

**Kansas Independent Oil & Gas Association**  
**State & Federal Legislative Report**  
**By Edward Cross, President**

February 25, 2022

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**KIOGA Midyear Meeting April 20-22, 2022**  
**Fossil Creek Hotel/Dole-Specter Conference Center in Russell, KS**  
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## State Legislative Update

**Kansas Legislative Session Reaches Half-Way Point** – The 2022 Kansas Legislative Session has seen many tough policy debates on issues critical for the Kansas oil and gas industry. Turn around week wrapped up Wednesday, February 23<sup>rd</sup> with both the House and the Senate



forwarding all non-exempt bills to each other's chambers for consideration when the session resumes Tuesday, March 1<sup>st</sup>. The last day for the legislature to consider non-exempt bills not in originating chamber is March 23<sup>rd</sup>. No bills will be considered after April 1<sup>st</sup>, except bills vetoed by the governor and omnibus appropriations bills. The veto session is scheduled to begin April

25<sup>th</sup>. KIOGA has been following and engaged in 24 legislative issues of interest. I have been and continue to meet with many key legislators and other governmental decision-makers and have distributed informational pieces on the state of the oil and gas industry, Kansas oil and gas industry strategic analyses, electric issues, induced seismicity, injection wells, climate issues, and more. I made informational presentations at 3 hearings and testified on bills impacting the Kansas oil and gas industry at 5 bill hearings. A complete summary of the Kansas legislative bills of interest for the oil and gas industry are part of this report.

The big issues – income, property and sales tax cuts – haven't been dealt with yet, nor any expansion of parents' access to what their children are taught in public elementary schools. Those issues will be the next month's work, along with reapportionment of the House and Senate, and so far there doesn't seem to be a consensus among leadership about whether the state's massive cash balance will be used to pay down debt, provide tax breaks, or come up with new programs.

## KIOGA Meets with Governor Kelly



KIOGA President Edward Cross and former KIOGA Chair David Bleakley met with Kansas Governor Laura Kelly on February 10<sup>th</sup>. KIOGA provided Governor Kelly an update on the state of the Kansas oil and gas industry and discussed KIOGA's legislative agenda, which lays out what's important to KIOGA members and where we stand on energy, tax, and regulatory issues. We also encouraged Governor Kelly to re-appoint Dwight Keen as a Kansas Corporation Commission (KCC) Commissioner. Finally, KIOGA invited Governor Kelly to participate as a speaker in a KIOGA *Industry Insights* webinar. Governor Kelly accepted the invitation!

## Legislative Actions



KIOGA has been busy during the 2022 Kansas Legislative Session and continues to work to improve and maintain relationships with key lawmakers and decision-makers on active initiatives and engage in policy developments affecting the Kansas oil and gas industry. KIOGA made several presentations before key legislative committees on the "State of the Oil & Gas Industry", testified before committees on measures impacting the oil and gas industry, and engaged in several informal discussions with legislators and key regulatory officials on issues important for the Kansas oil and gas industry. KIOGA is currently tracking 24 issues of interest to the independent oil and gas industry. The legislative session is ongoing and anything can and does happen, but here is an update on some of the important issues current as of this writing.

**KIOGA Presentations to Key Legislative Committees** – KIOGA President Edward Cross was invited and made informational presentations on the state of the Kansas oil and gas industry to



three legislative committees. On January 13<sup>th</sup>, Cross made the presentation before the **Senate Utilities Committee**. He also made the presentation before the **House Energy Committee** on January 18<sup>th</sup> and then again before the **House Appropriations Committee** on January 20<sup>th</sup>. The presentations provided a summary of America's energy picture today, the state of the Kansas oil and gas industry, and the challenges and opportunities facing the small businesses that make up the Kansas independent oil and gas industry. Several legislators expressed gratitude for the detailed information presented. In addition, several state agencies asked for copies of the white papers and reports developed for the presentations.

**Energy Policy** – On several occasions during the legislative Session, KIOGA was asked for our position on energy policy in general. KIOGA supports a rational, data-driven, common-sense approach to energy policy that recognizes our best energy future can only be achieved through a true all-of-the-above energy strategy. We oppose policies picking winners and losers among energy sources and technologies. We oppose policies that impose mandates that increase costs when sourcing energy. We encourage the least restrictive method of regulation that supports the goal of protecting the public without limiting business activity.

**Electric Rates** – Rising energy costs have been an issue for several years among KIOGA members. KIOGA support free market, open competition with as little regulation as possible. The KCC currently regulates prices for a regulated monopoly that, by law, is provided with a



guaranteed return on investment. Kansas electric utilities are not operating in a free market with open competition. Without open competition, Kansas' ranking drop from 14<sup>th</sup> to 32<sup>nd</sup> in the nation for cost per KW/hour. KIOGA member Dana Wreath of Berexco testified before the Senate Utilities Committee on February 15<sup>th</sup> in

support of a measure to curb Kansas' above average energy prices. The measure states the Kansas Corporation Commission (KCC) cannot approve any increase in retail electric utility rates greater than 1% more than the previous year's total retail rates, or an average of 1% per year if the electric public utility does not file for a rate increase in two or more subsequent years. Unfortunately, there is not support for the bill in committee and the bill is expected to die. Going forward, KIOGA will continue to lead discussions on ways to help address higher than average electric costs.

**Pipeline Safety Proposal** – The Kansas Corporation Commission (KCC) introduced legislation in the 2021 Kansas legislative Session to amend statutes dealing with KCC jurisdiction over pipeline safety matters for intrastate natural gas pipelines. The measure stalled in 2021 due to the lack of time necessary to get it through the legislative process. The KCC has indicated they plan to advance the legislation in 2022. The KCC proposal would remove K.S.A. 66-1150(b), which is an exemption that the legislature placed in the law in 1993 that does not allow KCC authority over natural gas pipelines serving farming activities or some activities associated with oil or gas production. If those pipelines are subject to pipeline safety regulations (i.e., the gas is in transportation), they would remain jurisdictional to the USDOT Pipeline and Hazardous Materials Administration. Regarding gathering lines, the proposed changes would give the KCC jurisdiction over any gathering lines that are already subject to federal rules under 49CFR Part 192. The proposal was vetted with the KIOGA Natural Gas Committee and several KIOGA members who have gas gathering lines. The proposal appears to offer no changes to current gas gathering operations and regulations in Kansas.

