



Memorandum

Date: April 2, 2022

Re: Legislative and Policy Report

Overview

The 2022 Regular Session has ended, with both chambers abruptly adjourning just after 1:00 AM on Saturday. Up to that point, both chambers were moving with momentum to pass bills back and forth, but once the House concluded the contentious sports wagering debate, things began to fall apart. When the House very narrowly passed sports wagering (SB 84), by the exact votes needed for a majority, the chamber adjourned, effectively shutting down any more work until Veto Session. The Senate adjourned shortly thereafter, leaving several significant issues on the table, including education funding, the elimination of the state sales tax on food, two significant tax bills, and controversial legislation that would prevent any changes to the Medicaid MCO contracts until January 2023. While education funding will be dealt with during Veto Session, both chambers did pass the transgender sports bill and parents bill of rights legislation before adjourning.

The Legislature now takes a three-week Spring Break before reconvening on Monday, April 25th, for Veto Session. In recent years, Veto Session has tended to last about one week. Whether that trend continues remains to be seen, but is doubtful, as it seems the Legislature has more outstanding issues than usual. Add in the pending decision on the APEX economic development incentive passed early in the session, there is even more potential uncertainty in the mix when it comes to wrapping things up in late April and early May..

There will be some significant activity over the three-week break, namely awaiting the APEX decision, the release of the consensus revenue estimates, and the two-day meetings of the Senate Ways and Means and House Appropriations committees to discuss any revisions to the budget. Additionally, it is expected that the SPARK Advisory Panels and Executive Committee will continue meeting to appropriate the remaining federal ARPA dollars and the Legislature may intervene.

Big Picture Issues

Here's where several issues stand now that the Regular Session has concluded:

- Both chambers approved the state budget, and it is on its way to the Governor for approval, though the education funding bill will be taken up during Veto Session.
- State Food Sales Tax Exemption. The Tax Conference Committee late Thursday night approved a proposal to gradually reduce the state sales tax on food to 0% by January 1st, 2025. The first cut takes effect January 1st, 2023, when the state rate is to be reduced to 4.0%, and then to 2.0% on January 1st, 2024, with the full elimination by January 2025. The issue will be handled during Veto Session.
- Medical Marijuana. There was no discussion whatsoever this week on medical marijuana, though the issue may see action during Veto Session.

- Redistricting. Both chambers have now passed all of their maps, including maps for state school board districts.

Latest on Tax Policy

- The Tax Conference Committee this week advanced three major bills dealing with income, property, and sales taxes, in addition to brokering an agreement on a gradual elimination of the state sales tax on food.
- Only one of those bills, HB 2239, which mainly deals with property taxes, passed both chambers, but the other two will wait until Veto Session.

Current Healthcare Issues

For the entire Session, we have kept a close eye on several measures that would prove problematic for public health, namely efforts to limit the authority of KDHE and local health officers to respond to contagious disease, including by issuing mask or quarantine orders, in addition to expanding exemptions for vaccinations. Most of those policies got bogged down in conference committee and did not advance any further. Whether they advance during Veto Session remains to be seen.

One item of note that advanced through the conference process, albeit in a convoluted manner, was language prohibiting changes to the current Medicaid MCO contracts until January 2023. The final language prohibited only the re-procurement process for one year, not other changes to KanCare. The matter was approved by the Judiciary Conference Committee, to the consternation of lawmakers on both sides. The legislation was paired with language prohibiting a governor from closing or restricting religious services in the event of a public health emergency, which likely prevents the Governor from vetoing the legislation. The bill passed the Senate, but the Legislature adjourned before the House took up the matter.

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/

Budget Items

Both chambers approved the budget Sub for SB 267, and it now goes to the Governor for her approval. There are several positive items related to healthcare in the budget that are worth noting:

- \$12 million to provide a 4% rate increase for some Medicaid behavioral health providers.
- \$2.9 million to provide increases for some Medicaid pediatric provider rates.
- \$1.4 million for a Medicaid adult dental benefit.
- \$7.5 million for workforce recruitment and retention efforts by child placing agencies and licensed residential facilities.
- Extension of Medicaid postpartum coverage to twelve months.

Public Health Topics

With the exception of the parents' bill of rights, the public health issues detailed below did not advance out of conference committee.

- SB 489 would have removed the KDHE Secretary's regulatory authority concerning infectious diseases and would also limit local health officers' authority to respond to

contagious or infectious diseases. The bill also removes local health officers' ability to require individuals to quarantine; rather, local health officers would only be able to recommend, not require, someone to quarantine.

