



## Memorandum

Date: March 19, 2021

Re: Week 10 Legislative and Policy Update

### Overview

This has been, without a doubt, the most eventful week of Session thus far. From the Senate Majority Leader's arrest to a surprising defeat of a controversial education bill, to a lengthy debate on transgender sports, divisiveness is running high in the Statehouse. For more information on a couple of the big topics of the week here are some links:

- <https://kansasreflector.com/2021/03/17/kansas-senate-majority-leader-hands-off-duties-a-day-after-drunk-driving-arrest/>
- <https://kansasreflector.com/2021/03/18/kansas-senate-passes-transgender-sports-ban-after-incredibly-insulting-debate/>

At this point, the abortion constitutional amendment, the repeal of the tax lid on local governments, and the new Kansas Emergency Management Act have passed. The income tax bill is advancing and the push for non-public schools may have diminished bit. We'll cover the big picture and then emphasize the specific highlights we have been tracking through the Session. We have only days for committee work left and a great deal will happen in the next couple weeks.

### Big Picture Issues

**State Budget:** The Legislature continues to make progress on the state's budget, though the process this year will be unique and somewhat more complicated as roughly \$1.8 billion in federal relief funds begin to flow into the state as part of the American Rescue Plan. Differing opinions as to what the funds can be used for, particularly when it comes to K-12 funding, will likely complicate conversations during conference committee, which will likely begin next week. The Senate passed its version of the budget 24-13 on March 17<sup>th</sup>. The House Appropriations Committee approved its budget Thursday evening after much debate over higher education and K-12 education funding, among other topics. The federal guidance on the ARP plan is not complete and may not be finalized until the April interim break. This development and the potential impact on some budget spending recommendations could be significant when they return in May.

- More on the Senate debate, and their decision to use federal COVID relief funds instead of state dollars to fund K-12 education here: <https://kansasreflector.com/2021/03/18/gov-kelly-denounces-kansas-senates-budget-plan-as-sabotage-of-k-12-education-system/>

**KEMA:** The Judiciary Conference Committee came to an agreement Monday morning after several days of debating changes to the state's emergency management act going forward. A couple of highlights of the agreement:

- The current disaster declaration is extended to May 28<sup>th</sup>, but all current executive orders (EOs) expire March 31<sup>st</sup>. If the Governor issues any EOs after March 31<sup>st</sup>, they must be

approved, or revoked, by the Legislative Coordinating Council (LCC), which is made up of legislative leadership.

- A governor cannot issue an EO that burdens the movement of people, curtails business, restricts religious gatherings, or restricts the sale of guns/ammunition.
- Gives people aggrieved by an EO the ability to challenge it in court.
- Local health officer orders related to face masks, business closures, gathering size, or controlling the movement of people must be approved by a county commission.
- Establishes a Class A non-person misdemeanor for violation of an EO that mandates a curfew or prohibits entry into a specific area impacted by a disaster.
- A summary of the conference committee report that provides highlights of the bill can be found here:

[http://www.kslegislature.org/li/b2021\\_22/asures/documents/ccrb\\_sb40\\_01\\_0000.pdf](http://www.kslegislature.org/li/b2021_22/asures/documents/ccrb_sb40_01_0000.pdf)

Taxes: Little news this week on the major income tax cut bills. House Taxation held hearings on both the House and Senate versions, HB 2421 and SB 22. The bills, for the most part, are similar, excepting the changes the Senate made that resulted in a nearly \$1 billion fiscal note over the next three years. The House version, as is, is estimated to cost a minimum of \$118 million in fiscal year 2022; \$125.6 million in fiscal year 2023; and \$130.5 million in fiscal year 2024. We are still waiting for the Governor's action on Senate Bill 13 that changes local government property tax law, but it developed a wrinkle when local schools were added.

Looking Ahead: Next week is, for the most part, the last week for regular committee hearings before conference committees begin to meet the following week and negotiate differences between the House and Senate positions on bills. We expect committees to wrap up debate next week on medical marijuana and various tax issues which will then be sent to the full chambers for debate. There will likely also be significant House floor debate on the budget and the beginning of the budget conference committee.

## **Current Healthcare Issues**

### Telemedicine

- The House Health Committee heard HB 2206 on February 9<sup>th</sup>. Due to disagreement regarding pay parity, the committee chair halted progress on the bill. It is unlikely the legislation will advance this Session; however, we expect current flexibilities to carry forward through the calendar year.
- We do have some clarification regarding what happens with the Emergency declaration and executive orders expire on March 31.
  - The new Kansas Emergency Management Act extends the Governor's emergency declaration to May but the executive orders will end.
  - However, KDADS and KDHE have now announced the following continuity for telemedicine, at least related to Medicaid and federal block grant funding:
  - The KMAP bulletins previously issued that outline the current provisions remain valid. There will be no change for Medicaid funded services until they are "specifically rescinded" and providers will be given 60-days notice.
  - Other federal funding sources authority to make changes sits with the federal public health emergency declaration that guides SAMHSA. That public health

emergency remains in effect, and the Biden administration has indicated it may run through the calendar year.