**Carbon Capture Utilization & Storage (CCUS)** – For the last two years (2020 and 2021), the Kansas Geological Survey (KGS), Oxy, and others proposed a measure to expand CCUS activities in Kansas. KIOGA has serious concerns about the proposal for many reasons. The proposal



would allow condemnation to be used not just for pipeline rights-of-way to include carbon dioxide pipeline, but also would use eminent domain to condemn subsurface strata. Legal challenges involving mineral rights and pore space ownership would likely arise. In addition, any operator wanting to participate in a CCUS project would have to be willing to accept significant capex and opex risks. CCUS is a very complicated issue with the potential for lots of unintended consequences that could affect large segments of the industry in many ways. KGS decided to stand-down on the issue during the 2022 legislative session. KGS will be presenting their perspective on CCUS challenges and opportunities at the KIOGA 2022 Midyear Meeting in Russell in April.

**Investment Boycott of Energy Companies** – Some financial and investment institutions across the nation are being pressured by the Biden Administration to boycott traditional energy production industries and cut off investments to legally operating U.S. business. KIOGA believes financial institutions should award financing based on an unbiased, non-political basis. Oil and gas companies are not asking for special treatment, but are simply asking for financial institutions to be unbiased in their assessments. The Kansas Senate Tax & Assessment Committee introduced the Kansas reliable energy investment protection act, requiring the KPERS board to divest from investments with entities boycotting energy companies and prohibiting state contracts with companies boycotting energy companies. The measure would require the Kansas public employees retirement system (KPERS) to divest investments in entities that boycott energy companies and prohibits state contracts without written verification that a company is not boycotting energy companies.

**Arbuckle Study Funding** – The Kansas Water Office (KWO) made a budget request to increase funds for the “Arbuckle Study” portion of the KWO budget. While the requested increase was relatively small (\$150,000) compared to the entire KWO budget request (\$13.7 million), KIOGA made lawmakers aware of the apparent mismanagement of the Arbuckle Study funds to date. The purpose of the Arbuckle Study is to determine a testing procedure to measure pressures in the Arbuckle formation. KWO contracts with the Kansas Geological Survey (KGS) to conduct Arbuckle pressure tests. In two previous budget requests, the KWO was allocated \$168,000 for the Arbuckle Study. To date, KGS has been paid \$20,568 and has spent about \$2,000 on equipment. However, no testing has been done to date. The study’s progress has been slowed because of the KWO/KGS lack of oil and gas operations experience. KGS may be good at

analyzing data, but they have shown a real shortcoming in collecting data. The oil and gas industry has tried to help advance the study by offering wells to test and other resources. As a matter of fact both the industry and the Kansas Corporation Commission (KCC) have offered wells for testing. Unfortunately, the KGS has turned down wells offered for testing. It appears the KGS is cherry-picking wells for testing to support their desired conclusion. KGS plans to test 5 or 6 wells at a cost of approximately \$20,000. KIOGA told lawmakers that it has not been established that there should be additional testing of wells beyond the 5 or 6 wells the KGS plans to test. Additional testing needs can only be determined after we see how effective the proposed testing procedure is. KIOGA thinks additional funding for the Arbuckle Study is premature. Why ask for more money when they have not spent what they have?

**Rules & Regulations Legislation** – On February 21<sup>st</sup>, the House passed (85-39) a proposed constitutional amendment that would simplify the rejection of state administrative rules and regulations that some lawmakers feel exceed their intentions in granting administration authority to state agencies. The measure is a legislative/executive branch scrap, with conservative lawmakers asserting that the current rules/regs procedure -- requiring a vote subject to veto and then two-thirds majority for passage to kill rules and regulations that are created by Cabinet-level agencies which are headed by gubernatorial appointees – is administration-slanted. House debate on the measure heard several comments on “un-elected state bureaucracies” enacting rules and regulations to carry out state law that are difficult for lawmakers to overturn. The Senate is considered likely to approve the resolution, which would put the relatively complex issue on the November election ballot where a majority of votes can approve the constitutional amendment handing that power to the Legislature.

**Abandoned Well Plugging Technical Cleanup Measure** – Last year (2021), the Kansas Corporation Commission (KCC) introduced legislation addressing the plugging of abandoned wells. KIOGA was supportive of the measure and helped advance the legislation. It was signed into law by Governor Kelly on April 9, 2021. However, some technical issues were discovered in the measure after it was signed into law. The issue stems from the 55-193 statute appearing in two separate bills at the same time with neither bill explicitly resolving the revision made by the other bill. The KCC cannot assign assumptions of legislative intent (i.e., whether the statute should be repealed as provided in HB 2022 or amended as provided in HB 2007). To remedy the situation, the KCC introduced a technical cleanup bill that only repeals 55-193 as it was intended when the measure was passed last year. KIOGA worked to help the KCC advance the measure. The measure was championed by State Representative Troy Waymaster (R-Bunker Hill) and passed the House 112-0 and will likely pass the Senate.

## Federal Update

### Federal Lawmakers from Energy States Urge Biden to Withdraw Raskin Nomination



On January 28<sup>th</sup>, KIOGA joined a letter with 41 oil and gas industry trade groups opposing the nomination of Sarah Bloom Raskin as Vice Chair for Supervision and a Member of the Board of Governors of the Federal Reserve System. Our opposition is based on her strong advocacy for debanking the oil and gas industry and her position at the Federal Reserve would include setting policy and being a lead overseer of banks. Raskin's appeared before the U.S. Senate Banking Committee on February 7th. U.S. Senator Jerry Moran (R-KS) is a member of the U.S. Senate Banking Committee and questioned Ms. Raskin.

