

2020 KANSAS LEGISLATIVE RECAP

Session cut short as COVID-19 cases climbed

Session Overview

The 2020 legislative session, which began on January 13, was anything but typical. Even before the session began, a compromise bill to expand Medicaid was introduced, and for a brief period it appeared that expansion might be approved. In all, more than 100 health-related bills were introduced, but few progressed beyond the committee of origin before legislators left the Capitol in response to the COVID-19 pandemic. Ultimately, just a handful of health-related bills became law, and Medicaid expansion was not among them.

Impact of COVID-19

With the number of confirmed COVID-19 cases rising, legislators voted to leave for First Adjournment on March 19, two weeks before the scheduled date of April 3, and didn't return to Topeka until May 21 for *sine die*. The 24-hour *sine die* session ended on May 22 with early morning passage of Senate Substitute for House Bill (HB) 2054, a 40-page bill covering a wide variety of COVID-19 related topics, including appropriations, the governor's powers under the Kansas Emergency Management Act, the powers of local health officials, and liability protection for healthcare providers and private businesses trying to operate during the pandemic. After Gov. Kelly vetoed the bill and called for a Special Session, legislators returned on June 3 for two days, ending with passage of only one bill – Special Session HB 2016, a compromise version of HB 2054. KHI's *Health at the Capitol* series features a detailed summary of *sine die* and the Special Session at <https://bit.ly/3f8CSKb>.

Medicaid Expansion

On January 9, 2020, Gov. Kelly and Senate Majority Leader Jim Denning announced that they had reached an agreement on a Medicaid



expansion compromise bill, Senate Bill (SB) 252, which would have capped premiums at \$25 per individual or \$100 per household, excluded any lockout provisions, established a premium assistance program, implemented a hospital surcharge to cover the cost of expansion, funded a reinsurance program, and established the “rural primary health center pilot initiative.” The bill was pre-filed that day with 22 bipartisan sponsors in the Senate.

On January 23, the Senate Public Health and Welfare Committee (PH&W), chaired by Sen. Gene Suellentrop, held the first of five days of hearings on SB 252, beginning with proponent testimony that continued through January 24. The hearing resumed on January 28 with neutral testimony, including a presentation from Kari Bruffett, Kansas Health Institute (KHI) Vice President for Policy, who presented KHI's estimate for Medicaid expansion enrollment and cost, and explained how KHI's estimate differed from other estimates. The hearing continued with opponent testimony through January 30. Additional details about KHI's enrollment estimate are available at <https://bit.ly/2P22opM>.

After the House failed on January 29 to approve passage of Senate Concurrent Resolution (SCR) 1613, a resolution to amend the Kansas Constitution to state there was no specified right to an abortion anywhere in the State Constitution and place sole regulatory authority of abortion procedures in the hands of the Legislature, conservative members of both

the House and Senate began to withhold support for Medicaid expansion unless the resolution was passed.

On February 20, the Senate PH&W Committee approved five amendments to SB 252 to: (1) prohibit the use of Medicaid funds for abortions; (2) establish a 20 hour per month “participation requirement” for able-bodied adults; (3) protect conscience and religious exemptions for providers; (4) make the enactment of Medicaid expansion contingent upon passage of the constitutional amendment and the outcome of the *Texas v. United States* lawsuit; and (5) state that the previous amendments were non-severable. Sen. Suellentrop then suspended further work on the bill, and there was no final action taken.

On February 25, Rep. Jim Ward made a motion on the House floor to amend House Bill 2480, related to the definition of long-term care insurance, to insert the contents of SB 252. The Rules Chair ruled the amendment not germane, and the motion failed.

On Wednesday, March 4, the House Appropriations Committee removed the funding for Medicaid expansion from the Kansas Department of Health and Environment (KDHE) budget and determined to instead consider that funding at omnibus. However, after legislators announced a plan to leave for First Adjournment two weeks early, further consideration of Medicaid expansion ceased.

