



Memorandum

Date: July 19, 2022

Re: Legislative and Policy Report

Overview

The primary election on August 2nd is just days away. Interim meetings have been sparse leading up to the primary, but they will pick up after the primary election. The biggest news in recent days was the long-awaited APEX economic development decision, in which Panasonic announced its intent to establish a massive electric vehicle (EV) battery manufacturing plant in De Soto. This report details other happenings over the last few weeks, from the much-anticipated Supreme Court ruling on commercial property valuation to the state's fiscal year 2022 official ending balance and reserves in the Rainy Day Fund for the first time in several years.

Big Picture

Panasonic Comes to Kansas

- On July 13th, the news was made official that Kansas landed an historic economic development deal, securing a Panasonic battery factory that is estimated to amount to roughly \$4 billion in investment to the state. During the 2022 Session, the Legislature passed a relatively controversial bill that totaled nearly \$1.3 billion in economic and tax incentives to lure what was at the time the un-named mystery business to the state.
- The Panasonic plant will be located on the grounds of the old Sunflower Ammunition plant in De Soto and is estimated to bring roughly 8,000 new jobs, half direct and half supporting business to Kansas.
- The announcement is the latest in a long list of economic development achievements during the Kelly Administration.
- More on the announcement and its impact on Kansas here:
 - <https://www.kcur.org/news/2022-07-13/kansas-reportedly-landing-4-billion-factory-that-will-make-batteries-for-tesla>
 - <https://governor.kansas.gov/kansas-lands-4b-4000-job-panasonic-energy-electric-vehicle-battery-plant/>

June Revenues & Rainy Day Fund

- Kansas closed out fiscal year 2022 \$438.1 million over estimates. June's total tax receipts alone were \$918.8 million--\$20.2 million over estimates.
- The SGF receipts can be found here: https://governor.kansas.gov/wp-content/uploads/2022/07/12_June_Revenue_FY2022_07-01-2022_Final.pdf
- The state also closed out fiscal year 2022 with \$969 million in the Rainy Day fund—the highest balance in decades.
- More on the Rainy Day fund here: <https://governor.kansas.gov/governor-laura-kelly-continues-fiscal-responsibility-with-nearly-1-billion-rainy-day-fund/>

Ballot Measures

- With the primary just around the corner, here are some reminders for the amendments that will be on both the primary and general election ballots.
- There is one ballot measure on the August primary ballot, and two measures on the November general ballot, as follows:
- August 2nd: The Kansas No State Constitutional Right to Abortion and Legislative Power to Regulate Abortion Amendment. The following is the official language that will be on the ballots.
 - A "yes" vote supports amending the Kansas Constitution to state that nothing in the state constitution creates a right to abortion or requires government funding for abortion and that the state legislature has the authority to pass laws regarding abortion.
 - A "no" vote opposes amending the Kansas Constitution to state that nothing in the state constitution creates a right to abortion or requires government funding for abortion and that the state legislature has the authority to pass laws regarding abortion, thereby maintaining the legal precedent established in *Hodes & Nauser v. Schmidt* (2019) that there is a right to abortions in the Kansas Bill of Rights.
- November 8th:
 - Kansas County Sheriff Election and Recall Amendment.
 - A "yes" vote supports amending the state Constitution to require the election of county sheriffs in counties that had not abolished the office as of January 2022 and provide that sheriffs may be recalled from office or removed by a writ of quo warrant to initiated by the attorney general.
 - A "no" vote opposes this amendment to require counties to elect sheriffs, thereby maintaining that counties can elect to operate under a consolidated law enforcement agency according to state law.
 - Kansas Legislative Veto or Suspension of Executive Agency Regulations Amendment.
 - A "yes" vote supports this constitutional amendment to authorize the state legislature to pass laws by a simple majority vote to revoke or suspend rules and regulations adopted by executive agencies or officers.
 - A "no" vote opposes this constitutional amendment to authorize the state legislature to pass laws by a simple majority vote to revoke or suspend rules and regulations adopted by executive agencies or officers, thereby maintaining that the legislature may pass a bill to change the law governing the executive agency or pass a concurrent resolution expressing displeasure with the rule or regulation adopted by executive agencies.

The primary election question regarding women's health rights is well-known and the focus of intense attention. The two general election constitutional questions have received no attention, but both are significant. The "sheriff amendment" issue arises from one county wherein the county chief law enforcement officer represents joint city and county agreement. The addition to the constitution for the ability of the Attorney General to initiate removal of an elected county sheriff is new authority. The "executive agency" constitutional amendment is an expression of legislative reaction to a variety of state agency action perceived to be regulatory decisions that should be managed legislatively. Some of the energy is focused on public health regulatory

decisions arising during the pandemic; for example, the state’s vaccination list is a regulatory decision.