### Senator Moran: The Federal Reserve Does Not Get to Pick Winners and Losers



"I want a federal reserve that is not going to pick winners and losers," said Senator Moran. "I need greater assurance that you will not use the Fed to diminish the role of the energy sector or any other private sector. In my view you have no opportunity, none, to try to discourage the oil and gas industry from existing or prospering. I am troubled by any of the nominees that believe there is a path to regulate a legally authorized, existing business."

Senator Moran explained [interview on Fox Business](#) the Republican's decision to deny Democrats a quorum on voting Ms. Raskin as Vice Chair for Supervision at the Federal Reserve. The primary concern is her positions on regulating energy policy through financial regulations. At the heart of the denial of a quorum is the Federal Reserve's approval of a Federal Reserve "master account for Reserve Trust" while Ms. Raskin was a board member. She was not forthcoming enough in response to Banking Committee Republicans' questions about the lobbying she did on behalf of Reserve Trust to the Federal Reserve.

### Senator Marshall Leads Effort for U.S. Senate Letter Requesting President Biden Pull the Raskin Nomination

U.S. Senator Roger Marshall, M.D. (R-KS) and Senator James Lankford (R-OK) led an effort to circulate a letter for Congressional members to sign-on asking President Biden to pull the nomination of Sarah Bloom Raskin to be Vice Chair of Supervision at the Federal Reserve. The letter was signed by 10 Republican U.S. Senators from states that rely heavily on the oil and gas sector and was sent to President Biden on February 16<sup>th</sup>. "If regulators like Ms. Raskin start



putting pressure on local banks not to lend to energy companies it will be our smaller producers who will be impacted first, and as they start going out of business energy prices will continue to rise,” they wrote in the letter.

U.S. House Republicans too signaled their concern about the nomination in a letter to President Biden saying they were deeply troubled by her nomination. While U.S. Representatives may not vote on nominations, 40 members expressing concerns about an appointee should be taken seriously by their colleagues in the U.S. Senate.

## **KIOGA Recommends More Flexibility and Cost Effectiveness in EPA methane Regulations**



On January 28<sup>th</sup>, the Kansas Independent Oil & Gas Association (KIOGA) submitted comments on the EPA’s proposed New Source Performance Standards (NSPS) and Emissions Guidelines for oil and natural gas operations that were published in November 2021.

“For over twelve years KIOGA has been actively engaged in working with the EPA to promulgate NSPS for the oil and natural gas sector that are cost-effective, reasonable, and justified under the Clean Air Act,” said KIOGA President Edward Cross. “KIOGA’s message has been clear and consistent: EPA’s ‘one-size-fits-all’ approach to regulating the oil and natural gas industry is inappropriate and disproportionately impacts conventional, low-production wells, and small businesses.”

In these latest comments, KIOGA provided recommendations on the EPA’s latest proposal to improve their cost effectiveness and workability for small businesses and low-production wells. KIOGA suggested the following changes to the EPA proposal:

- EPA should retain a low production well distinction in the regulations. Regulations designed for large wells do not function appropriately for low production wells.
- EPA should restructure the regulation to provide that as wells decline to the low production well threshold, these wells would move into the low production well requirements.
- EPA should use the U.S. Tax Code definition of stripper wells as the low production well definition. Both the Tax Code definition and the proposed Subpart OOOOa definition use the same 15 barrels/day BOE basis. However, the Tax Code interpretation is well understood by both producers and federal regulators. Its use would prevent litigation over interpretation of the new Subpart OOOOa language.

- EPA should use the results of the DOE Quantification of Methane Emissions from Marginal Oil and Gas Wells project to develop low production well regulations, if any are cost effective.
- EPA could follow the path that it took with regard to a fugitive emissions program in the October 2016 CTG for existing oil and natural gas production facilities in Ozone nonattainment areas. In that action, EPA deferred the institution of a fugitive emissions program until an undefined future date. Given that the results of the Department of Energy project are essential to developing sound regulations, if any are justified, this approach would be consistent with the CTG decision. However, if EPA is unwilling to defer action until it has an adequate fact base for regulation, the current Optical Gas Imaging requirements are inappropriate for low production wells, particularly if Subpart OOOOa regulations compel a Section 111(d) nationwide existing source regulatory action on the 770,000 low production wells scattered across the nation. Instead, EPA needs to develop an approach that limits the regulatory burden on low production wells, limits the recordkeeping requirements that are so burdensome in most parts of the Subpart OOOOa proposal.
- EPA could be instructed by other EPA regulations such as the Clean Water Act Spill Prevention, Control and Countermeasure (SPCC) plan requirements that require annual facility inspections without extensive reporting requirements to EPA. A similar approach might be appropriate here. And, like the SPCC plan requirements, an annual visual inspection could provide for whatever maintenance was necessary to limit possible emissions. But, the key to any action must be to limit the regulatory burden unless and until appropriate low production well regulations are developed.

KIOGA is also an active member of the *Methane Coalition*. The *Methane Coalition* is a collaborative effort of over 100 participants from industry trade associations and organizations across the U.S. The *Methane Coalition* submitted comprehensive comments on the proposed new EPA methane rule on January 31<sup>st</sup>. KIOGA has been an active member of the *Methane Coalition* throughout the process. In addition to being recognized as a contributor to and supporter of the *Methane Coalition* comments, KIOGA submitted complementary comments. The comments submitted by KIOGA on January 28<sup>th</sup> focused on the significant cost-of-compliance issues and the need for EPA to recognize the low-production well emission profile.

**Congressional Letter to EPA** – KIOGA also worked with U.S. Senator Marshall (R-KS) and U.S. Congressman Mann (R-KS) to develop a congressional letter to oppose the EPA proposed new methane rule. Senator Marshall (R-KS) led the effort with Senator Cruz (R-TX) as a co-sponsor. The letter is a bicameral effort with Representatives Mann (R-KS) and Arrington (R-TX) leading the House side.



