

Legislative Update

March 26, 2018

Overview

Regular committee meetings have concluded for the 2018 session. The House and Senate will be on the floor debating bills for much of this week. There will be a short break for conference committees between the House and Senate on policy bills and the budget bills. The first week of April they will return to the floors to work final negotiated agreements between the House and Senate. The schedule has them adjourning Friday April 6th to conclude the regular session.

Big Picture Issues

Committee activities increased in the last week. A number of small bills worked their way to the House and Senate floors as well. Tax bills, economic development, health care bills, and local government legislation concluded hearings at the end of this week. The House is working on revenue bills that will include taking advantage of potential revenue up to \$80 million annually through collecting internet sales taxes, additional revenue due to changes in federal tax policy, and a few other topics. The Senate Tax Committee, on the other hand, is finalizing a bill that would return the federal savings to taxpayers through full restoration of home mortgage, medical, and charitable deductions.

We will see these bills, as well as the budget bills, in both the House and Senate for debate this week. The release of the school finance cost study released last week will fuel budget and tax discussions and the development of a new school finance formula in the remaining weeks. The Legislature received the study of school finance and they were shocked at the results. The study is lengthy and complex and the conclusions suggest that additional funding between \$450 million and \$2.0 billion is needed. Annual funding increases will help the state reach the articulated academic goals of increased graduation rates, higher student assessment scores, all articulated in the State education goals.

The study comes with a high price tag, scaring some legislators but it also affirming the beliefs of many that schools are efficient; funding matters to impact student achievement; a investments are needed to improve. The study forms one point view for the Legislature and the Governor will now consider as they formulate a response to the Kansas Supreme Court. The science and data from the study and peer review will become subject to the political and public policy debate to craft formula changes, tax, and budget policy. Opponents of additional spending on schools are organizing behind a group of business and agricultural interests who are hiring a lobbyist team and pushing for a constitutional amendment.

Health Issues

Committee work is done for most committees during the 2018 legislative session. There should not be any additional health committee meetings this session and any action that still happens will occur in either the health conference committee or in the budget committee process.

Other than action House Bill 2674 the telehealth bill and Dental Therapy (SB 312), there was no change in health legislation. In brief, the Senate Public Health and Welfare Committee did not finalize work on the telehealth bill and the House Health Committee did not finalize dental therapy. The Senate Public Health and Welfare Committee, meet briefly to add dental therapy to telehealth with the addition of adding other providers to telehealth including speech and language audiologists, dental therapists, dentists, and dental hygienists. They also stripped the House's pro-abortion severability language from telehealth. The full Senate will now consider the combined telehealth/dental therapy bill contained within House Bill 2674. Once the Senate takes action, the House can concur with the amendments to the House bill and it passes, or the House can reject the changes to the bill and the bill will go to conference committee, negotiated by health committee leadership.

The only other pending health care legislation pending is in the funding bills that will be debated on the chamber floors this week. The budget bills contain variations on language seeking a return to something like "health home style" program for some chronic health need populations. Additionally, there are 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.

One last minute addition late this session: The National Rifle Association and their supporters originally tried to pass a gun safety education bill (in House Bill 2460), but after the latest school shooting in Florida their plan morphed into a broader-based response. House Bill 2789 and Senate Bill 454 were both introduced this week and House Bill 2789 has a hearing Tuesday in House Insurance Committee. Key features of the bill include:

- State Department of Education must set standards for security and security plans.
- Each USD must adopt a plan based on state standards, in consultation with local law enforcement. Local law enforcement not liable for any failures in plans.
- Creates ability to add to state endorsement to concealed carry permit to allow carry in school for any employee.
- Firearm safety programs can be NRA, Wildlife and Parks, or other evidence-based program.
- Prohibits unfair insurance rates for school districts with employee carrying guns.
- School district liability increased if a district does not are teachers: "There shall be a rebuttable presumption of negligence on the part of such school district when it is shown

by evidence that such school district did not authorize any employee of such school district, other than school security officers, to carry concealed handguns.”

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.

Behavioral Health Task Force.

- Hearing in House Appropriations 3/12 and we will provide testimony to add the Behavioral Health Association of Kansas. The bill passed the House committee and the only organization added to the bill was the safety net clinic association.

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. On Senate floor awaiting action.

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. Both bills remain in committee.

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 continuing 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.
 - March 22 Senate Health Committee met and added provisions of SB 312 Dental Therapy along with other dental changes. Bill now awaits action on Senate floor.

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.

- Scheduled hearing on March 22 canceled by House Health Committee Chair.
- Senate Bill 312 remains in Committee.
- March 22 Senate Health Committee met and added provisions of SB 312 Dental Therapy along with other dental changes. Bill now awaits action on Senate floor.

New 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.
 - Passed House and on Senate floor
- Youth residential services. House Bill 2787.
 - Rep. Blaine Finch, chair of House Judiciary Committee, introduced bill to create youth crisis services residential beds.
 - Mental health centers would control some number of short-term residential facility beds for juveniles in “mental health crisis.” Only prosecutors can refer to services, mental health centers control access to a facility. Uses funding up to \$2 million from Corrections juvenile services savings.
 - Heard in House Judiciary 3/21 and passed out with minor amendments on 3/22.

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/measures/bills/

KanCare/Medicaid

Prohibition against KanCare 2.0 without legislative approval. Senate Bill 300

- 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.

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.
- Passed Senate Public Health and Welfare 3/13. Awaiting action on Senate floor.

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. Bill remains in committee.

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. On 3/22 Committee amended in provisions of SB 312 Dental Therapy; removed abortion severability provision, added other groups to telemedicine bill including dentists, hygienists, and therapists.
- HB 2674 awaiting action the Senate floor.

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.
- Bill remains in House Committee, but contents of SB 312 were added to HB 2674 Telemedicine by Senate Public Health and Welfare Committee.

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, awaiting action on Senate floor.

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.
- House Bill 2530 Passed House Children and Seniors, passed House on 2/22 on a vote of 117 to 0. In Senate Health Committee, no hearing.
- Senate Bill 311 passed Senate 39-0, now hearing scheduled in House Children and Seniors 3/20. Awaiting action on House floor.

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 floor.

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 Children and Seniors, 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.

Youth residential services. House Bill 2787.

- Rep. Blaine Finch, chair of House Judiciary Committee, introduced bill to create youth crisis services residential beds.
- Mental health centers would control some number of short-term residential facility beds for juveniles in "mental health crisis." Only prosecutors can refer to services, mental health centers control access to a facility. Uses funding up to \$2 million from Corrections juvenile services savings.
- Heard in House Judiciary 3/21 and passed out with minor amendments on 3/22.
- Awaiting action on House floor.

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.

Upcoming Activities

Regular committee meetings are done and there should not be more except as necessary for the budget and school finance. The main focus will be action on the House and Senate floor and conference committees meetings when leadership of House and Senate committees with common bills negotiate an agreement on the final parts of legislation. House and Senate sessions will be listed in the calendars and available on-line. The conference committee meetings are not.

The legislative schedule of chamber action and the bills they will debate is updated regularly throughout the week and can be found in the House and Senate calendars on the Legislature website at: http://www.kslegislature.org/li/b2017_18/chamber/calendars/

Additionally, House and Senate sessions are available on line. At this link select from the “Audio/Video Broadcast” button. <http://www.kslegislature.org/li/>

Wrap Up

Please let me know if you have questions.

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