Dark Store Theory Ruling

- The Kansas Supreme Court on July 1st issued its ruling in the “dark store” case concerning the appraisal of Walmart stores in Johnson County. The Court overturned a 2021 Court of Appeals decision that stated the County had overvalued the stores by millions. The Court has remanded the case back to BOTA.
- The “dark store” issues lingered as a battle, focused in Johnson County, between commercial real estate property owners and the methods of county appraisers to value commercial property. Commercial property owning supporters of “dark store” had focused on litigation to reduce property valuation resulting in this decision they have lost. We expect them to shift their focus to the legislature and change current law to reflect their “dark store” perspective.
- More on the decision here: <https://kansasreflector.com/2022/07/01/kansas-supreme-court-reverses-property-tax-decisions-favorable-to-walmart-sams-club/>
- The Court’s opinion in full can be found here: https://www.kscourts.org/KSCourts/media/KsCourts/Opinions/122162_1.pdf?ext=.pdf

Interim Healthcare Related Activities & Topics

APRN Legislation HB 2279

- The Board of Healing Arts (BOHA) at its June board meeting reviewed the recent passage of HB 2279 which allows APRNs to prescribe, procure, and administer medication without a collaborative practice agreement with a physician. The Board voted to seek an Attorney General opinion on the legislation which will be forthcoming.
- Since then, the law has gone through the first step of many in the regulatory process. The Kansas State Board of Nursing (KSBN) submitted seven proposed regulations to the State Rules and Regulations Board; the Rules and Regs Board reviewed and ultimately approved only three of the seven proposed regulations.
- KMS argued the four regulations that were not approved were outside the scope of the bill, and would have authorized APRNs to practice independently, which the bill does not authorize.
- Now, the remaining four proposed regulations from the KSBN have been subject to review and discussion by the Joint Committee on Administrative Rules and Regulations (JCARR), a legislative committee on Monday, July 18th. The JCARR does not approve or disprove the proposed regulation but opposition from the JCARR is a strong indicator of legislative displeasure and possible intervention if the regulatory body ignores their advice.
- Following the committee discussion, it seems evident that the four regulations are still creating controversy and confusion. The JCARR was not supportive of the four regulations that include language allowing APRNs to “create a medical plan of care” without a collaborative agreement. The Medical Society argues that is practicing medicine, and the nursing scope of practice does not allow it. The JCARR was supportive of removal of the collaborative practice agreement for prescribing, but not for the undefined and vague “create a medical plan of care.” The issue remains unresolved.

- The Board of Nursing has opened the 30-day comment period on the proposed regulations will have a public hearing on September 6.
- The Kansas Medical Society testimony is attached and the JCARR hearing is available at this link at the 2:04 mark: <https://www.youtube.com/watch?v=2fJscJa74jM> The Board of Nursing regulations and information about the hearing is available at their website: <https://ksbn.kansas.gov>

Medical Professionals Respond to *Roe*

- In the weeks since the U.S. Supreme Court overturned *Roe v. Wade*, medical professionals across the U.S., including Kansas and Missouri, are weighing in with how this will impact how they care for patients.
- This article from the Kansas Reflector provides some physician perspectives for how Missouri’s new law may impact their ability to practice medicine: <https://kansasreflector.com/2022/07/05/missouri-doctors-fear-vague-emergency-exception-to-abortion-ban-puts-patients-at-risk/>

Legislative Oversight of Regulations Ballot Measure

- The measure on the November ballot that would allow for legislative veto or suspension of state agency rules and regulations will have potentially sweeping impacts on public health (i.e., vaccinations) and other policy decisions state agencies and regulatory bodies make.
- If passed, the amendment essentially gives the Legislature authority over the Executive branch to overturn any rules or regulations the Legislature perceives as overreaching or unconstitutional. The measure narrowly passed both chambers earlier this Session after lengthy debate and a couple of failed attempts to garner enough votes.
- This Kansas Reflector article from February provides more background on what the measure will mean for Kansas should it pass: <https://kansasreflector.com/2022/02/16/house-republicans-push-for-kansas-voters-to-limit-executive-branch-authority-agency-regulations/>

Kansas Fights Addiction Act

- The Kansas Fights Addiction Act Grant Review Board held its first meeting on July 14th. The Board’s responsibility is to oversee funding coming to Kansas from the various opioid settlements. Funding is to be used to mitigate substance abuse and addiction.
- Thus far, Kansas is set to receive \$200 million from six different opioid cases. More cases are expected in the future.
- The Board will review a variety of abatement strategies to address the state’s SUD/opioid crisis, such as the following:
 - Expanding access to treatment through inpatient care, MAT, and outpatient support groups and rehabilitation programs, etc.,
 - Harm reduction strategies such as warm transfer programs, overdose intervention training for First Responders, NARCAN, Neonatal Abstinence prevention, etc.
 - Diverting SUD patients away from addiction through job training and education programs, etc.
- The Review Board is beginning slowly, and we will keep you updated on what’s coming next.

988 Goes Live

- The National Suicide Prevention Lifeline (NSPL), or “988” as it is colloquially known, went live officially on July 16th. During the 2022 Session the Legislature approved \$10 million in funding to support implementation of the Lifeline. The 2023 Legislature will likely re-examine the issue and debate potential ongoing sources of funding to support services associated with the Lifeline, such as mobile crisis response.
- <https://www.kmuw.org/2022-07-13/the-new-988-suicide-prevention-hotline-will-connect-kansans-to-help-near-them>

Upcoming Activities

We'll be providing updates monthly and as issues arise during the summer and fall. During the summer and fall, interim committee meetings can be viewed live or recorded on both the Legislature's website <http://www.kslegislature.org/li/> and the YouTube <https://www.youtube.com/c/KSLegislatureLIVE>

Additionally, interim committees, membership, agendas, and testimony can be found on the Legislature's website, although meeting documents are not always timely. http://www.kslegislature.org/li/b2021_22/committees/non_standing/#Joint