U.S. Senator Roger Marshall, M.D. (R-KS)



U.S. Representative Tracey Mann (R-KS)

**KDHE Response** – KIOGA also communicated with the Kansas Department of Health & Environment (KDHE) to provide information and resources on the cost to KDHE to implement the proposed EPA methane rule. The KDHE submitted excellent comments to EPA on January 28<sup>th</sup>.



**Going Forward** - EPA is taking a layered approach over the next six months to a year to implement its framework. EPA received comments on the proposed new rule released in November 2021. After reviewing the comments, EPA appears to be planning a second, more specific proposal in 2022 that reflect the comments received. This will likely occur in the spring of 2022, which means the final methane rule would be promulgated in late 2022. Subsequently, states will then initiate their regulatory actions to develop regulations on a timeline that will extend into 2023. These actions remain unclear on both time and scope. More information will develop in the coming weeks/months.

### **USFWS Lesser Prairie Chicken Habitat Conservation Plan**



On February 11<sup>th</sup>, the U.S. Fish & Wildlife Service (USFWS) opened public comment on a draft habitat conservation plan (HCP) and draft environmental assessment (EA) covering impacts to the lesser prairie chicken (LPC) from oil and gas development in the Great Plains. The draft HCP would provide for an Incidental Take Permit for the LPC under Section 10(a)(1)(B) of the Endangered Species Act (ESA). The HCP would cover all activities associated with oil and gas development across the LPC range in Kansas, Colorado, Oklahoma, Texas, and New Mexico. Under the HCP, industry participants would work with LPC Conservation, LLC to purchase Service-approved mitigation to offset their project’s impact to the LPC and its habitat on a voluntary basis. The comment period ends March 14<sup>th</sup>. KIOGA is reviewing the HCP and EA and will be submitting comments prior to the March 14<sup>th</sup> deadline.

If the USFWS decides to list the LPC as a threatened or endangered species, it could have serious consequences for oil and gas operators with operations and acreage in the LPC habitat areas. The draft HCP provides regulatory assurances to continue operations and

development in the LPC habitat areas. However, the HCP imposes restrictions on oil and gas operations and requires payment of significant fees for any new drilling or construction projects.

KIOGA's comments on the draft HCP will underscore the USFWS lack of consideration of the impacts of the HCP on the small businesses that make up the Kansas oil and gas industry. KIOGA's comments encouraged the USFWS to chart a different course to reduce regulatory burdens and encourage stakeholder involvement in the development of a free market approach to the conservation of the LPC. KIOGA's comments will encourage the USFWS to collaborate with stakeholders on positive solutions that protect the species without causing unnecessary harm to the livelihoods of the people.

The Biden Administration proposed to list the LPC as a threatened/endangered species last year (2021). The USFWS is looking to expand federal protections of two distinct population segments of the LPC. USFWS is seeking to list the Southern Distinct Population Segment (DPS) of the LPC as endangered under the ESA and also believe the Northern DPS of the bird warrants protection as a threatened species with a rule issued under section 4(d) of the ESA. The northern segment includes Kansas. If both subspecies receive final protections as proposed, then the two DPSs of the LPC will be added to the List of Endangered and Threatened Wildlife and be covered by protections from the ESA.

The status of the LPC has long been a focus of environmental petitions and lawsuits, pursued the past 25 years by environmental advocacy organizations, with heightened legal activity experienced over the past decade. Notably, in 2014, the USFWS issued a final rule listing the LPC as a threatened species under the ESA (79 FR 19973) and concurrently published a final 4(d) rule for the bird (79 FR 20073). However, on September 1, 2015, this final listing rule for the LPC was vacated by the United States District Court for the Western District of Texas, which also mooted the final 4(d) rule. On July 20, 2016, the USFWS published in the Federal Register a final rule that removed the LPC from the List of Endangered and Threatened Wildlife in accordance with the court decision (81 FR 47047).

KIOGA has long advocated that the best scientific and commercial information available demonstrates that the LPC does not meet the ESA's definitions of either a threatened or endangered species. Through a combination of public and private efforts, the LPC is now better protected than at any previous time. A listing a threatened or endangered will not provide any additional conservation benefits above what already exists.

USFWS accepted comments last year (2021) regarding the proposed rule to list two DPSs of the LPC. KIOGA prepared and submitted comprehensive comments during the comment period in 2021. KIOGA's comments provided a body of information to support a "Not Warranted" USFWS determination for listing the LPC.

## KIOGA Webinars



KIOGA continues our efforts to bring members educational opportunities and have hosted a series of webinars in early 2022 to bring our members informative content that will guide future business and policy decisions. In 2021, we hosted 18 webinars in 3 webinar series. Average attendance in each webinar was 109.



The mission of the webinars is to provide educational opportunities for KIOGA members on important issues, regulations, and topics of interest. In 2022, we launched our *Industry Insights* webinar series on January 24<sup>th</sup> when nearly 90 participants heard from IPAA Executive Vice President Lee Fuller who provided a summary discussion of the current proposed EPA oil and natural gas methane rule.



The second webinar in our *Industry Insights* webinar series was broadcast on February 21<sup>st</sup> when 129 participants heard from KCC Oil & Gas Conservation Division Director Ryan Hoffman, KCC District #4 Supervisor Case Morris, KCC District #3 Supervisor Troy Russell, and KCC District #1 Supervisor Kenny Sullivan provide a summary discussion of the changes to abandoned well plugging responsibility.



The third webinar of the series will broadcast March 7<sup>th</sup> and feature Jason Isaac, Director of Life:Powered, a project of the Texas Public Policy Foundation. Isaac is a four-term Texas State Legislator honored for his commitment to limited government and efforts working across the aisle to find responsible solutions. He will share how states and energy businesses can fight back against the debanking and defunding ESG agendas and promote access to affordable, reliable energy in America and around the world.



