Senate Bill 302.** This bill will set all registration fees for Meat and Poultry Inspection Program of the Department of Agriculture to \$25. The bill also changes language to existing definitions to comply with federal law so the state inspection program is equal status to the federal program. In addition, the bill gives the Department temporary suspension authority to allow for voluntary inspection authority of non-amenable species.

**Assessment and Taxation.** This week the committee held hearings on the following pieces of legislation:

- **Senate Bill 317.** This bill would exclude trade fixtures from the definition of real property, real estate, and land when determining the assessed valuation of real property.
- **House Concurrent Resolution 5017.** This is a resolution to amend the property tax classification section of the Kansas Constitution to authorize the Legislature, beginning in tax year 2013, to classify watercraft on a different basis from other property.

**Commerce.** The committee continued a previous presentation by Secretary of Commerce, Pat George (<http://www.kansascommerce.com/>).

**Education.** This week the committee heard a report from Mark Tallman of the Kansas Association of School Boards (<http://www.kasb.org/>) on Educational Achievement in Kansas. They also heard a review of Higher Education by Dr. Andy Tompkins, the President and CEO of the Kansas Board of Regents (<http://www.kansasregents.org/>). Finally, the Education committee heard presentations on the following bills dealing with bullying:

- **Senate Bill 278.** This bill prohibits bullying, harassment, or cyber bullying of any Kansas public student or employee in grades K-12. The bill requires all school districts to adopt policies to prohibit these types of behaviors at school or school-sponsored activities and outlines what type of reporting requirements should be followed.
- **Senate Bill 69.** Would add the terms “dating partner” and “dating violence” to current law regarding bullying. In addition, the bill would require school districts to adopt policies regarding dating violence, in addition to current bullying policies.

**Ethics and Elections.** This week the committee held hearings and discussions on the following bills:

- **Senate Bill 102.** This bill would increase registration fees for lobbyists
- **Senate Bill 309.** This amends the Campaign Finance Act to require broadcast political advertisements to include a disclosure statement that identifies who is speaking in the ad, the candidate being referred to in the ad, the committee or person sponsoring the ad, and whether the ad supports or opposes the specific candidate.
- **Senate Bill 242.** Creates the Interstate Compact on the Agreement Among the States to Elect the President by National Popular Vote Act. This bill allows any state and the District of Columbia to become a member of the compact and each member state would be required to conduct a statewide popular election for President and Vice President of the United States. The bill establishes a procedure for Kansas to follow if it decides to join the compact.

**Federal and State Affairs.** This week the committee held hearings on the following bills:

- **Senate Bill 237.** This bill would increase the cap from \$25,000 to \$100,000 for those Kansas insurance companies having gross premiums of less than \$50 million. For insurance companies having gross premiums of more than \$50 million, there would be no cap.
- **Substitute for House Bill 2430.** This bill deletes the smoking ban exemption for gaming facilities that was given in the Kansas Indoor Clean Air Act.

- **Senate Bill 241.** This bill amends the state's Expanded Lottery Act and would create the Kansas Agricultural Opportunity Act. This changes the distribution of electronic gaming machine income from a racetrack gaming facility manager from 25 percent to 58 percent. It also eliminates the 15 percent share of gaming income that is to be used for gaming expenses of the racetrack gaming facility manager and remove the earning caps on both the Live Horse Racing Purse Supplement Fund and the Live Greyhound Racing Purse Supplement Fund. The Kansas Lottery would be allowed to allocate the entire 2,800 authorized electronic gaming machines to be placed at racetrack gaming facilities and have between 600 and 1,200 machines per facility.
- **Senate Bill 319.** This amends the Kansas Expanded Lottery Act and Kansas Parimutuel Wagering Act, and would create the Kansas Agricultural Opportunity Act. This authorizes Sedgwick County to hold an election to allow the Kansas Lottery to operate electronic gaming machines at a racetrack facility in Sedgwick County. The bill also changes the distribution of net electronic gaming machine revenue from racetrack gaming facilities by increasing the amount of revenue distributed to racetrack gaming facility managers. This bill also removes the earning caps on both the Live Horse Racing Purse Supplement Fund and the Live Greyhound Racing Purse Supplement Fund.

**Financial Institutions and Insurance.** This week, the committee heard an overview of the Kansas Eligibility Enforcement System (KEES) program, designed by Accenture. This program is designed to be an online tool for social services applications such as Medicaid, CHIP, and TANF to determine someone's eligibility for these services. The KEES system is scheduled to be complete by 2014. They also held hearings on the following bills:

- **Senate Bill 273.** This bill will increase the cap for insurance companies having gross premiums of less than \$50 million to \$100,000 from the current \$25,000 cap. Also, insurance companies having gross minimums of more than \$50 million will have no cap.
- **Senate Bill 287.** This bill will require credit unions to purchase share insurance from the National Credit Union Share Insurance Fund (NCUSIF).
- **Senate Bill 315.** This bill would add attorneys, officers, and employees of the Office of the State Bank Commissioner to the list of employees that are not subject to approval by the Governor. This bill also lists positions the Bank Commissioner would be allowed to appoint in the unclassified service. The State Bank Commissioner will also be allowed to set salaries for unclassified positions. The bill eliminates outdated references. Furthermore, this bill asks to increase expenditures on salaries and wages in FY 2012 up \$122,351 and in FY 2013 up \$554,067.