When legislators finally returned to Topeka for the sine die session on May 21, Senate Democrats attempted to pass Medicaid expansion by amending it into HB 2585, dealing with electric utilities. However, the amendment was found to be not germane to the underlying bill, and an effort to overturn the Rules Committee’s decision failed on a vote of 26-14.

When legislators returned for the 2020 Special Session on June 3, Rep. Ward made one final attempt in the House to pass Medicaid expansion by introducing an amendment to insert the contents of SB 252 into Special Session HB 2016. Once again, the amendment was challenged and found not germane, and an effort to overturn the Rules Committee’s decision failed, officially ending any last hopes of expanding Medicaid before the 2021 session.

KanCare

While most KanCare discussion was centered on Medicaid expansion, KDHE staff and stakeholder organizations made several presentations to legislators on other KanCare issues during the 2020 session, including past and impending changes to how KanCare applications are processed, shortages in the direct care workforce and behavioral health issues.

HB 2550, as originally introduced, would have increased reimbursement rates for providers of home and community-based services under the Intellectual/Developmental Disability (I/DD) waiver. The House Social Services Budget Committee held a hearing on the bill on February 12, and later amended it to require that the Robert G. (Bob) Bethell Joint Committee on Home and Community Based Services and KanCare Oversight review the number of individuals on the waiting list for the I/DD waiver and to require any findings and recommendations be included in

written reports to the 2021 and 2022 Legislature. The committee subsequently recommended the bill be passed on February 24, but it was stricken from the House Calendar on February 27. Although HB 2550 was not passed, SB 66, the final budget bill, included \$22.1 million, including \$9 million SGF, to provide a 5 percent increase in the provider reimbursement rates for the I/DD waiver. However, the \$9 million SGF was eliminated in Gov. Kelly’s Expenditure Allotments for FY 2021.

The committee also recommended that HB 2549, which would have permanently placed in statute the increase made last year to raise the protected income level (PIL) for any person receiving home and community-based services (HCBS) under KanCare from \$727 per month to \$1,177 per month (150 percent of supplemental security income [SSI]), be passed out favorably, but it too was stricken from the House Calendar on February 27. However, SB 66 also included a provision maintaining the increased PIL at \$1,177 per month for HCBS waiver services recipients and individuals in PACE for FY 2021.

The final budget bill also included:

- A proviso requiring KDHE to facilitate a detailed review of the costs and reimbursement rates for behavioral health services in Kansas by January 2021;

An amendment to insert the contents of SB 252 into Special Session HB 2016 was found not germane, officially ending any last hopes of expanding Medicaid before the 2021 session.

- A proviso requiring KDHE to use funds to suspend, and not terminate, Medicaid coverage for inmates; and
- A proviso modifying the traumatic brain injury HCBS waiver, including lowering the waiver's entry age to birth, restoring the unduplicated waiver slot count to 723, adding acquired brain injuries to the waiver and setting financial eligibility requirements for those under 18 to match the Serious Emotional Disturbance (SED) waiver.

Executive Reorganization Orders — Restructured Agencies

On January 30, Gov. Kelly submitted three Executive Reorganization Orders (EROs) to the Legislature. ERO 44 would have renamed the Department of Children and Families as the Department of Human Services (DHS) and transferred the functions of the Kansas Department for Aging and Disability Services (KDADS) and the Kansas Department of Corrections (KDOC) functions regarding juvenile services programs, juvenile facilities and institutions, excluding the Larned juvenile correctional facility, to the new DHS. ERO 45 moved the state employee health plan and workers compensation program from the Kansas Department of Health and Environment (KDHE) to the Kansas Department of Administration (KDA) and ERO 46 would have moved the Energy Office out of the Kansas Corporation Commission (KCC) and into a separate, independent entity.

On March 18, the House disapproved ERO 44 on a vote of 82-35 and also disapproved ERO 46 on a vote of 74-44. The House took no action on ERO 45 and it took effect on July 1, 2020.