The fourth webinar of the series will broadcast March 21<sup>st</sup> and feature Kansas Governor Laura Kelly. Governor Kelly has built a reputation as a no-nonsense leader who works with both Republicans and Democrats to get things done. She advocates for fiscally responsible, balanced budgets that reflect Kansas's shared priorities. In a *Conversation with Governor Laura Kelly*, Governor Kelly reflected on her goals and accomplishments as Kansas Governor.



The last webinar in the series will broadcast on March 28<sup>th</sup> and feature Kansas Attorney General Derek Schmidt. Derek Schmidt was elected the 44th attorney general of Kansas in 2010 and was reelected in 2014 and 2018. Under Attorney General Schmidt’s leadership, the office has focused on prosecuting crimes against children, protecting senior citizens from scams and rip-offs, recovering record-setting amounts of money for Kansas consumers and taxpayers, providing professional legal services for the State of Kansas, and standing up against illegal overreach by the federal government. In a *Conversation with Kansas Attorney General Derek Schmidt*, AG Schmidt talked about his efforts to push back against federal government overreach including actions on EPA methane regulations, USFWS lesser prairie chicken concerns, and more.

Thanks to all who engage in KIOGA webinars. Also, **Thank You** to our webinar series sponsor **Sunrise Oilfield Supply**. Your generosity is greatly appreciated!



Watch KIOGA communications for future KIOGA webinars. Please contact the KIOGA office at 785-232-7772 or holly@kioga.org for sponsorship opportunities. Also, the 2022 KIOGA Midyear Meeting is scheduled April 20-22, 2022 in Russell, Kansas and the KIOGA 2022 Annual Convention is scheduled for August 14-16, 2022 in Wichita, Kansas. We hope to see all of you at these premier networking events!

## Mark Your Calendars - KIOGA Midyear Meeting April 20-22, 2022



The 2022 KIOGA Midyear Meeting will be held April 20-22, 2022 at the ***Fossil Creek Hotel/Dole-Specter Conference Center*** in Russell, Kansas. We are excited to be in Russell and look forward to an outstanding meeting. Value-added business-development seminars, tours, trade show, dinner & entertainment, golf, and more are being planned. Learn more and [\*\*REGISTER HERE\*\*](#) Mark your calendars for April 20<sup>th</sup>-22<sup>nd</sup>!

**Kansas Legislative Bills of Interest for Oil & Gas**

| <b>Bill Number and Sponsor</b>                                     | <b>Bill Subject</b>   | <b>Current Status</b> | <b>Last Action</b>  |
|--|---|-----------------------|---|
| <b>Sub for SB 34</b><br>Senate Federal and State Affairs Committee | Requiring review of administrative rules and regulations every five years | Passed in Senate      | <b>02/23/2022</b> -<br><b>Senate</b><br><br>Passed Senate<br>32-7 |

Sub for SB 34 would require all rules and regulations adopted under the Rules and Regulations Filing Act to be reviewed by agencies every five years, would establish reporting requirements for agencies, and would establish an alternative revocation procedure for certain rules and regulations.

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| <b>SB 81</b><br>Senate Federal and State Affairs Committee | Requiring the state corporation commission to provide the legislature with an annual report of the electric rates of electric public utilities in the region | In Senate Utilities | <b>01/27/2021</b> -<br><b>Senate</b> |
|--|--|---------------------|--------------------------------------|

SB 81 is a measure carried over from the 2021 session. It would require the Kansas Corporation Commission (KCC) to report to the Legislature on or before February 1 of each year on the average residential, commercial and industrial electric rates charges by electric public utilities in Kansas in comparison to those average rates in at least nine states in the region, including states contiguous to Kansas.

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| <b>SB 205</b><br>Senate Judiciary Committee | Enacting the uniform partition of heirs property act to prescribe procedures and requirements for partition of certain real property | In Senate Judiciary | <b>02/11/2021</b> -<br><b>Senate</b> |
|---|--|---------------------|--------------------------------------|

SB 205 is a measure carried over from the 2021 session. It creates the Uniform Partition of Heirs Act. This measure is a repeat of legislation introduced in 2017 and again in 2019. The proposal seeks to address what some see as a history of real estate developers and speculators purchasing undivided interests and partitioning the property by sale in order to take it at a good price. However, the measure could make it practically impossible to partition many parcels of real estate in Kansas. The problem is that partitioning is often the best option (and sometimes the

only option) to fix title problems that would otherwise render the land unable to be developed for oil and gas production. KIOGA President Edward Cross explained this issue with the Senate Judiciary Committee Chair Kellie Warren (R-Leawood).

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| <p><b>SB 206</b><br/>Senate Judiciary Committee</p> | <p>Enacting the fairness in condemnation act to require the condemning authority to provide the property owner notice of a planned condemnation proceeding, an offer for purchase and a court review of compliance with this act</p> | <p>In Senate Judiciary</p> | <p><b>03/05/2021</b> –<br/><b>Senate</b></p> |
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SB 206 is a measure carried over from the 2021 session. It would require a condemning authority to provide written notice by mail to the owner of a property 60 days before filing a condemnation proceeding. The notice must include: a legal description of the property; the right of the owner to obtain counsel; the right of the owner to make a counteroffer; the right of the owner to obtain an appraisal; and the right to contest the condemnation in a separate proceeding. The condemning authority, 30 days before, would be required to mail an offer to all owners of record that includes an appraisal or other determination of the value of the property. Before a district court could enter an order of condemnation, the court would be required to make a finding that the plaintiff condemning authority engaged in good faith negotiations prior to filing the condemnation petition as specified in the bill. If a court does not find that that good faith negotiations have occurred, the court would be required to dismiss the condemnation petition and order the condemning authority to reimburse the owner for the owner’s actual and reasonable attorney fees and costs.

