Memorandum

Date: July 23, 2021
Re: July Legislative and Policy Update

Overview
As usual, the conclusion of the 2021 legislative session results in a lull before legislative activities pick up. Except for on-going COVID-related activities, little has taken place as August approaches. There has not yet been a large volume of interim committee meetings, but those will likely begin in the coming weeks now that the Legislative Coordinating Council has approved interim committees. Despite a slow start to the summer legislative activities, there have been several changes over the last few weeks, including the expiration of the state of disaster declaration and its related impacts; a couple of new legislators, as well as the resumption of the SPARK Task Force. The recent court rejection of the state’s new emergency management law will impact public health issues.

Big Picture

Disaster Declaration Ends
- The disaster declaration expired June 15th, and several provisions associated with it also went away, including the ability for parents to file grievances against school districts related to mask mandates or other measures a district may have taken to combat COVID-19.
- Additionally, just last week, a Johnson County district court judge ruled unconstitutional the new law passed last Session, SB 40, that made significant changes to the state’s emergency management act. The Court found the new law favored opponents of COVID restrictions, restrained and limited local governments’ response to action, and unduly burdened the judicial process.
- The State solicitor general is appealing the decision and seeking a stay to keep the law in place.

SPARK Task Force
- The SPARK Executive Committee has held its first two meetings to begin discussions about how best to invest the next round of federal funds coming to Kansas through the American Rescue Plan Act (ARPA).
- A restructured executive committee oversees federal relief funds. The Commerce Secretary/Lieutenant Governor chairs the committee, but a group of legislative leadership and public members control the majority going forward.
- While the committee is still in early discussions mainly centered around structure and organization of the SPARK Task Force, members of the Executive Committee have generally agreed to focus on six key topic areas to focus the state’s roughly $1.1 billion in federal discretionary funds: essential needs, economic revitalization, behavioral health, early child development, connectivity, and government operations.
• The latest SPARK meetings and presentations can be found here: https://covid.ks.gov/spark-materials/

KLKD 2021 Legislation Summary
• The Kansas Legislative Research Department (KLKD) has released both its 2021 Summary of Legislation as well as a Legislative Highlights document.
• If you have followed any specific legislation we’ve reported on during 2021 or any other bills that have become law, these reports are a great resource.
• Highlights: http://www.kslegresearch.org/KLRD-web/Publications/LegislativeHighlights/2021-legislative-highlights.pdf

Snapshot of State Revenues
• Kansas closed out Fiscal Year 2021 with a total of $8.9 billion in tax collections, well over previous estimates. The AP reports this is the state’s “healthiest cash reserves in more than 40 years.”
• For all of us concerned about state revenue available for the coming fiscal years, increased revenue is good news. The State’s ending balance at the end of the last fiscal year tops $1.9 billion, over 20 percent of total revenue and that includes the income tax reduction bill passed during the 2021 session.
• More information and SGF profile can be found here: https://governor.kansas.gov/kansas-total-revenue-receipts-outperform-estimates-by-157-4-million-for-june/

Key Interim Committees
• As we noted above, there are several significant interim committees to follow during the summer and fall, and most will make legislative and policy recommendations to the 2022 legislature.
• There is no education interim committee this year.
• Among the interims to watch are:
  o Redistricting.
  o Taxation.
  o Child Welfare System Oversight.
  o HCBS/IDD Waiver programs.

New Lawmakers Announced
• Chuck Schmidt (D) will replace outgoing Representative Elizabeth Bishop (D) in House District 88 in Wichita. Schmidt comes to the Statehouse with a background in public education, having served as a teacher and school administrator.
• Daniel Osman (D) will replace outgoing Representative Jennifer Day (D) in House District 48 in Overland Park. Osman is an attorney and is President of Osman Consultants LLC.
• It has not yet been announced who will succeed Representative Brett Parker (D-Overland Park) in House District 29. Parker is resigning after serving in the Legislature since 2017.
Interim Healthcare Related Activities & Topics

It is worth noting that most health issues are not the focus of legislative attention this fall except for the on-going KanCare Oversight Committee a few narrow issues. Public health and on-going COVID response, particularly related to the impact of the Delta variant, vaccinations (both COVID and others), and telemedicine are all awaiting attention. The legislature’s response to the unconstitutional determination of SB 40 will likely impact health issues. The district court decision is being appealed and the debate about the role of public health officials will continue.