Behavioral Health

In February, the House Insurance Committee considered HB 2459, which would have limited utilization review conducted by insurers under certain circumstances involving the treatment of mental illness and substance abuse, especially for individuals who are actively suicidal. Although the bill died in committee on February 20, a subcommittee convened to study the bill recommended a task force of legislators and various stakeholders be assembled to study the topic of mental health parity.

SB 407, which received a hearing in the Senate PH&W Committee on March 11, would have directed the Kansas Department for Aging and Disability Services (KDADS), using existing resources,

to operate 12 acute inpatient psychiatric care beds for children in Hays and Garden City or surrounding communities. The bill died in committee.

Although no bills related to the state hospitals were passed this session, SB 66, the final budget bill, includes \$5.3 million, all from the State Institutions Building Fund, to remodel the Biddle Building at Osawatomie State Hospital in preparation for ending the moratorium on voluntary admissions and certifying additional beds for federal reimbursements.

On June 18, 2020, the Legislative Coordinating Council approved the creation of the Kansas Mental Health Modernization and Reform Interim Committee. The committee, which will be chaired by Rep. Brenda Landwehr, is charged with analyzing the state's behavioral health system "to ensure that both inpatient and outpatient services are accessible in communities, review the capacity of current behavioral health workforce, study the availability and capacity of crisis centers and substance abuse facilities, assess the impact of recent changes to state policies on the treatment of individuals with behavioral needs," and make recommendations focusing on how Kansas should modernize its behavioral health delivery system.

Medical Marijuana

Although the Special Committee on Federal and State Affairs that met in October 2019 had recommended that the standing Judiciary Committees consider legislation related to medical marijuana during the 2020 Session, no bills were considered by those committees.

SB 449 and HB 2709, introduced in the Senate Agriculture and Natural Resources Committee and House Agriculture Committee, respectively, would have removed marijuana products containing up to 0.3 percent THC from the list of controlled substances in Schedule 1 of the Uniform Controlled Substances Act. Neither bill passed out of committee.

Two medical marijuana-related bills were introduced in the House Committee on Federal and State Affairs in early March but neither received a hearing. HB 2740 would have created the Kansas medical marijuana regulation act, providing for the licensure and regulation of the manufacture, transportation and sale of medical cannabis. HB 2742 would have enacted the Kansas equal access act, providing for the licensure and regulation of the manufacture, transportation and sale of medical cannabis. A duplicate of HB 2742, introduced during the Special Session as HB 2017, also received no action.

Electronic Cigarettes

Two bills related to e-cigarettes were considered this session but neither passed. HB 2563, as amended by the House Federal and State Affairs Committee on February 21, was a comprehensive bill that would have amended the Kansas Cigarette and Tobacco Products Act and the Kansas Indoor Clean Air Act to increase the minimum age to purchase or possess cigarettes and tobacco products from 18 to 21 (referred to as “Tobacco 21”), added the use of an electronic cigarettes to the definition of smoking in the Clean Air Act, and prohibited cigarette vending machines and flavored vaping products, except for tobacco or menthol flavors. The bill passed out of committee on February 21 and was placed on General Orders in the House but received no further action.

HB 2450, which would have amended the Kansas Indoor Clean Air Act to add “use of an electronic cigarette” to the definition of smoking and define “electronic cigarette” as “a battery-powered device that can provide inhaled doses of nicotine by means of cartridges or other chemical delivery systems,” was amended and recommended for passage by the House Judiciary Committee on February 13 but was stricken from the House Calendar on February 27.

Licensing & Scope of Practice

During the 2019 session, two bills were introduced that would have allowed advanced practice registered nurses (APRN) to practice and prescribe without being supervised by or having a collaborative practice agreement with a physician, sometimes referred to as “full practice authority.” Although one of these bills — HB 2412 — was still alive in the House Health and Human Services (HHS) Committee at the start of the 2020 session, it did not receive a hearing or vote. However, the committee held a roundtable discussion on February 19 to discuss full practice authority for APRNs and heard testimony from APRNs, physicians and physician assistants (PA) but ultimately took no action on the legislation.