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| <p><b>SB 223</b><br/>Senate Ways and Means Committee</p> | <p>Allowing the exercise of eminent domain for the purpose of conducting carbon dioxide in pipes</p> | <p>In Senate Utilities</p> | <p><b>02/12/2021</b> –<br/><b>Senate</b></p> |
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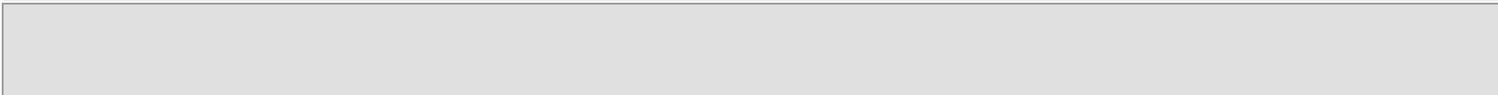
SB 223 is a measure carried over from the 2021 session. It would expand pipeline rights-of-way condemnation to include carbon dioxide. The measure is being sought by Oxy, the Kansas Geological Survey, and others to run a CO<sub>2</sub> pipeline through Kansas.

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| <p><b>SB 245</b></p> <p>Senate Financial Institutions and Insurance Committee</p>  | <p>Providing for the financing of electrical corporations through the issuance of securitization bonds</p>  | <p>In Senate Financial Institutions &amp; Insurance</p> | <p><b>03/12/2021</b> -<br/><b>Senate</b></p> |
| <p>SB 245 is a bill carried over from the 2021 session. It would create the <i>Kansas Grid Resiliency, Innovation and Dependability Act</i> and give the KCC the authority to oversee and authorize the issuance of ratepayer-backed securitized bonds in order to finance property that is currently included in the rate base of an investor-owned utility.</p>  |   |   |  |
| <p><b>SB 323</b></p> <p>Senate Utilities Committee</p>   | <p>Establishing requirements for instruments that convey a wind or solar lease or easement and requiring that certain disclosures be provided to landowners</p> | <p>In Senate Utilities</p>                              | <p><b>01/26/2022</b> -<br/><b>Senate</b></p> |
| <p>SB 323 would establish requirements, including font type and wording, for instruments that convey a wind or solar lease or easement. In addition, the bill would require certain disclosures be provided to landowners regarding these leases and easements. SB 323 failed to get a second on a motion to approve favorably out of committee. SB 323 failed to advance out of committee.</p>          |   |   |  |
| <p><b>SB 324</b></p> <p>Senate Utilities Committee</p>   | <p>Establishing procedures that may be used to void or terminate leases or easements for electricity generation using wind or solar energy resources</p>        | <p>In Senate Utilities</p>                              | <p><b>01/27/2022</b> -<br/><b>Senate</b></p> |
| <p>SB 324 would amend the <i>Kansas Renewable Energy Abandonment Prevention Act</i>. The bill would allow a lease or easement involving wind or solar resources to produce and generate electricity to be void and presumed to be abandoned under certain circumstances. SB 324 failed to get a second on a motion to approve favorably out of committee. SB 324 failed to advance out of committee.</p> |   |   |  |

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| <p><b>SB 325</b><br/>Senate Utilities<br/>Committee</p>   | <p>Establishing requirements relating to zoning and recordation of wind and solar energy resource easements and leases</p> | <p>In Senate Local<br/>Government</p> | <p><b>01/27/2022</b> -<br/><b>Senate</b></p> |
| <p>SB 325 would enact the <i>Kansas Renewable Energy Transparency Act</i>. On and after July 1, 2022, no facility could be constructed on any parcel of land that is not zoned for industrial use by the county in which the facility is to be constructed and no developer could begin site preparation for or construction of a facility without first acquiring the appropriate building permit or conditional use permit from the county where the facility is to be constructed. The bill outlines a process for citizens to petition the county government to protest a decision to rezone land for industrial activities. The bill would also specify that any lease or easement involving wind or solar resources and technology to produce and generate electricity would be subject to the following: 1. The lease or easement would not be recorded by the register of deeds unless the lease or easement is accompanied by the requisite building permit or conditional use permit for the construction of the facilities used to produce and generate electricity; 2. The lease or easement would be recorded in the office of register of deeds of the county where the real estate is situated within 30 days of the execution of the lease or easement. Any lease or easement that is presented to the register of deeds more than 30 days after execution would not be recorded; and 3. The lease or easement would disclose the registered company name and any trade name of the grantee and the operator of the lease or easement. If any lease or easement is not recorded in accordance with the requirements of the above provisions or is fraudulently recorded, the developer of the facility would be prohibited from recording any subsequent lease or easement involving wind or solar resources and technology upon such property.</p> |  |                                       |  |
| <p><b>SB 327</b><br/>Senate Assessment<br/>and Taxation<br/>Committee</p>   | <p>Excluding separately stated delivery charges from the sales or selling price for sales tax purposes</p>                 | <p>In House Taxation</p>              | <p><b>03/-13/2022</b> -<br/><b>House</b></p> |
| <p>SB 327 would exclude delivery charges that are separately stated on an invoice from the calculation of sales tax beginning on July 1, 2022. KIOGA President Edward Cross told the Senate Assessment &amp; Taxation Committee and the House Tax Committee that such a measure could be a huge savings for the oil and gas industry. SB 327 passed the Senate 40-0 on February 10<sup>th</sup>.</p>  |  |                                       |  |