- Out of state psychiatrists and APRN enhanced virtual services may be impacted and reduced after March 31.
- The commercial insurance market will have their flexibility to make changes. For example, BCBS of Kansas has announced they will continue to provide telehealth services a parity through June 30<sup>th</sup>.
- House Health convened a roundtable this week to discuss telehealth pay parity.
  - Providers and commercial insurance representatives discussed the positive impact of expanded telemedicine, but the insurance industry was opposed to uniform and standard payment parity. They asked that nothing be changed for at least three years so the insurance system could return to normal. There was no support for a discussion across the board for payment parity. The House chair urged the parties to discuss some alternatives such as the Kansas Hospital Association's plan for a multi-year study to targeted payment parity. The next steps are unclear.

#### COVID-Related Issues

- Three vaccination-related bills remain alive.
  - SB 295 allows counties to adopt their own vaccination plans and prohibits state sanctions for doing so.
    - Senate Public Health advanced the bill out of committee 3/18.
    - KDHE is opposed to the bill.
  - SB 212 giving legislative control over vaccination schedules and SB 213 prohibit employers from making personnel decision based on employee vaccination status.
    - SB 212 has a hearing in Senate Health Monday, 3/22.

#### APRN Scope of Practice

- This year's bills update scope of practice requirements for APRNs without a supervising physician and updates certain licensure requirements.
- Both the Senate and House bills were blessed and are alive for the remainder of the Session but it is unclear whether the issue will move forward.

#### **Legislation of Interest**

The following bills are still alive and may receive action in the next several weeks, though most will not advance this Session.

Bills that have been published and the bill history can be found on the Legislature's official website: [http://www.kslegislature.org/li/b2021\\_22/measures/bills/](http://www.kslegislature.org/li/b2021_22/measures/bills/)

#### Children's Issues

- SB 42/HB 2108: Concerning the study and investigation of maternal deaths in Kansas and requiring the KDHE Secretary to establish an external review committee to review black maternal death cases.
- HB 2250: Expanding newborn screening services and increasing transfers from the medical assistance fee fund to the Kansas newborn screening fund.
  - Passed out of committee 2/25.

- Below the line in the House.
- The House budget includes language to increase the cap from \$2.5 million to \$5 million.

#### Regulatory

- HB 2206: Telemedicine.
  - Hearing in House Health Tuesday, 2/9.
  - Bill remains alive but is unlikely to advance.
- APRN Scope of Practice
  - SB 174 & HB 2256
  - Hearings in health committees 2/17-2/18.
- HB 2066: Expanding the military spouse and servicemember’s expedited licensure law to all applicants intending to establish residency in Kansas.
  - Amended on the House floor to address some concerns by different state boards. The amendment defines scope of practice; permits licensing bodies to exercise discretion (“shall” was changed to “may”) in granting probationary credentials and permits licensing bodies to exercise discretion in granting temporary credentials to non-military service members or spouses.
  - Passed 103-21.
  - Hearing in Senate Fed & State 3/11.
  - Senate passed the bill 36-2 on 3/17.

#### Funding and Insurance

- HB 2174: Establishing the rural hospital innovation grant program to assist rural hospitals in serving rural communities.
  - Hearing in House Health Tuesday, 3/16.
  - Committee combined this bill with a related bill, SB 175, that enacts the rural emergency hospital act to provide for the licensure of rural emergency hospitals.
- HB 2248: Increasing state financial assistance to local health departments under specified circumstances.
  - Hearing in House Social Services Budget 2/24.
  - Passed the House 111-12 on 3/17.

#### Behavioral Health

- Certified Community Behavioral Health Clinic (CCBHC) Model
  - HB 2160—Passed out of House Health 2/9.
  - Blessed and alive for remainder of Session.
- SB 238: Establishing certification for certified community behavioral health clinics (CCBHCs); Includes the BSRB licensure components in the original bill; out of state telemedicine waiver.
  - Senate amended the bill to change the implementation date for the CCBHCs from July 2022 to January 2022.
  - SB 238 passed the Senate 38-1.
  - House Health passed the bill out of committee on 3/16 with two amendments:
    - No longer requires KDHE to establish a prospective payment system under Medicaid or submit approval to CMS for that funding mechanism.

- Replaces January 1, 2022, implementation date with a staggered implementation schedule requiring specific numbers of certifications by set dates.
- HB 2281: Establishing and implementing 988 National Suicide Prevention Lifeline in Kansas.
  - Hearing in House Health, Monday, 2/22.
  - The committee made the following amendments to the bill:
    - Clarifying language to reinforce the monies in the 988 fund is to be used solely for the purposes outlined in the bill.
    - Imposes a prepaid wireless 988 fee of .50 per retail transaction for prepaid wireless service.
    - Including mobile crisis response services for IDD and mobile crisis response services for Behavioral Health in the services that can be paid for from the 988 fund.
  - Bill was blessed and alive for remainder of Session.
  - The Senate budget bill includes \$3 million for operational costs to implement the hotline.
- HB 2412 and SB 264: Enacting the Kansas Fights Addiction Act to address opioid settlement funds.
  - Brought by the Attorney General and it establishes a grant program for the purpose of preventing, reducing, treating, and mitigating the effects of SUD and addiction.
  - Attempt to establish process to manage opioid settlement agreements, after Kansas received the first instalment in January 2021.
  - HB 2412 Hearing in House Judiciary 3/22 and SB 264 in Senate Judiciary on 3/24.