Child Welfare System Oversight Committee

The Child Welfare System Oversight Committee will meet during the summer and fall and they have been authorized to meet for four days. No meeting dates have been set. House Bill 2115 created the Child Welfare System Oversight Committee and the full summary can be found here:


The focus of the committee includes:

- Data on child maltreatment and demographic trends impacting the child welfare system;
- Duties, responsibilities, and contributions of the Kansas Department for Children and Families (DCF), Kansas Department for Aging and Disability Services (KDADS), Department of Health and Environment (KDHE), Department of Corrections, law enforcement, and the Judicial Branch that comprise and impact the child welfare system;
- Programs, services, and benefits offered directly or through grants or contracts by DCF, KDADS, KDHE, and the Judicial Branch that impact children and families at risk of becoming involved or involved in the child welfare system, including:
  - Child maltreatment prevention;
  - Investigation of child maltreatment;
  - In-home family services, including services offered through federal prevention and family preservation funding; and
  - Foster care, reintegration, and adoption services;
- Trends, performance outcomes, activities, and improvement plans related to the federal child and family services reviews;
- Reports from child welfare-related groups, including, citizen review panels, the Kansas Supreme Court Permanency Planning Task Force, the Kansas Children’s Cabinet, and any interim study committees or work groups authorized by the Kansas Legislature;
- Implementation of the 2019 Child Welfare System Task Force Report recommendations, including top-tier recommendations related to the child welfare workforce, data technology, access to behavioral healthcare for high-risk youth, and implementation of the federal Family First Prevention Services Act;
- Reports on concerns received from the DCF child welfare ombudsman, customer service department, or similar office;
- Opportunities for Kansas to strengthen the child welfare system through evidence-based interventions and services for children and families; and
- Any other topic the Joint Committee deems necessary or appropriate.

The committee membership includes:
Commission on Racial Equity & Justice Issues SDOH Recommendations

- The report details a variety of recommendations spanning nine different topics, from early childhood and childcare to maternal and child health to vaccine equity.
- It remains unclear if these second recommendations will receive any legislative attention.

Interim Committees Announced

- The following interim committees and approved number of meeting days have been announced, though no specific meeting dates for most have yet been scheduled.
  - Legislative Budget Committee (6 days)
  - Child Welfare System Oversight (4 days)
  - KanCare Oversight (4 days)
  - Joint Committee on Federal 340B Program (2 days).

New Focus Areas for SPARK Task Force

- As mentioned above, the SPARK Executive Committee is discussing new ways to distribute ARPA funds, with different goals and long-term plans than last year. These include new plans for behavioral health as well as early childhood development.
- As a reminder, ARPA funds will arrive to Kansas in two tranches: the first arrived in May and the second is anticipated to arrive in May 2022. Unlike with the CARES Act, there is a longer timeline to obligate and expend ARPA funds. They must be obligated by December 2024 and expended by December 2026.
- Treasury has provided guidance for two types of allowable uses for ARPA:
Always allowable for initiatives that:
- Respond to the public emergency or negative economic impacts,
- Provide premium pay to essential workers,
- Offset cuts in government services,
- Investments in water, sewer, and broadband.

Conditionally allowable in select areas and populations for initiatives that:
- Offer services for “disproportionately impacted communities:”
  - Populations in qualified census tracts (QCT),
  - Services addressing health disparities,
  - Communities disproportionately impacted by the pandemic.

The Office of Recovery has proposed the following guiding principles for investment of ARPA funds:
- Prioritize sustainable programs through one-time investments without creating future dependency on existing state budgets,
- Combine with and leverage local and agency funds to maximize use of discretionary funds,
- Foster long-term systemic impact for Kansans,
- Consider equitable opportunities and outcomes,
- Enable flexibility within investment strategies (i.e., in case of emerging needs, changing federal landscape),
- Ensure the results are measurable to enable tracking and transparency.

The Office of Recovery has also proposed additional working groups for three of the key topic areas: economic revitalization, behavioral health, and early child development. These working groups would consist of 8-10 members. The SPARK Executive Committee has not yet agreed to this proposed working group structure.