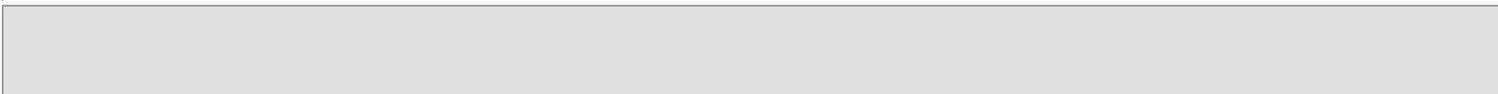
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| <p><b>SB 349</b><br/>Senate Utilities<br/>Committee</p>  | <p>Limiting increases on electric retail rates and providing certain exceptions</p>   | <p>In Senate Utilities</p> | <p><b>02/15/2022</b> -<br/><b>Senate</b></p> |
| <p>SB 349 would prohibit the Kansas Corporation Commission (KCC) from approving any increase in retail electric rates for an electric public utility that would result in an annual increase of greater than 1% when compared to the preceding calendar year's total retail rates or an average of 1% per year if the electric public utility does not file for a rate increase in two or more subsequent years. The bill would provide guidelines for the KCC to use for determining the annual limitation, as well as exemptions. The provisions of SB 349 would expire on July 1, 2032. Dana Wreath of Berexco testified before the Senate Utilities Committee in support of SB 349 on February 15<sup>th</sup>. There is not support for the bill in committee and the measure is not expected to advance.</p> |   |                            |  |
| <p><b>SB 350</b><br/>Senate Utilities<br/>Committee</p>  | <p>Allowing rate recovery by electric public utilities for certain electric generating facilities</p>   | <p>In Senate Utilities</p> | <p><b>01/20/2022</b> -<br/><b>Senate</b></p> |
| <p>SB 350 addresses coal-fired electric generating facilities. If determined by the KCC to be just, reasonable and necessary for the provision of sufficient and efficient service, an electric public utility shall be permitted to: (1) Retain such facilities in such utility's rate base; (2) recover expenses associated with the operation of such facilities that remain in service to provide greater certainty that generating capacity will be available to provide essential service to customers, including during extreme weather events; and (3) recover any portion of such utility's rate base and prudently incurred expenses necessary for such facilities: (A) To operate at a low-capacity factor; or (B) that are offline during normal operating conditions and providing capacity only.</p> |   |                            |  |
| <p><b>SB 353</b><br/>Senate Utilities<br/>Committee</p>  | <p>Establishing certain setback &amp; construction requirements for wind energy facilities and certain operating conditions for existing wind energy facilities</p> | <p>In Senate Utilities</p> | <p><b>02/03/2022</b> -<br/><b>Senate</b></p> |
| <p>SB 353 would create setback and construction requirements for wind turbines. The bill would require wind turbine developers to submit construction applications to the local board of county commissioners and would outline certain requirements to be included in such applications. In addition, the bill would require county commissioners to publish notice of wind turbine construction applications and to hold public hearings on such applications at least 20 days, but not more than 90 days, after the publication. The bill would also allow for landowners, at any point after construction, to have a wind turbine acoustic noise measurement test conducted at</p>   |   |                            |  |

the expense of the developer. Any developer, owner, or operator of any facility that has commenced operation would be required to take steps to eliminate shadow flicker from wind turbines and be adequately insured against loss or damage arising from liability to adjacent persons, properties, and structures within the minimum setback distance. There is not support for the bill in committee and the measure is not expected to advance.



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| <p><b>SB 374</b><br/>Senate Fed &amp; State<br/>Affairs Committee</p> | <p>Discontinuing the property tax exemption for new developments of renewable energy resources</p> | <p>In Senate Assessment and Taxation</p> | <p><b>01/25/2022</b> -<br/><b>Senate</b></p> |
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SB 374 would eliminate property tax exemptions on property used to produce and generate electricity utilizing renewable energy resources or technologies including wind, solar, photovoltaic, biomass, hydropower, geothermal, and landfill gas resources or technologies for ten years immediately following the tax year that the property was constructed or installation was complete beginning in tax year 2017.



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| <p><b>SB 383</b><br/>Senate Utilities<br/>Committee</p> | <p>Establishing the Kansas property value protection act to provide for compensation to nonparticipating landowners near wind and solar farms for diminution of real property value under certain conditions</p> | <p>In Senate Utilities</p> | <p><b>01/25/2022</b> -<br/><b>Senate</b></p> |
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SB 383 would create the *Kansas Property Valuation Protection Act*. The bill would protect nonparticipating landowners for diminution of value of their real property because of nearby development and operation of wind and solar farms. The bill would establish how nonparticipating landowners would be compensated for loss of value of their property if they were to sell their qualifying property. A developer would have no obligations of reimbursement if all wind turbines or solar energy devices or panels are removed, the land restored, and operations at the facility have permanently ceased. The bill would authorize any party to bring an action to the district court of any county where the qualifying property or facility is located. The bill would allow for the landowner to be reimbursed attorney fees and costs for qualifying claims.



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| <b>SB 518</b><br>Senate Assessment<br>and Taxation<br>Committee   | Enacting the Kansas reliable energy investment protection act, requiring the KPERS board to divest from investments with entities boycotting energy companies and prohibiting state contracts with companies boycotting energy companies | In Senate Ways and<br>Means   | <b>02/17/2022</b> -<br><b>Senate</b>   |
| <p>SB 518 would require the KPERS board to divest from investments with entities boycotting energy companies and prohibiting contracts with companies boycotting energy companies. KIOGA President Edward Cross expressed to Senate Ways &amp; Means Committee members our belief that financial institutions should award financing based on an unbiased, non-political basis and that's oil and gas companies are not asking for special treatment, but are simply asking for financial institutions to be unbiased in their assessments.</p> |  |                               |  |
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| <b>HB 2025</b><br>Ken Corbet, R-Topeka  | Protecting private property from unauthorized access by certain government officials and unauthorized surveillance   | On General Orders in<br>House | <b>03/29/2021</b> -<br><b>House</b><br>motion to<br>recommend<br>favorably for<br>passage failed |
| <p>HB 2025 is a measured carried over from the 2021 session. It would prohibit a Kansas Department of Wildlife, Parks and Tourism law enforcement officer or a county weed supervisor to conduct surveillance on private property unless authorized by a warrant. The bill would also prohibit any Kansas law enforcement agency to enter into an agreement with an owner or operator of a utility pole to install a tracking device in order to conduct surveillance on private property unless authorized by a warrant.</p>                   |  |                               |  |
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| <p><b>HB 2329</b></p> <p>House Energy, Utilities &amp; Telecommunications Committee</p>   | <p>Updating the entities who are subject to the pipeline safety program of the state corporation commission and increasing the maximum penalties that may be imposed for safety violations to conform with federal requirements</p> | <p>In Senate Utilities</p> | <p><b>03/02/2022</b> –<br/><b>Senate</b></p> |
| <p>HB 2329 is a measure carried over from the 2021 session. It was introduced by the Kansas Corporation Commission (KCC). Among other things, the legislation would give the KCC jurisdiction over any gathering lines that are already subject to federal rules under 49 CFR Part 192. HB 2329 was vetted before the KIOGA Natural Gas Committee and other KIOGA members who have gas gathering lines. The proposal appears to offer no changes to current gas gathering operations and regulation in Kansas.</p>  |   |                            |  |
| <p><b>HB 2356</b></p> <p>House Judiciary Committee</p>  | <p>Enacting the uniform partition of heirs property act to prescribe procedures and requirements for partition of certain real property</p>   | <p>In House Judiciary</p>  | <p><b>02/12/2021</b> –<br/><b>House</b></p>  |
| <p>HB 2356 is a measure carried over from the 2021 session. It creates the <i>Uniform Partition of Heirs Act</i>. This measure is a repeat of legislation introduced in 2017 and again in 2019. The proposal seeks to address what some see as a history of real estate developers and speculators purchasing undivided interests and partitioning the property by sale in order to take it at a good price. However, the measure could make it practically impossible to partition many parcels of real estate in Kansas. The problem is that partitioning is often the best option (and sometimes the only option) to fix title problems that would otherwise render the land unable to be developed for oil and gas production. KIOGA President Edward Cross explained this issue with the House Judiciary Committee Chair Fred Patton (R-Topeka).</p> |   |                            |  |

