

Legislative Update

March 18, 2018

Overview

There has been almost no action on health issues in the last week and there is very little change in this report from last week. Other than updating the status of bills at the end, any changes are reflected in the “Health Issues” overview.

The tax and budget committees have been hearing bills getting prepared to pass or kill them in the next week or so. Even education policy legislation is taking shape. The school funding expert consultants made their report on Friday the 16th and their conclusions will shape the remainder of the session. Most parties engaged in the education issue anticipated additional funding of around \$600 million over the next three years for schools to satisfy the Supreme Court. The consultants report concludes that \$450 million, \$1.7 billion, or \$2.0 billion over five years is needed depending on the state’s goals. That recommendation has made the resolution of all other issues complex. It will take some time for the Legislature to determine a response. The regular session concludes April 6th and that may not be enough time.

Big Picture Issues

There has been limited action on the floor of the House and Senate as most action has been taking place at the committee level while legislators waited for the release of the highly anticipated school finance report on Friday March 16th.

The full Senate spent hours debating two gun bills and a series of amendments Thursday. One bill would recognize other state’s concealed carry permits and the second would prohibit criminals, illegal aliens and anyone with a domestic violence conviction in the last five years from possessing a weapon. A number of attempts to amend the bills were made but all were defeated. Amendments included repeal of the controversial campus carry law, a repeal of the state’s open carry law, an amendment that would give the courts authority to seize firearms from people who are a threat to themselves and others, raising the age limit for rifle possession to 21, a ban on bump stocks, a three-day waiting period for some gun purchases, and more. The amendments were defeated and the bill advanced.

At the conclusion of this week we should wrap up a majority of the committee work and begin in the next week to have those bills move to the House or Senate floor for debate and action. Tax bills, economic development, and health care bills continued to receive hearings as we near the end of the committee work. We will see budget bills arrive in both the House and Senate within the next few days as the end of the regular session looms.

Health Issues

Just like last week, there is little committee or floor action on health legislation. Other than House Bill 2674 the telehealth bill scheduled for action in the Senate Health Committee and Dental Therapy (SB 312) in House Health, most health legislation is sitting and waiting because Medicaid expansion will arise as an issue if bills get to the House or Senate floor. In the health care funding bills about to pass out of the budget committees, there will be language seeking a return to something like “health home style” program for some chronic health need populations. Additionally, there will be budget language that attempts to implement the provisions of Senate Bill 300. That bill passed Senate Ways and Means and awaiting action in the Senate, extends the current KanCare contracts for three years, allows the State to add MCOs, and allows changes for expanded access to behavioral health services. Putting these policy issues into the budget bills gets them implemented easier than trying to get bills passed right now.

There has been very little change in our outstanding health policy issues as we near the end of the session:

Behavioral health medication prior authorization.

- SB 438 removes prior authorization requirement for some Medicaid behavioral health medications in mental health and SUD facilities. Unless drugs on Medicaid Drug Utilization Review Board, there is no prior authorization. Hearing in Senate Health 3/14 and bill remains in committee.

Tobacco cessation treatment.

- Senate Health Committee on 3/13 will hear the second tobacco cessation treatment bill. They heard SB 316 earlier in the session and SB 436 is the same bill, incorporating the 4 time annual cap on medication treatments. The bill was heard in Senate Health Committee last week and it remains in Committee.

Tobacco Tax.

- House Tax heard HB 2231 on Thursday, March 15 and the Senate Tax Committee will hear the Senate version of the bill, SB 376 on March 22nd. The health advocates bill increases \$1.50 per pack tax. The K-12 education finance report probably just gave this legislation additional support.

KanCare Renewal

- The Administration announced the termination of KanCare 2.0, but they report they are continuing the review of the RFP bids if or until the Legislature tells them to not review the bids. There are many questions about what comes next.
- Senate Bill 300: The bills require KanCare to remain exactly like it is as of 1/1/17. Only changes approved by the Legislature can be made to the Medicaid system or to contracts

with managed care companies. Any negotiations or renewals are only for one year with legislative approval.

- Senate Ways and Means Committee passed out to the full Senate an amended version of the bill with two key amendments. The new bill includes the ability to expand access to behavioral health services. It authorizes KDHE to continue reviewing the RFP submissions and modify the current plan to expand behavioral health access and use telehealth.
- The bill is exempt and was not acted upon before the break, and it will likely remain in the Senate chamber awaiting action later in the session.