As a part of her response to the COVID-19 pandemic, Gov. Kelly issued multiple executive orders (EOs) that impacted licensure and scope of practice for health care providers. EO 20-08, issued on March 22, created a temporary emergency license for any professions regulated by the Kansas State Board of Healing Arts (e.g., physicians, PAs), which allowed individuals to qualify for emergency licensure if they held an active or exempt license in Kansas within

the last two years, had an active license in another state or an active federal license, met licensure requirements but were unable to pay licensure fees due to COVID-19, or met all requirements for licensure except for completing a necessary examination that was canceled due to COVID-19. EO 20-08 also permitted the board to temporarily waive some regulations, and under that authority it waived select regulations for PAs, including the physician supervision requirement. The ability of the board to administer an emergency license was subsequently extended beyond the expiration of EO 20-08 and is now in effect through January 26, 2021, as a part of Special Session HB 2016.

On April 22, Gov. Kelly issued EO 20-26, which temporarily waived certain restrictions and requirements governing medical services. Under this EO, supervision requirements for licensed health care providers — including PAs, APRNs, registered nurses (RN), licensed practical nurses (LPN) and pharmacists — were temporarily waived, allowing most to provide care appropriate to their education, training and experience without supervision or direction by, or written agreements with, a physician or nurse. In effect, EO 20-26 temporarily provided APRNs full practice authority, as proposed in HB 2412. EO 20-26 also allowed RNs and LPNs with inactive, exempt or licenses that had lapsed within the past five years to provide services, as well as allowing any health care professionals licensed and in good standing in any state to practice in Kansas. Additional provisions in EO 20-26 protected providers from liability due to allowances made by the order. Special Session HB 2016 extended the provisions outlined in EO 20-26 through January 26, 2021.

Child Welfare

On the first day of the session, the Crossover Youth Working Group — convened by the 2019 Legislature — submitted their report of key findings related to the impact of SB 367 on crossover youth, defined as youth who interact at varying degrees with both the child welfare and juvenile justice systems. SB 367, enacted in 2016, revised Kansas juvenile justice law with a goal of reducing the number of youths placed in “out-of-home” confinement over a five-year period and creating community-based alternatives to detention centers. During numerous meetings beginning in June 2019 that were facilitated by staff of the Kansas Health Institute (KHI), the Working Group identified key findings that were presented by the Department for Children and Families (DCF) and KHI staff, on

behalf of the Working Group, to the House Children and Seniors Committee. The Joint Committee on Corrections and Juvenile Justice Oversight, along with Kansas Legislative Research Department staff, also presented their recommendations to the House Corrections and Juvenile Justice Committee.

While bills that were introduced in the House Corrections and Juvenile Justice Committee received hearings, they died in committee. SB 384, which would have required the Kansas State Department of Education (KSDE) and DCF to prepare an annual academic report card on educational outcome data regarding foster care students, was amended and passed out favorably by both the House and Senate Education Committees, but was stricken from the House calendar on May 1. The bill was introduced again on June 3 as a part of Special Session SB 5 and was passed out favorably by the Senate Education Committee on June 4 but died on General Orders. Although neither bill passed, Gov. Kelly issued EO 20-53 on July 7, 2020, directing DCF, in collaboration with KSDE, to produce an “Annual Academic Report Card” for children in DCF custody that includes the educational outcome data included in the bills.

On June 18, 2020, the Legislative Coordinating Council approved the creation of the Special Committee for Foster Care Oversight Interim Committee. The committee, which will be chaired by Rep. Susan Concannon, will seek input from “families, social workers, and other stakeholders on progress and shortfalls in the State’s child welfare system” and make recommendations to the Legislature on additional improvements and oversight needed to improve the system.