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| <p><b>HB 2591</b><br/>House Appropriations Committee</p>   | <p>Repealing the state general fund and conservation fee fund transfers to the abandoned oil and gas well fund</p>   | <p>In Senate Ways and Means</p>                              | <p><b>03/02/2022</b> -<br/><b>Senate</b></p> |
| <p>Last year (2021), the Kansas Corporation Commission introduced legislation addressing the plugging of abandoned wells (HB 2022). KIOGA was supportive of the measure and helped advance the legislation. It was signed into law by Governor Kelly on April 9, 2021. However, technical issues were discovered in the measure after it was signed into law. The issue stems from the 55-193 statute appearing in two separate bills at the same time with neither bill explicitly resolving the revision made by the other bill. The KCC cannot assign assumptions of legislative intent (i.e., whether the statute should be repealed as provided in HB 2022 or amended as provided in HB 2007). To remedy the situation, the KCC introduced HB 2591 as a technical cleanup bill that only repeals 55-193 as it was intended when the measure was passed last year. HB 2591 passed the House 112-0 on February 17<sup>th</sup>.</p> |  |  |  |
| <p><b>HB 2664</b><br/>Rep. Murphy, R-Sylvia</p>  | <p>Prohibiting banks, trust companies, credit unions and other business entities from discriminating based on certain subjective or arbitrary factors</p>  | <p>In House Financial Institutions and Rural Development</p> | <p><b>02/10/2022</b> -<br/><b>House</b></p>  |
| <p>HB 2664 would prohibit banks, or trust companies doing business in Kansas, either directly or through the use of an outside contractor, from discriminating against, advocate for or cause adverse treatment of any individual, business or other customer based on subjective or arbitrary standards, including, but not limited to: 1. Social media posts; 2. participation or membership in any club, association or union; 3. political affiliation; 4. employer; 5. social credit score; 6. environmental, social &amp; governance criteria; or 7. other similar values-based or impact criteria.</p>  |  |  |  |
| <p><b>HB 2689</b><br/>House Federal and State Affairs Committee</p>  | <p>Limiting cost recovery of replacing coal-fired electric generation facilities in rates, requiring public utilities to purchase certain electricity generated from coal-fired facilities and exempting certain coal-fired electric generation facilities from regulation</p> | <p>In House Energy, Utilities and Telecommunications</p>     | <p><b>02/11/2022</b> -<br/><b>House</b></p>  |
| <p>HB 2689 would limit a public utility's cost recovery when replacing or retiring coal-fired electric generation facilities. The bill would exempt certain facilities from the jurisdiction of the Kansas Corporation Commission</p>  |  |  |  |

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| <p><b>HB 2696</b><br/>House Fed and State Affairs Committee</p>   | <p>Establishing electric generation requirements for certain renewable energy resources that provide baseload generation supply to public utilities</p>   | <p>In House Energy, Utilities and Telecommunications</p> | <p><b>02/14/2022</b> -<br/><b>House</b></p>  |
| <p>HB 2696 would require any renewable energy facility in which energy generated by such facility is utilized or procured by an electric public utility for the provision of such utility's baseload generation supply shall be required to have and make available alternative dispatchable electricity generation sources that are capable of supplying 50% or more of such renewable energy facility's nameplate capacity as backup baseload generation supply.</p>  |   |  |  |
| <p><b>HCR 5023</b><br/>House Energy, Utilities and Telecommunications Committee</p>   | <p>Denouncing price gouging and market manipulation in the natural gas marketplace and supporting investigations into the extraordinary price increases of wholesale natural gas during the extreme cold weather event of February 2021</p> | <p>In Senate Utilities</p>                               | <p><b>02/10/2022</b> -<br/><b>Senate</b></p> |
| <p>HCR 5023 states the State of Kansas denounces instances of price gouging and market manipulation involving natural gas, supports state efforts by the Office of the Attorney General and federal efforts by the Federal Energy Regulatory Commission to investigate increases in natural gas prices during the extreme cold weather event of February 2021, and encourages efforts to protect Kansas ratepayers. Further, the resolution states the Kansas Legislature stands ready to assist in such efforts as needed.</p> |   |  |  |

**2022 Bill Deadlines**

- March 23      Last day to consider bills not in House of origin
- April 1        No bills considered after this date
- April 25      Start of veto session

- End -