The six key topic areas are briefly outlined below:

<table>
<thead>
<tr>
<th>Deep Dive: Definition of each topic area</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Essential Needs</strong></td>
</tr>
<tr>
<td>• Housing &amp; utilities</td>
</tr>
<tr>
<td>• Food &amp; nutrition</td>
</tr>
<tr>
<td>• Transportation</td>
</tr>
<tr>
<td>• Premium pay &amp; direct assistance</td>
</tr>
<tr>
<td><strong>Economic Revitalization</strong></td>
</tr>
<tr>
<td>• Workforce (rehiring, retraining)</td>
</tr>
<tr>
<td>• Talent retention &amp; recruitment</td>
</tr>
<tr>
<td>• Business development (incl. small businesses)</td>
</tr>
<tr>
<td>• Business innovation</td>
</tr>
<tr>
<td>• Supporting infrastructure</td>
</tr>
<tr>
<td><strong>Behavioral Health</strong></td>
</tr>
<tr>
<td>• Community-based treatment</td>
</tr>
<tr>
<td>• Workforce development</td>
</tr>
<tr>
<td>• Healthcare integration and system navigation</td>
</tr>
<tr>
<td><strong>Early Child Development</strong></td>
</tr>
<tr>
<td>• Workforce development</td>
</tr>
<tr>
<td>• Supportive family services</td>
</tr>
<tr>
<td>• Early childhood health</td>
</tr>
<tr>
<td>• Early childhood education &amp; school readiness</td>
</tr>
<tr>
<td><strong>Connectivity</strong></td>
</tr>
<tr>
<td>• Broadband infrastructure</td>
</tr>
<tr>
<td>• Devices &amp; equipment</td>
</tr>
<tr>
<td>• Digital literacy</td>
</tr>
<tr>
<td>• Supporting tools</td>
</tr>
<tr>
<td><strong>Government Operations</strong></td>
</tr>
<tr>
<td>• Modernization of key facilities</td>
</tr>
<tr>
<td>• Equipment upgrades</td>
</tr>
<tr>
<td>• Investments in cybersecurity &amp; IT network modernization</td>
</tr>
</tbody>
</table>

HB 2026 in Effect July 1st
• HB 2026 authorizing SB 123 treatment for people on diversion went into effect July 1st. While the program was expanded, additional funding was not included in the budget, though the Kansas Sentencing Commission reported continued efforts to do so. Additionally, the Commission reported it will likely take Beacon at least 90 days to ramp up for codes and programming required to implement the provisions of the bill.

Affordable Care Act Upheld

• Last month, the U.S. Supreme Court upheld the constitutionality of the ACA despite challenges from a group of 18 attorneys general, including Kansas AG and gubernatorial candidate Derek Schmidt. The Court ruled 7-2 in favor of the ACA.

COVID-19 Related Updates

Kansas COVID-19 Vaccine Equity Task Force (COVET)

• COVET continues to meet to discuss ways to improve equitable vaccine distribution in Kansas. At its June meeting, COVET discussed the expiration of the disaster declaration and its impacts on KDHE and the support services the agency had previously relied on for vaccine distribution. The expiration of the disaster declaration largely means that KDHE is responsible for most testing and vaccine-related activities, instead of having the support of KDEM, Kansas National Guard, KDOT, Kansas Highway Patrol, etc.

• The Executive Director of the Kansas African American Affairs Commission also discussed its efforts in conjunction with COVET.

• COVET meets again July 28th.

Provider Grants to Increase Vaccination Rate

• Last month, Governor Kelly announced nearly $1 million in grants to healthcare providers to increase the state’s vaccination rate. KDHE awarded both the Kansas Academy of Family Physicians and Kansas Chapter of the American Academy of Pediatrics $450,000 each to further their vaccination efforts.

• More information here: Governor Laura Kelly Announces $900,000 in Grants to Support Health Care Providers, Increase Vaccinations.

Upcoming Activities

We’ll be providing updates monthly and as issues arise during the summer and fall.

Tuesday-Wednesday, August 10th & 11th

KanCare Oversight.

• Topics for review include KDHE and KDADS and MCO reports. Topics that will receive additional coverage include maternal health supports in the KanCare system, hospital admissions process for behavioral health issues, and overview of the PACE program, and update on long term care facilities.

• Draft Agenda can be found here: http://www.kslegislature.org/li/b2021_22/committees/ctte_jt_robert_g_bob_bethell_joint_committee_1/documents/agenda/weeklyinterim/20210810.pdf