Medicaid Expansion

- Medicaid Expansion. Senate Bill 38.
 - Senate Public Health and Welfare Committee heard SB 38 on 2/14. The bill should advance to the Senate floor on 2/19 and remain there until the Senate is ready to address Medicaid expansion.
 - The bill would expand Medicaid eligibility in full by allowing those whose income does not exceed 133 percent of poverty. It is estimated to add approximately 120,000 to Medicaid coverage.
 - Same bill that passed the Legislature during 2017 and Governor vetoed.
 - The bill is exempt from deadlines and remains on the Senate floor awaiting action.

Telehealth

- Telehealth in House Health and Human Services Committee. House Bill 2674.
 - Generally the same bill as HB 2512 but includes specific language allowing professionals working under supervision of a physician. The bill creates coverage parity for insurance providers so that if a service is covered it is covered whether delivered in person or electronically.
 - Does not include pay parity, meaning the payment for services can be different if delivered in person or electronically.
 - Includes 42 CFR protections for SUD providers.
 - Hearing in House Health on 2/12, passed committee on 2/19, passed House floor on 2/22 on a vote of 117-0.
 - Senate Health will hear the bill on March 19th.

Dental Therapy

- Dental Therapy. Senate Bill 312.
 - Other bills introduced but SB 312 is a negotiated agreement between the Kansas Dental Association, the Kansas Dental Hygienists Association. Agreement reached on parameters of direct supervision for dental hygienists who can practice

as dental therapists and perform some additional procedures under supervision of a dentist.

- The Senate passed the bill 39-0, House Health heard the bill on 3/14 and will consider final action on the bill on March 22.
- The only opposition was from a group of disgruntled dentists from the Wichita area.

Children and Youth Issues

- Create Office of the Child Advocate in Department of Administration. House Bill 2751.
 - Creates third party agency to monitor children's issues, child welfare, and other children related issues.
 - House Federal and State Affairs hearing 3/20.
- Immunity from civil liability for damage to motor vehicle related to rescue of person or animal. House Bill 2516.
 - Civil immunity for person if locked motor vehicle with person or animal. Act must be in good faith with belief the person or animal is at risk. Required to notify law enforcement before entering.
 - Hearing in Senate Judiciary 3/20
- Youth residential services. No bill number yet.
 - Rep. Blaine Finch, chair of House Judiciary Committee, introduced bill to create youth crisis services residential beds.
 - No bill or bill number available yet. It is reported the mental health centers would control some number of short-term residential facility beds. Presumed to be a mix of mental health, detention, PRTF, YRC II, and possibly human trafficking and CINC as well.
 - No hearing set but the bill will be heard.

Legislation of Interest

As noted, most committees are scheduled to meet during the week of March 19-23. In general, there is no specific schedule for what bills can be debated and passed out of committee. Any bill noted above that remains in committee—STAR bonds, amusement park rides, asset forfeiture, and abandoned property—are all eligible for action in during this week. A good rule to follow near the end of the session is that if any committee meets, anything can happen to a bill.

Because we are in the second year of the biennial cycle, all bills not passed or killed during the 2017 session are available for action during the 2018 session. Bills from the 2017 session will not be included on this list unless they are subject to action or they are likely to be taken up again.

Bills that have been published and the bill history can be found on the Legislature's official website: http://www.kslegislature.org/li/b2017_18/asures/bills/

KanCare/Medicaid

Prohibition against KanCare 2.0 without legislative approval. Senate Bill 300/ House Bill 2507

- Prohibiting KanCare 2.0 renewal without legislative consent.
- The bill requires KanCare exactly like is as of 1/1/17. Only changes approved by the Legislature can be made to the Medicaid system or to contracts with managed care companies. A one year extension of current contracts.
- Senate Bill 300 hearing in Senate Ways and Means Committee, 1/30-31. Bill was amended and passed to the full Senate with language allowing Medicaid changes for behavioral health access.
- Awaiting action on Senate floor.