The committee also passed the following bills out of committee:

- **Senate Bill 263.** This bill will allow a credit committee, credit manager, or loan manager to have general supervision of all loans to credit union members. The bill will also require a two-thirds vote instead of a unanimous vote by the supervisory committee to suspend any officer of the credit union, any member of the credit committee, or member of the credit union board of directors. In addition, this bill clarifies language on the appeals and suspension process.
- **Senate Bill 264.** This bill allows a life insurance company to designate a trust company as a trustee of an insurance company's securities. This would resolve this law with a similar law that was amended during the 2011 Legislative Session.

**Judiciary Committee.** This week, the committee held hearings on the following bills:

- **Senate Bill 281.** This bill removes the sunset provision from the statute establishing the Commission on Judicial Performance, extending the date until the statute is repealed.
- **House Bill 2087.** This bill notes the supremacy of the U.S. and Kansas Constitution, as well as the rights afforded by them. It makes void and unenforceable any ruling from a court using foreign law, legal code, or judicial system.

- **Senate Bill 304.** This bill would shift a federally funded program administered by the Attorney General that certifies local battered intervention programs and one full-time employee to a new program called the Batterer Intervention Program Certification Unit and the rules and regulations for the unit.
- **Senate Bill 308.** This bill would create a new crime of armed criminal action, constituted by committing or attempting to commit a felony by use of a firearm.
- **Substitute for House Bill 2318.** This bill would amend current statute concerning controlled substances, making a five level grid system for drug offenses.
- **Senate Bill 321.** This bill would amend current statute dealing with conditions for bail bonding.

**KPERS Select.** The committee met this week and reviewed legislative proposals and the actuarial report.

**Local Government.** The committee met this week and heard testimony on bills that pertain to counties which are exempt from the Court of Tax Appeals filing fees, appraisal laws, and bidding at tax sales.

**Natural Resources.** This week the committee held hearings on the following bills:

- **Senate Bill 310.** This bill states that a chief engineer shall review the plan whenever a groundwater management district recommends the approval of a local enhanced management plan within the district.
- **Senate Bill 316.** This bill updates references and corresponding changes relating to Executive Reorganization Order No. 36 and the Kansas Department of Wildlife, Parks, and Tourism.

**Public Health and Welfare.** The committee held hearings on the following bills:

- **Senate Bill 324.** This bill would change the expiration date of licenses to a date established by rules and regulations adopted by the Board. This bill also removes a provision that allows a single registration for a business entity to manufacture drugs that operates more than one facility within the state, or for a parent entity with divisions, subsidiaries, or affiliate companies, when operations are conducted at more than one location and there exists joint ownership and control among all of the entities. This bill also states that a pharmacist intern needs to be registered with the Board and provide the name and address of each new employer within 30 days of obtaining new employment. This bill passed out of committee.
- **Senate Bill 325.** This bill adds the drug, *carisoprodol* to Schedule IV and the drug, *ezogabine* to Schedule V of the controlled substances lists. This bill passed out of committee.
- **Senate Bill 326.** This bill changes language on which students can receive dental services in schools.
- **Senate Bill 328.** This bill updates electronic prescription laws by adding definitions.

**Redistricting.** This week the committee passed out its Congressional District Map, **Senate Bill 344.**

**Transportation.** This week the committee heard a presentation by the Kansas Department of Transportation (<http://www.ksdot.org/>). They also held hearings on the following legislation:

- **Senate Bill 298.** This bill will change weight limitations on trucks designed and equipped for garbage, refuse, or solid waste disposal.
- **Senate Bill 334.** This bill will allow a person with military commercial vehicle driving experience the ability to bypass the skills test required for a commercial driver's license.
- **Senate Resolution 1805.** This resolution supports creating roads, streets, and communities where all users can feel safe, secure, and welcome. It recognizes that users of our state's transportation are people of all ages and abilities, bicyclists, disabled persons, drivers and commercial drivers and that our transportation network must continue to meet the needs of all users.
- **Senate Resolution 1806.** This resolution urges Congress to repeal the freeze on truck weight limits.

**Utilities.** The committee heard the update on the recent Kan-Ed Audit ([http://www.kansas.gov/postaudit/audits\\_perform/h-12-001.pdf](http://www.kansas.gov/postaudit/audits_perform/h-12-001.pdf)). For more information on Kan-Ed, visit <http://www.kan-ed.org/>. They also listened to issues related to the KCP&L recent rate increase.