Health Insurance Regulation

The House Insurance Committee, chaired by Rep. Jene Vickrey, considered a handful of health insurance-related bills during the session, but none passed out of committee. HB 2053, which would have amended existing law to extend the permissible term of short-term, limited duration insurance (STLDI) to a policy period of less than 12 months, allow renewal or extension of the policies for periods up to a maximum of 36 months in duration, and require insurance companies issuing the policies to disclose specified information in their contracts and application materials

notifying consumers that the coverage is not required to comply with the federal requirements for health insurance contained in the Affordable Care Act (ACA), received a hearing on January 21. While Kansas law currently allows this type of policy to be for a term of six months with only one renewal, the provisions of the bill were intended to conform Kansas law to federal regulations finalized by the Trump administration in 2018. The committee amended the consumer notice provisions of the bill on February 19 and recommended the bill be passed on February 21 but it was stricken from the House Calendar on February 27.

HB 2557, which would have required all large group and individual health insurance policies, along with

other types of medical plans and contracts defined in the bill, issued or renewed on or after January 1, 2021, that covered prescription insulin to cap total cost-sharing for a 30-day supply of insulin to no more than \$100, received a hearing on February 12, but no further action was taken on the bill.

On February 17, the committee held a hearing on HB 2598, a

20-page bill that would have amended 13 Kansas statutes related to the regulation and licensure of pharmacy benefit managers (PBMs), to hear from proponents of the bill and then continued the hearing on February 19 to hear from opponents. On February 25, the committee worked the bill and a balloon amendment offered by Rep. Vickrey became Substitute for HB 2598. The substitute bill, which would have established new licensure, administration and enforcement, reporting, and business practice requirements for PBMs, was approved and passed favorably out of committee but was ultimately stricken from the House Calendar on February 27.

Food Taxes

The sales tax rate on food in Kansas is currently the second highest in the country at 6.5 percent.

After several meetings of the Governor’s Council on Tax Reform, which began in September 2019, the Council submitted several proposals to the governor for inclusion in the 2020 budget, including restoration of the refundable individual tax deduction for sales tax on food, which had been in place prior to 2012. The governor’s budget released on January 16, included \$53.2 million for the proposed food

HB 2557, which would cap cost-sharing for a 30-day supply of insulin to no more than \$100, received a hearing on February 12, but no further action was taken.

2020-2021 BUDGET

Senate Bill 66, signed by Gov. Kelly on March 25, provided funding for fiscal year (FY) 2020 and FY 2021.

The FY 2020 revised budget, totaling \$18.7 billion, including \$7.8 billion from the State General Fund (SGF), included:

- \$50 million, all SGF, to the Legislative Coordinating Council for the COVID-19 response.
- \$15 million, all SGF, to the Kansas Division of Emergency Management for COVID-19 response.
- \$6.1 million, all SGF, to the Department of Corrections to provide substance abuse treatment and nursing care.
- \$3.6 million, including \$1.3 million SGF, to DCF for adoption assistance subsidy expansion.
- A proviso to allow the Secretary of DCF to request a waiver from the U.S. Department of Agriculture in FY 2020 for time-limited assistance provisions under food assistance provisions for able-bodied adults age 18 through 49 without dependents in the household if the Secretary can establish insufficient jobs in an area using standards not less restrictive than standards in federal regulations in effect on January 1, 2020. (The language for this proviso was originally included in SB 484, which was considered and amended by the Ways and Means Committee after receiving testimony indicating the waiver would help the aviation industry, parents who do not have primary custody and youth aging out of foster care. The committee recommended SB 484 be passed but no further action was taken.)
- A proviso adding language to amend work participation requirements for Temporary Assistance for Needy Families cash assistance program to include in-home parenting skills training for a single parent with a child between three months and one year of age in FY 2020.

