



## Memorandum

Date: April 9<sup>th</sup>, 2021  
Re: Week 13 Legislative and Policy Update

### Overview

The 2021 regular Session is about to conclude, and the Legislature will return for the Wrap-up Session on Monday, May 3<sup>rd</sup>. While a tremendous amount of policy has been resolved over the last several months, there are a few issues that may make for a contentious Wrap-up Session in May. We've reported on the progress and resolution of many issues: The repeal of the property tax lid and new property tax transparency requirements for local governments; the passage of the abortion constitutional amendment that goes on the August 2022 ballot; and changes to the state's emergency management act. Education funding and policy issues, possible COVID relief policies for businesses, and the allocation of federal funds and the impact on the budget will be the topics of conversation during the Veto Session.

With the budget concluded, and most health-related legislation done that will pass, there may be limited activity during the wrap-up session. Of course, everything could change.

### Big Picture Issues

State Budget: The House and Senate, in just two days, negotiated and approved a budget. While much is resolved in the budget, several items will be reviewed and modified as needed during the Wrap-up Session in May, after the state receives the latest revenue estimates and more federal guidance for the American Rescue Plan Act funds coming to Kansas. Both the House and Senate budget committees are meeting the last week of April to discuss the consensus revenue estimates, any Governor's budget amendments, and to make recommended changes to the budget. It is important to note that the budget bill sent to the Governor does not include K-12 education funding and the Governor will likely veto the education bill that includes K-12 funding. In short, the budget is not resolved.

Taxes: Last week, both chambers came to an agreement on a major income tax bill, SB 50. This tax cut is estimated to cost roughly \$284 million over the next three years, substantially less than the Senate's original version, SB 22, but a veto appears increasingly possible. The latest on that issue here: <https://kansasreflector.com/2021/04/07/tax-council-points-to-billion-dollar-hole-in-kansas-budget-outlook-providing-cover-for-possible-veto/> The remaining tax issues that may still be addressed during the wrap-up session will focus on business and property tax owner compensation due to COVID related economic impacts.

Looking Ahead: The Legislature will reconvene May 3<sup>rd</sup> to wrap up and address any outstanding issues, adjust the budget and revenue, and likely attempt to override potential vetoes. We expect a veto of the school finance bill and there will likely be additional vetoes related to education policy and funding, transgender women's participation in sports, and income tax cuts. There will be additional efforts during the veto session to address some unresolved COVID relief policies including property tax reimbursements for businesses impacted by shutdowns or capacity limitations. There are several issues that still must be addressed when they return in May.

## **Current Healthcare Issues**

COVID-Related Issues.

- Vaccinations.
  - SB 212 giving legislative control over vaccination schedules and SB 213 prohibit employers from making personnel decision based on employee vaccination status were combined and advanced out of committee on 3/25.
    - An amendment was added that provides immunity for individuals including businesses from civil liability for exposing someone to an infectious disease.
    - This controversial bill is on Senate general orders awaiting action.
    - A coalition of healthcare and business organizations issued a letter in strong opposition to the legislation, and no action was taken by the Senate this week on the legislation.
  - An attempt was made on the Senate floor to amend SB 212—the portion giving legislative control over the vaccination schedule—in to another healthcare related bill, but the amendment failed 17-18.
  - More on the failed attempt here: <https://kansasreflector.com/2021/04/07/senate-votes-to-block-measure-stifling-kdhes-role-in-expanding-child-vaccinations/>
- COVID relief funding for healthcare agencies, unlike the State in general, and compared to K-12 education, has been generally unpublicized. Amid the \$1.6 billion in the latest federal relief package, it's still unclear what KDADS and KDHE intend to do with the latest round of American Recovery Plan funds.

Telemedicine—Unlikely to advance.

- 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.
  - The new Kansas Emergency Management Act extends the Governor's emergency declaration to May 28<sup>th</sup>, but most executive orders expired March 31<sup>st</sup>.
  - 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.

- 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 at parity through June 30<sup>th</sup>.
- In the last week of the session, the Health Conference Committee did not address telemedicine flexibilities. There may still be some final consideration during the wrap up session.

