



Memorandum

Date: April 1st, 2021

Re: Week 12 Legislative and Policy Update

Overview

The House wrapped up floor debate on Tuesday evening and the Senate on Wednesday evening before enjoying a short break. The Legislature will return Tuesday, April 6th, for a few fast and furious days of floor work and conference committees before First Adjournment on Friday, April 9th. Next week will involve long days and late evenings debating a few bills and allowing time for conference committees to work out differences on a variety of issues from healthcare to COVID compensation to education issues. The budget conference committee will likely begin negotiations, but it remains to be seen whether they will wrap up negotiations next week or wait until Omnibus/Wrap-up Session beginning May 3rd to work out all of the differences.

Big Picture Issues

State Budget: This week the House passed their version of the budget. Most notably, their budget was amended on the floor to include a two percent across-the-board cut to the state general fund (SGF) budget, which amounts to about \$161 million. This issue now goes to conference to be negotiated with the Senate. Additionally, the House budget does not include the nearly \$6 billion in K-12 education funding; rather, the House included those funds in a controversial education policy bill that passed the House the same day as the budget, 65-58. Also of note, House Democrats attempted a Medicaid Expansion amendment to the budget, but failed with only 46 affirmative votes.

- More on that here: <https://kansasreflector.com/2021/03/30/house-gop-kills-off-another-medicaid-expansion-attempt-by-democrats/>

As we stated above, the budget conference committee will likely begin meeting next week but may not resolve their differences until the Wrap-up Session in May. We'll know more after next week, and after consensus revenue estimates are released at the end of April.

KEMA: As previously reported, the Governor last week signed SB 40—addressing the Kansas Emergency Management Act—into law. The latest news involves the expiration of all current executive orders (EOs) on March 31st, and the anticipation of new EOs being issued on April 1st. The House has already taken a position urging the Legislative Coordinating Council to oppose any new EO that would reinstate the statewide face mask mandate.

- More on the issue here: <https://kansasreflector.com/2021/03/30/house-rams-through-pre-emptive-resolution-to-derail-new-kelly-mask-order/>

Taxes: The House passed their version of the major income tax bill that costs roughly one-third of the Senate version. SB 50 passed the House 81-43 and the Senate concurred 30-10 with the changes made in the House tax plan. Both bills include the following provisions: requiring marketplace facilitators to collect and remit sales tax; option to itemize on state income tax

return without itemizing on federal return; fraudulent unemployment provision clarifying that victims of unemployment fraud do not pay income tax on fraudulent claims; increasing the standard deduction for each group; GILTI provisions; deduction of FDIC premiums; expensing deduction provisions; and unlimited net operating loss carryforward. SB 50 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 is possible.

Looking Ahead: Much like this week, next week will be somewhat shortened but incredibly busy with conference committees meeting to work out differences before sending the agreements to both chambers to either approve or reject. There are still some major issues beside the budget to be resolved—sports wagering, property tax and COVID relief issues, and education funding and policy issues—that may be addressed next week, but likely pushed to the Wrap-up Session.

Current Healthcare Issues

COVID-Related Issues—No change.

- Three vaccination-related issues 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.
 - This may be a non-issue at this point since the Governor has opened up all phases of vaccination distribution.
 - 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.
- 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—No change.

- The House Health Committee heard HB 2206 on February 9th. 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. There may be one avenue in which the bill might advance, by being inserted into a “vehicle” bill that has passed both the House and Senate. We anticipate this happening before first adjournment on April 9th.

- 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 28th, but the executive orders will end March 31st.
 - 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 at parity through June 30th.

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/

Children’s Issues

- 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 House budget includes language to increase the cap from \$2.5 million to \$5 million.
- 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.
 - House can concur or discuss in conference committee.
- SB 120/HB 2115: Establishing the Joint Committee on Child Welfare System Oversight.
 - The House passed their bill 118-4 and the Senate committee made a minor amendment to change the effective date.

- SB 120 has been stricken from the calendar and is dead.