The FY 2021 approved budget, totaling \$19.9 billion, including \$8.0 billion SGF, included:

- \$562.5 million, including \$17.5 million SGF, to KDHE for Medicaid expansion.
- A proviso prohibiting the expansion of the Kansas Medicaid program without the express consent of the Legislature.
- A proviso transferring \$17.5 million allocated for Medicaid expansion to the Coronavirus Prevention Fund if Medicaid expansion was not passed.
- \$431 million, including \$37.2 million SGF, to KDHE for Medicaid regular caseloads, which included \$3 million, including \$1.2 million SGF, to increase Medicaid dental reimbursement rates under KanCare.
- \$2 million, all SGF, to KDHE for primary health projects for community-based primary care grants.
- \$900,000, all SGF, to KDHE to increase funds available to local health departments.
- \$7.7 million, all SGF, to the Department of Corrections to increase the number of correctional officers and expand the Lansing and Winfield facilities to provide substance abuse treatment and nursing care.

- \$1.6 million, including \$484,529 SGF, to DCF for adoption assistance subsidy expansion.
- \$4 million, including \$2 million SGF, to DCF to develop a new Comprehensive Child Welfare System.
- \$7.5 million, including \$3.8 million SGF, to increase Family First Prevention staff.
- \$6.6 million, including \$2.7 million SGF, to KDADS to provide a 1 percent increase in the reimbursement rate for Medicaid nursing facilities.
- \$22.1 million, including \$9 million SGF, to KDADS to provide a 5 percent increase in the provider reimbursement rates for the Medicaid Home and Community Based Services Intellectual/Developmental Disability waiver.
- \$6.4 million, including \$2.6 million SGF, to KDADS for Medicaid Home and Community Based Services Technology Assisted waiver, including language directing this funding to be used to increase the provider reimbursement rates for in-home Medicaid Care registered nurse/licensed nurse nursing services for this waiver.
- \$5 million, all SGF, to KDADS for regional mental health inpatient beds.
- \$4 million, all SGF, to KDADS for eight acute care psychiatric beds for youth in Hays.
- \$3 million, all SGF, to KDADS for Senior Care Act services.
- \$2 million, all SGF, to KDADS to increase grant funding for community mental health centers.
- \$5.3 million, all from the State Institutions Building Fund, to KDADS to remodel the Biddle Building at Osawatimie State Hospital in preparation for ending the moratorium on voluntary admissions and certifying additional beds for federal reimbursements.

On June 29, prompted by lower revenue estimates related to COVID-19, Gov. Kelly announced expenditure allotments to eliminate a projected \$704.4 million state general fund shortfall in FY 2021. In addition to savings from programs not directly related to health, allotments included savings from human services caseloads and the elimination or reduction of budget enhancements that had been adopted for: rate increases for nursing facilities, behavioral health providers, I/DD providers, and providers for children on the Medicaid HCBS Technology Assisted waiver; additional funds for community mental health centers, substance use disorder providers and primary care health centers; increases for Family First Prevention grants and staff and adoption assistance subsidy expansion; enhanced funding for Senior Care Act services; and expansion of the mental health intervention team pilot program in schools. The allotments also applied to a portion of the funding set aside for regional state hospital beds.

Check out Jake and KHI's Budget Explainer at <http://bit.ly/2BDQQ5z>



sales tax credit program. On March 9, the House Taxation Committee held a hearing on HB 2720, which would have provided a refundable income tax credit for certain purchases of food and discontinued the nonrefundable food sales tax credit. However, no further action was taken on the bill before the Legislature left for First Adjournment on March 19. Three new bills related to the sales tax on food were introduced in the House Taxation Committee during the Special Session but no further action was taken.