#### Gun safety issues

- All of the bills listed in this section are exempt, but most will not see action.
- HB 2058: Reciprocity for out of state conceal carry permit holders. Also authorizes the AG to issue an alternative license to carry a concealed handgun to qualified applicants during a declared state of disaster emergency.
  - Amended to create a provisional conceal carry license for 18-20 year-olds (language from HB 2059). The amendment passed 87-35.
  - HB 2058 passed the House 85-38.
  - Hearing in Senate Fed & State Monday, 3/22.
- HB 2222: Requiring KBI to establish a Kansas do-not-sell firearms list to prevent the purchase of firearms by any person who voluntarily registers to be placed on the list.
- HB 2251: Requires the relinquishment order of firearms upon conviction of battery or domestic violence misdemeanors.
  - Hearing potentially rescheduled for next week.
- Substitute for HB 2089: Standardizing firearm safety education training programs in school districts.

- NRA’s “Eddie Eagle Gunsafe” program. Allows local school district option whether to provide education program, but they would be required to use the NRA and Wildlife and Parks curriculum beginning in Kindergarten.
- Passed the House 75-47.
- More on the debate here: <https://kansasreflector.com/2021/03/17/house-advances-bill-offering-nras-eddie-eagle-gun-safety-program-starting-with-kindergartners/>

#### Licensure

- HB 2208: telemedicine waivers for out-of-state healthcare providers; reducing supervision requirements for licensure by the BSRB and expanding out-of-state temporary permits to practice behavioral sciences professions.
  - HB 2208 passed the House 124-0 and has a hearing in SPHW 3/19.

#### Public Health

- SB 213: Prohibiting an employer from taking any adverse action against an employee because of the employee’s vaccination status.
  - Hearing in Senate Commerce, Thursday, 2/25.
  - Bill was blessed and remains in play for the remainder of Session.
- SB 212: was also blessed. SB 212 would prohibit the KDHE Secretary from permanently requiring additional immunizations to attend a childcare facility or school.
  - Hearing in Senate Public Health, Monday, 3/22.
- SB 295: Authorizes counties to adopt prioritized vaccination plans; prohibits the state from reducing vaccination allotments based on adherence to state guidelines.
  - Committee passed the bill on 3/18.

#### Other

- HB 2184: Medical Marijuana.
  - Hearing in House Fed & State, Wednesday & Thursday, 2/24-2/25.
  - Committee is scheduled to work the bill this Tuesday and Wednesday.
- HB 2340 Tobacco 21: This version seeks to mainly address aligning with the federal government’s T21 law, ensuring the state continues to receive federal substance abuse prevention funding.
  - Passed out of committee; on general orders in the House.
- SB 208: Creating the fairness in women’s sports act to require that female student athletic teams only include members who are biologically female.
  - Hearing in Senate Education, Tuesday, 2/23.
  - Committee amended the bill to remove the language that would have established a mechanism for individuals to challenge the biological sex of an athlete and the means by which a student’s biological sex could be proven in response to such a complaint.
  - Senate passed the bill 24-10.
- SB 199 Short-term Limited-duration health plans.
  - Hearing in Senate Financial Institutions & Insurance 3/18.

#### **Upcoming 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/b2021\\_22/chamber/calendars/](http://www.kslegislature.org/li/b2021_22/chamber/calendars/)

- Additionally, all hearings are now available on-line live on YouTube Kansas Legislature channel and the audio is available on the Legislature website at: <http://sg001-harmony.sliq.net/00287/Harmony/en/View/Calendar/>

*Monday, March 22<sup>nd</sup>.*

Senate Public Health. 8:30 AM.

- Hearing on SB 212: Prohibits KDHE Secretary from permanently requiring additional immunizations to attend a childcare facility or school.

Senate Federal & State Affairs. 10:30 AM.

- Hearing on HB 2058: Conceal carry reciprocity & lowering the conceal carry age to 18.

House Children & Seniors. 1:30 PM.

- Hearing on SB 85: Requiring notification to the Governor and Legislature of missing foster care youth.
- Final action on SB 120: Establishing the joint committee on child welfare system oversight.

House Judiciary. 3:30 PM

- HB 2412: Enacting the Kansas Fights Addiction Act to address opioid settlement funds.

*Tuesday, March 23<sup>rd</sup>.*

House Fed & State Affairs. 9:00 AM.

- Discussion & action on HB 2184 Medical Marijuana.

House Health. 1:30 PM.

- KDHE Presentation on Vaccination Phases III & IV.

*Wednesday, March 24<sup>th</sup>.*

House Fed & State Affairs. 9:00 AM.

- Action on HB 2184 Medical Marijuana.

Senate Judiciary. 10:30 AM.

- SB 264: Enacting the Kansas Fights Addiction Act to address opioid settlement funds.