### **Legislation of Interest**

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

1. 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, house has taken no action.
  - The budget bill includes the language to increase the cap from \$2.5 million to \$5 million.
2. Sub for HB 2153 (Formerly SB 301): Establishing the Office of the Child Advocate within the AG's office and establishing the Joint Committee on Child Welfare System Oversight.
  - Hearing and action in Senate Judiciary but the bill is significantly different from the House version that is no longer alive.
  - The bill was amended in committee to clarify the definition of child, change how the Office of the Child Advocate is appointed when the office is vacant, clarifies who is eligible for the position, and strikes some language concerning subpoena power.
  - Senate passed the bill 31-4.
  - Senate Health and Children & Seniors Conference Committee did not come to an agreement on the bill but there could be action during the wrap up session.
3. HB 2115: Establishing the Joint Committee on Child Welfare System Oversight.
  - Advanced through conference committee with a few minor changes related to membership and effective date.
4. Additionally, the budget bill includes \$150,000 for school-based oral health preventative services.

#### Regulatory

1. 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 House 103-21 and Senate 36-2 on 3/17.
- The conference committee worked out a few minor, technical differences and both chambers approved the bill. On the way to the Governor.

Health Conference Committee Resolution:

The health conference committee combined the following several bills into one bundled health bill, Conference Committee Report on HB 2208:

1. SB 175 & HB 2174: Establishing the rural hospital innovation grant program to assist rural hospitals in serving rural communities.
  - Also includes SB 175, that enacts the rural emergency hospital act to provide for the licensure of rural emergency hospitals.
2. 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.
3. Senate Sub for 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.
  - Almost the same bill as SB 238.
  - Passed the Senate 38-2.

Behavioral Health

- 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.
  - \$3 million for operational costs to implement the hotline was not included in the budget bill.

- The chair of House Health indicated that this issue will be addressed during Veto Session.
  
- 4. 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.
  - House Judiciary worked the bill and amended it to create two separate funds: the Kansas Fights Addiction Fund and Municipalities Fight Addiction Fund. 75% of settlement funds will go to the Kansas Fights Addiction Fund and 25% will go to the Municipalities fund for local mitigation efforts.
  - HB 2412 passed the House 81-43.
  - Senate Ways and Means passed the bill out of committee on 3/30 with similar amendments as the House Committee.
  - House agreed to Senate version in conference, which is identical, except for funding for K-TRACS allocated in the Senate version.

#### Gun safety issues

- 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.
  - HB 2058 passed the House 85-38.
  - Amended in Senate Fed & State to insert SB 190: Creating the Kansas protection of firearm rights act to restore the right to possess a firearm upon expungement of certain convictions—reduces impact of criminal history to benefit gun owners.
  - Advanced out of Fed & State Affairs conference committee and passed the Senate 30-8 and House 80-43. On the way to the Governor.
  
- 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.
  - Senate Fed & State amended the bill to allow school districts to substitute other KDWPT firearm safety programs for Hunter Education at the discretion of the local school board.
  - A number of amendments, including a domestic violence red flag law, were offered on the Senate floor but failed.
  - Passed the Senate 31-7 and the House concurred with Senate amendments 79-44 and on the way to the Governor.

- SB 283: Continuing the governmental response to COVID by extending the expanded use of telemedicine, authority of Board of Healing Arts to grant certain temporary emergency licenses, suspension of certain requirements related to medical care facilities and immunity from civil liability for certain healthcare providers and certain persons conducting business in this state for COVID-19 claims until 3/31/22.
  - Extends healthcare provider immunity through 3/31/22.
  - Signed by the Governor on 3/31.

#### Other Funding Issues

- The budget bill also includes an additional \$1 million for local health department funding, as well as language to raise the minimum provided to each local health department under the statutory formula distribution from \$7,000 to \$12,000.
- An additional \$250,000 for SUD grants, funded through the Problem Gambling & Addictions Fund, was also added to the budget.

#### 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/>

*The Legislature reconvenes for the Wrap-up Session on May 3<sup>rd</sup>.*

*Monday, April 26<sup>th</sup>.*

Senate Ways & Means. 9:00 AM.

- Consensus revenue estimate & discussion on Omnibus items.

*Tuesday, April 27<sup>th</sup>.*

House Appropriations. 10:00 AM.

- Consensus revenue estimate & discussion on Omnibus items.