**Ways and Means.** The Senate Ways and Means Committee heard and passed out favorably **Senate Bill 294**, which contains the Joint Committee on Special Claims Against the State recommended payments. The Committee was briefed on **Senate Bill 311**, which addresses supplemental appropriations for Fiscal Year 2012 and Fiscal Year 2013 for various state agencies. The Committee was also briefed on **Senate Bill 338**, regarding the enactment of the Kansas Public Employees Retirement System Act of 2014. Senator King gave the report of the KPERs Study Commission. Rebecca Proctor presented the Minority Report on the KPERs Study Commission. The Committee approved the appointment of Kenneth Buchele to the Board of Directors of the Kansas Bioscience Authority. Mr. Buchele was nominated by Senate President Morris. The Committee continued its work on SB 311 and heard a presentation on the Blue Ribbon Commission. The Commission conducted an intensive review of state court operations and structure. The Committee introduced a tax bill by Senator Kelsey (**SB 376**) and Senator Huntington introduced a bill relating to persons making reports of abuse or neglect of children (**SB 362**).

## HOUSE HIGHLIGHTS

### Removing “Use it or lose it” From State Water Policy (HB 2451)

HB 2451 updates current state water policy to incentivize water conservation. The bill would remove the current “use it or lose it” policy in water law that forces water allocation rights to be used or else be taken away. Currently, water rights holders are given an allocation of water to use if this allocation is not completely used the water rights could be lost. HB 2451 would not force the water to be used and prevents water rights from being taken away.

As the Governor noted in his State of the State address, water policy has become one of the main focuses of the 2012 legislative session. In the western half of Kansas, the Ogallala aquifer accounts for approximately two-thirds of the state’s agriculture economy. The need to preserve the aquifer is key to the economic future of western Kansas and the state. Without water from the aquifer, agriculture and related business would not be sustained, manufacturing would slow and towns in the area of the Ogallala would struggle to survive. This policy, combined with others working their way through the legislature will help establish a foundation of good stewardship and prolong the lifespan of this precious resource.

*On Thursday, February 2, the House passed HB 2451 by a vote of 124 to 0. The bill is now in the Senate where it awaits further action.*

### Promoting Kansas Swine Facilities (HB 2502)

HB 2502 amends existing law regarding the establishment of swine production facilities. Current law requires a vote by the residents of a county to determine whether or not a swine production facility can be established in the county. Under the provisions of the proposed bill, a commission could permit a swine production facility to be established within the county without a vote. However, public notice is required to be given announcing the decision. If, within 60 days a valid protest petition is filed with the signatures of five percent of the qualified electorate of the county, the question of whether a swine production facility should be allowed will appear on the ballot at the next countywide election. The same procedure would result if the county commission denied the establishment of a swine production facility.

A key objective of the Brownback administration and of the House is to encourage growth in the animal agriculture industry in Kansas. Agriculture is one of the few economic industries with positive growth and is the foundation of the Kansas economy. The provisions contained in HB 2502 will better position Kansas in the animal agriculture industry by making it less complicated to approve and establish a swine production facility in the state. This measure simply treats these businesses as it would treat any other perspective business, while at the same time providing a mechanism for protest.

*On Friday, February 3, the House passed HB 2502 by a vote of 106 to 8. The bill is now in the Senate where it awaits further action.*

## **Frankfort Boys WWII Memorial Highway (HB 2273)**

HB 2273 designates a section of K-99 as the Frankfort Boys World War II Memorial Highway. Going from south of the city limits of Frankfort to the junction of US-36 and K-99, the highway honors the 37 men who lost their lives in World War II. For a city of its size, the Frankfort community lost more men in the War than any other town of similar size.

*On Wednesday, February 1, the House passed HB 2273 by a vote of 125 to 0. The bill is now in the Senate where it awaits further action.*

## **STATE REVENUE**

The 2012 fiscal year is half-way complete and tax-only receipts for January totaled \$576 million, \$30.6 million (5 percent) below projections of \$607 million. Individual income taxes collected \$307 million, \$33 million (9.7 percent) below estimates. Sales taxes brought in \$197 million, falling just short of the \$200 million projection. For the month, January 2012 received \$5 million less in receipts than the same period in 2011.

The \$30 million shortfall is predominately due to tax refunds going out at a quicker pace than anticipated because of the increasing number of electronic tax filers. Unlike previous years, the state is able to pay tax refunds from current accounts and has not had to delay refunds. While we never like to see revenue numbers headed in the wrong direction, the information we've received from our non-partisan Legislative Research office indicates the low figure is perhaps a bit misleading in this case.

## **REDISTRICTING**

The House made a significant step forward this week in the redistricting process with the introduction of HB 2606. This bill contains the boundary coordinates for each of the 125 state House districts. Action on the bill is scheduled for Monday when hearings will take place on the proposed map.

The map, known as Cottonwood 1, shifts two west Kansas districts and one southeast Kansas district to northeast Kansas which experienced the most population growth and requires additional representation. In each instance where a district was shifted, it was the result of the announced departures of three current House members. To access the Cottonwood 1 map, or any other map proposals, please visit <http://redistricting.ks.gov>. There you can view all House, Senate, Congressional, and State Board of Education district maps under consideration by the House and Senate.

## **ADDITIONAL INFORMATION**

For additional information or questions, contact:

Kearney and Associates, Inc.

785-234-5859

1200 W. 10th Ave.

Topeka, KS 66604

[info@kearneyandassociates.com](mailto:info@kearneyandassociates.com)

[www.kearneyandassociates.com](http://www.kearneyandassociates.com)