Prohibition against KanCare 2.0 without legislative approval. House Bill 2507

- Prohibiting KanCare 2.0 renewal without legislative consent and extends current contracts with MCOs for three years.
- The bill requires KanCare exactly like is as of 1/1/18. Only changes approved by the Legislature can be made to the Medicaid system or to contracts with managed care companies.
- Hearing in House Health Committee. Bill remains in committee.

Extend current KanCare Contracts. House Bill 2591—House bill most likely to advance.

- Extends current KanCare Medicaid contracts for three additional years, allowing changes only with legislative approval.
- House Chair Dan Hawkins bill.
- Hearing in House Health 2/8. Bill will remain in Committee and on 2/19 the bill was tabled until May 6th.

Remove IDD services from KanCare. Senate Bill 332.

- Removes intellectual and developmental disabilities population from KanCare.
- Hearing in Senate Public Health and Welfare 2/9. Bill remains in Committee

Suspension of Medicaid eligibility. Senate Bill 195/ House Bill 2508.

- Bill from 2017 session, suspends rather than terminates eligibility when incarcerated or in state hospital.
- Would eliminate months of eligible member losing coverage and having to reenroll in Medicaid.
- House Bill 2508 unlike SB 195, eliminates the duty for state agencies to notify the State when an individual enters or leaves eligibility and requires KDHE to monitor and report

- Hearing in Senate Health and passed to full Senate with amendment from HB 2508. Awaiting action on Senate floor.

Require Medicaid coverage for smoking cessation. Senate Bill 316.

- For Medicaid eligible population, would require coverage of tobacco cessation treatment.
- No limits or caps on services and no pre-authorization allowed.
- Hearing in Senate Public Health and Welfare. 2/8. Bill remains in Committee.

Revised Require Medicaid coverage for smoking cessation. Senate Bill 436.

- For Medicaid eligible population, would require coverage of tobacco cessation treatment.
- No limits or caps on services, except for 4-time annual medication cap and no pre-authorization allowed.
- Hearing in Senate Public Health and Welfare 3/13.

Behavioral health medication prior authorization. Senate Bill 438.

- SB 438 removes prior authorization requirement for some Medicaid behavioral health medications in mental health and SUD facilities. Unless drugs on Medicaid Drug Utilization Review Board, there shall be no prior authorization.
- Hearing in Senate Health 3/14.

Tobacco tax to fund Medicaid expansion. House Bill 2768.

- Provisions similar to H 2231 \$1.50 per pack tobacco tax, with revenue used to fund Medicaid expansion.
- Bill is exempt and in House Appropriations with no hearing scheduled.

General Healthcare

Establish the Kansas Telemedicine Act. House Bill 2674

- The bill creates coverage parity for insurance providers so that if a service is covered it is covered whether delivered in person or electronically.
- Does not include pay parity, meaning the payment for services can be different if delivered in person or electronically.
- There is strong focus on mental health telemedicine and physicians but bill does include mid-levels working under supervision.
- House Bill 2674 specifies professions working under supervision, removes the abortion provision, and adds 42 CFR protections for SUD providers.
- Hearing in House Health on 2/12, passed committee on 2/19, passed House floor on 2/22 on a vote of 117-0.
- Hearing in Senate Health Committee. 3/19.

Dental Therapy. Senate Bill 312.

- Creates mid-level dental hygienists position to serve in safety net clinics and with Medicaid providers.
- Senate Bill 312 is the compromise bill that Dental Association supports.
- SB 312 hearing in Senate Health 2/1, 2/5 and passed out on 2/8.
- Compromise brokered by dental association and dental hygienists expands some procedures for hygienist with additional training, clarifies supervision on premises in out of office locations.
- Passed Senate 39-0. Hearing in House Health 3/14.

Criminal records and professional occupations license. Senate Bill 421.

- State licensing agencies shall list specific civil and criminal records that will be disqualifying for obtaining a license.
- In Senate Federal and State Affairs. Hearing on 3/6.

Children/Youth

Immunity from civil liability for damage to motor vehicle related to rescue of person or animal. House Bill 2516/ SB 318.

- Civil immunity for person if locked motor vehicle with person or animal. Act must be in good faith with belief the person or animal is at risk. Required to notify law enforcement before entering.
- HB 2516 passed House 122-1, hearing in Senate Judiciary 3/20.

Student data privacy protection. Senate Bill 389.