- Additionally, the bill removes KDHE's authority to designate a disease as contagious or infectious. Instead, the bill requires the KDHE Secretary to submit a report of such disease to legislative leadership.
- No movement this week but remains in play for Veto Session.
- Senate Sub for HB 2280 would allow a personal exemption of all immunizations, in addition to allowing the prescribing of off-label drugs to treat COVID-19. The bill also adds a personal exemption to public school and childcare immunization requirements.
 - Passed the Senate 21-16.
 - No discussion in conference committee this week but remains in play for Veto Session.
- SB 541 limits local governments, local health officers, and school boards in responding to public health emergencies, including issuing mask orders for any reason; expands exemption for vaccinations, similar to the exemption language in Sub for HB 2280. The Senate further amended the bill to prohibit governmental entities or public officials from restricting worship services and provided additional restrictions on local health officer authority.
 - Passed the Senate 24-14.
 - No agreement reached in Judiciary Conference but remains in play for Veto Session.
- Parents Bill of Rights (now SB 58), among other things, includes language stating that parents have the right to make healthcare and medical decisions for their children.
 - Passed the House 67-46, far short of the 84 votes needed for a veto override.
 - Passed the Senate 23-15, also short of the 27 votes needed for a veto override.

Access Issues

- Sub for HB 2448 (formerly SB 501) would require able-bodied adults without dependents (ABAWDs) working less than 30 hours per week to complete an employment and training program in order to receive food assistance.
 - Passed the Senate 28-11 and the House 70-46, far short of 84 votes, should the Governor decide to veto the bill.
- Sub for SB 19 Implementation of NSPL/988.
 - Health Conference Committee made some technical changes, as well as reduced the membership of the 988 Coordinating Council.
 - Remains in play for Veto Session.
- HB 2632 CARE Provider Network passed the House 95-27 on March 21st. Two amendments were added to include a 4-year sunset to the bill and the other adds clarifying language that any medical provider associated with a Child Advocate Center (CAC) that has the ability to conduct a CARE exam may be included within the CARE provider network.
 - An attempt was made in conference committee to bundle the bill with the problematic SB 489, which effectively shut down negotiations on the bill. It is still possible the bill will see action during Veto Session.

Scope of Practice/licensure/insurance

- Late on the last day of the Regular Session, the House passed Sub for HB 2279 which expands APRNs' scope of practice. Despite strongly worded opposition from the Chair of House Health, who has been in favor of expanding APRN scope of practice, as well as from the two physicians in the House, the bill passed 80-34.
 - Sub HB 2279 is now headed to the Governor for approval.
 - It is worth noting the interesting breakdown of vote on this bill, most notably two of the three members of House leadership voting against it:
http://kslegislature.org/li/b2021_22/measures/vote_view/je_20220401172136_064862/
- SB 200 pharmacy scope of practice CCR passed both chambers with overwhelming majorities. It awaits the Governor's approval.
- HB 2734 BSRB bill advanced through conference and is now included in SB 453. It would allow master's and clinical level licensees to take the baccalaureate addiction counselor test.
 - Passed the House 116-0 and the Senate 40-0 and awaits the Governor's approval.
- SB 199 short-term limited duration health plans has now passed both chambers, the Senate 28-11 and the House 73-49. If the Governor vetoes this legislation, the House would have to pick up 11 votes to override a veto, which is unlikely.
- House Sub for SB 28 (PBM bill) passed both chambers overwhelmingly and awaits the Governor's approval.

Other Activity to Note this Week

- The transgender sports bill, now SB 160, passed the House 74-39 and the Senate 25-13. Like last year, a gubernatorial veto is expected, and a veto override is unlikely.

KAAP Related Items

1. HB 2632 CARE Provider Network passed the House 95-27 on March 21st. Two amendments were added to include a 4-year sunset to the bill and the other adds clarifying language that any medical provider associated with a Child Advocate Center (CAC) that has the ability to conduct a CARE exam may be included within the CARE provider network.
 - Held up in conference when bundled with SB 489 but may see action during Veto Session.
2. One of the many measures passed by the Tax Conference Committee is the expansion of the child day care tax credit. The committee amended the current program from a 30% credit to a flat 50% across the program, which they opened to any employer, not just corporations. This measure is included in a tax bill that will be taken up during Veto Session.
3. Legislative Post Audit (LPA) this week released its audit "Reviewing Foster Care Services for the Health and Safety of Children." The audit ultimately concludes that while DCF has made improvements, deficiencies still exist in meeting performance

standards. The audit summary can be found here: <https://www.kslpa.org/audit-report-library/reviewing-foster-care-services-for-the-health-and-safety-of-children/>

4. The final budget headed to the Governor includes both \$2.9 million for some pediatric rate increases as well as the permanent extension of postpartum coverage to twelve months.

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://kslegislature.org/li/b2021_22/chamber/calendars/

Additionally, all hearings are now available online live and archived by the end of each day. You can find those hearings on the Legislature website at: <http://sg001-harmony.sliq.net/00287/Harmony/en/View/Calendar/>

Tuesday, April 19th.

Joint Committee on Child Welfare System Oversight. 9:00 AM—4:00 PM.

Wednesday, April 20th.

KanCare Oversight Committee. 9:00 AM—4:00 PM.

Thursday-Friday, April 21st-22nd.

Omnibus budget meetings.

Monday, April 25th.

Legislature returns for Veto Session.