Regulatory

- HB 2206: Telemedicine.
 - Bill remains alive but is unlikely to advance although provisions may be included in a health conference committee report.
- APRN Scope of Practice
 - SB 174 & HB 2256
 - Hearings in health committees 2/17-2/18 no action taken.
- 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 bill will now go to conference committee.

Funding and Insurance

- SB 175 (including HB 2174): Establishing the rural hospital innovation grant program to assist rural hospitals in serving rural communities.
 - House Health 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.
 - In health conference committee.
- HB 2248: Increasing state financial assistance to local health departments under specified circumstances.
 - Passed the House 111-12 on 3/17.
 - Amended by Senate Ways & Means to lower the minimum amount received by local health departments, upon application, from \$15,000 to \$12,000.
- House Sub for SB 273 (now includes HB 2451): Directing that tobacco product manufacturer remittances be credited to the Kansas Endowment for Youth fund rather than deposited into escrow upon certification by the AG.
 - The House Judiciary committee heard testimony from the AG's office on 3/25 and passed out in House Sub for SB 273.
 - Passed the House 123-1.
 - In Judiciary conference committee.

Behavioral Health

- 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 House 124-0.

- Senate Public Health added SB 175—rural emergency hospital act—to the bill.
- Passed the Senate 38-2.
- House can concur or will be addressed in conference committee.
- 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.
 - 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.
 - 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.
 - Should be discussed in judiciary conference committee.

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.

- HB 2251: Requires the relinquishment order of firearms upon conviction of battery or domestic violence misdemeanors.
 - Hearing in House Fed & State 3/26.
- 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.
 - Senate passed over the bill on 3/31, but it retains a place on the calendar.

Licensure

- 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.
 - Passed the House 96-28.
 - Senate concurred with House changes 30-10.
 - Signed by the Governor on 3/31.

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.
 - Amended and added to SB 212 and total immunity for an individual or business related to vaccine status.
- SB 212: Prohibits the KDHE Secretary from permanently requiring additional immunizations to attend a childcare facility or school.
 - Hearing in Senate Public Health, Monday, 3/22.
 - Information on the hearing: <https://kansasreflector.com/2021/03/22/senate-bill-would-ban-kdhe-from-requiring-new-vaccines-for-kansas-school-kids/>
 - Passed out of committee 3/25 with SB 213.
 - Links to amended bill and bill summary:
 - http://www.kslegislature.org/li/b2021_22/measures/documents/sb212_01_0000.pdf
 - http://www.kslegislature.org/li/b2021_22/measures/documents/supp_note_sb212_01_0000.pdf
 - Senate has taken no action.

Other

- HB 2184: Medical Marijuana.
 - Hearing in House Fed & State, Wednesday & Thursday, 2/24-2/25.
 - Narrowly passed out of committee 11-10 on 3/29 with several amendments. Because of the large number of amendments, an updated version and bill summary are not yet available.
 - The committee ran out of time to discuss several amendments, so if/when this is debated in the House, there will be hours of debate.
 - Amendments that were adopted in committee include the following:
 - No cap on the number of licenses for producers, dispensaries, etc.
 - Allows the Board of Healing Arts to vet providers/physicians to make sure they are appropriate for recommending medical marijuana and that they apply annually to be able to prescribe it. The annual fee is \$175.
 - Allows for employers to continue drug testing policies.
 - Clarifies the physician-designee relationship to prevent “doctor-shopping” by requiring an individual to stay with a provider for 6 months before changing providers when seeking a recommendation for medical marijuana. Allows for a physician to issue a recommendation for medical marijuana for one year’s time.
 - Codifies quality control language for labs.
 - Includes the same 30-day supply policy/language as for prescribing opioids.
 - Child proof packaging and a tamper-proof seal unique to Kansas.

- 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 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.
 - Awaiting action in the House.

- SB 199 Short-term Limited-duration health plans.
 - Hearing in Senate Financial Institutions & Insurance 3/18 & 3/25.
 - The committee passed the bill 5-3 on 3/25 with one amendment that strikes redundant language in the bill that is already required by federal law.
 - Senate passed the bill 27-6.

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/
- 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/>

No Session Thursday, April 1st through Monday, April 5th. Conference committees will be announced throughout the week.

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