- New unnumbered bill allowing parents/guardian to opt out of student surveys, provided the data is non-identifiable.
- Will allow greater data collection on youth activities based on non-identifiable data . Data in surveys such as Communities That Care will be used for grant reporting and scientific research.
- In Senate Education. Hearing on 2/15. Bill remains in committee.

Child placement agency discrimination. Senate Bill 401.

- Allows child placement agencies to refuse services or placements, and protects their license and contract if they discriminate.
- In Senate Federal and State Affairs. Hearings 3/20-21.

Emergency medical workers as mandatory reporters. House Bill 2530/Senate Bill 311.

- Emergency medical personnel added to list of mandatory reporters for child abuse and neglect. Amended on floor to add abuse or neglect in a KDOC institution.

- Passed House Children and Seniors, passed House on 2/22 on a vote of 117 to 0. Awaiting action in the Senate.
- Senate Bill 311 passed Senate 39-0, now hearing scheduled in House Children and Seniors 3/20.

Fingerprinting child care facility persons. House Bill 2639.

- Local and state law enforcement officers and agencies to assist KDHE in taking and processing fingerprints of persons residing, working or regularly volunteering in a child care facility. Allowed to charge fees for checks.
- Passed House Children and Seniors, passed House 2/22 on a vote of 111-6. Awaiting action in the Senate.

Creates task force on youth transitioning out of child welfare. House Bill 2745.

- Creates wide-ranged tax force to create rights and resources related to the transition of youth from the foster care system.
- In House Children and Seniors. No hearing scheduled but bill has been blessed and will be heard in the second half of the session.

Create office of child advocate for children's protection. House Bill 2751.

- Creates office in the Department of Administration, not Department of Children and Families, appointed by the Governor and Chief Justice of the Supreme Court and Senate confirmed.
- Monitor Children and Families and Corrections to monitor and advocate for children.
- In House Federal and State Affairs, hearing on March 20.

Allowing child advocacy centers to conduct sexual assault exams. House Bill 2706.

- Specifically includes child advocacy centers as locations where sexual assault examinations may be performed.
- Hearing in House Judiciary, passed out of committee, approved for action after turnaround.
- No additional hearing scheduled.

Criminal penalties for sexual conduct between minors. House Bill 2738.

- Currently, the crime is defined as engaging in certain sexual acts with a child who is between 14 and 16 years old, when the offender is less than 19 years old and the age difference of the two is less than four years.
- This bill would define the crime as acts with a child who is ten years old, but less than 19 years old, with no consideration to the age of the offender.
- Hearing in House Corrections and Juvenile Justice, bill is blessed awaiting action.

Revenue and tax policy

Tobacco tax. Senate Bill 376.

- Advocates bill. \$1.50 per pack tobacco tax.
- In Senate Tax Committee. No hearing scheduled.

Tobacco Tax. House Bill 2231.

- Health care advocate bill includes a \$1.50 per pack cigarette tax increase with an equal tax on other tobacco products and \$5M in increased funding for tobacco prevention and cessation.
- Hearing in House Tax 3/15.

Next Week Activities

The legislative schedule of hearings is updated regularly throughout the week can be found in the House and Senate calendars on the Legislature website at:

http://www.kslegislature.org/li/b2017_18/chamber/calendars/

Additionally, virtually all hearings are now available on line. You can find those hearings on the Legislature website at: <http://sg001-harmony.sliq.net/00287/Harmony/en/View/Calendar/>

Monday, March 19.

9:00 House Appropriations.

- Final action on budget bills.

9:30 Senate Public Health.

- House Bill 2674: Telemedicine.

10:30 Senate Ways and Means.

- Final action on budget bills.

Tuesday, March 20.

10:30 Senate Judiciary.

- HB 2516: Immunity for person entering locked vehicle to rescue animal or child.

Wednesday, March 21.

Thursday, March 22.

9:30 Senate Tax.

- SB 376: \$1.50 per pack tobacco tax.

1:30 House Health and Human Services.

- SB 312 Dental therapy final action.

Friday, March 23.

Wrap Up

Please let me know if you have questions.

Stuart J. Little, Ph.D.
Little Government Relations, LLC
800 SW Jackson, Ste. 1100
Topeka, Kansas 66612
785-235-8187 Office
785-845-7265 Mobile
stuartjlittle@mac.com