Other Health-Related Issues

SB 255, as amended, appropriated \$10 million to the Cancer Center Research account of the State General Fund for the University of Kansas Medical Center to enhance research in the areas of laboratory, clinical and population-based research and to recruit and retain cancer researchers and clinicians to conduct cancer research, education and outreach programs for Kansans. The bill, as amended, passed favorably out of the Senate Committee on Ways and Means, passed the Senate by unanimous vote on March 5 and was referred to the House Appropriations Committee, which took no action. On May 21, the contents of SB 255 were modified and inserted into the shell of HB 2246 during conference committee discussion and passed by both the House and Senate. Although the bill was signed by Gov. Kelly on June 1, 2020, the Cancer Center appropriation was reduced by \$5,068,966 in the FY 2021 Expenditure Allotments.

HB 2168, signed by Gov. Kelly on April 2, establishes a sunset date of July 1, 2030, for the Nursing Facility Quality Care Assessment and amends current law concerning the hospital provider assessment known as the Healthcare Access Improvement Program (HCAIP). The bill increases the annual hospital provider assessment rate from 1.83 percent to 3 percent and requires all disbursements related to HCAIP be paid from moneys appropriated to the Healthcare Access Improvement Fund and further provides no SGF appropriations will be used to supplement the fund.

HB 2346, as amended, would have amended state standards for free school-administered vision screenings to add new definitions, modify the frequency of the vision screenings for certain grade levels, and require the screening results be reported to the parents or guardians of any examined student. The bill also would have established an eight member Kansas Children's Vision Health and School Readiness Commission to ensure implementation of

the provisions of the bill. The bill was passed by the House but died on Senate General Orders.

Telemedicine emerged as an issue in response to the COVID-19 pandemic. In EO 20-08, Gov. Kelly loosened restrictions around the use of telemedicine services in the state, including allowing physicians to issue prescriptions or order the administration of medications (including controlled substances) for patients without conducting in-person examinations, permitting physicians under quarantine to practice telemedicine, and allowing out-of-state physicians to treat Kansas patients via telemedicine without a license to practice medicine in Kansas, so long as appropriate notification was provided to the Board of Healing Arts. Additionally, the Board was authorized to extend these new provisions to other healthcare professionals licensed and regulated by the board to address the impacts of COVID-19. Special Session HB 2016 extended the telemedicine changes enacted in EO 20-08 through January 26, 2021.

Sine Die – S. Sub. for HB 2054

On Thursday, May 21, the House and Senate convened at 8:00 a.m. for a 24-hour *sine die* veto session that finally ended with passage of S. Sub for HB 2054, a 40-page bill covering a wide variety of COVID-19 related topics, including appropriations, the governor's powers under the Kansas Emergency Management Act, and liability protection for healthcare providers and private businesses trying to operate during a pandemic. On Tuesday, May 26, after Gov. Kelly vetoed S. Sub for HB 2054, she called for a special session of the Legislature to begin on June 3.

Special Session COVID-19 Response – HB 2016

Special Session HB 2016, *Enacting the governmental response to the 2020 COVID-19 pandemic in Kansas and providing certain relief related to health, welfare, property and economic security during this public health emergency*, signed by Gov. Kelly on June 8, addresses a wide range of issues associated with the state's response to the pandemic, including:

- The expenditure of funds that have already been, and may be in the future, provided to the state by the federal government for relief of the effects of COVID-19.
- The powers of the governor and county officers and officials under the Kansas Emergency Management Act (KEMA).

- The closing of schools.
- Immunity for healthcare providers rendering services and liability protection for persons conducting business during the COVID-19 state of emergency.
- The creation of the COVID-19 contact tracing privacy act, an operational framework for contact tracing as a tool to control an infectious disease.
- Infection control inspections and the provision of personal protective equipment for adult care homes.
- Temporarily authorizing the expanded use of telemedicine and allowing certain types of healthcare providers to provide care without some existing professional licensing and practice requirements.

A special edition of KHI's *Health at the Capitol* series features a detailed summary of the health-related provisions of HB 2016 at <https://bit.ly/312zjF>.

Interim Committees

In addition to the Kansas Mental Health Modernization and Reform Interim Committee, three additional interim committees will be meeting during the summer. The Economic Recovery Study Committee, which will be chaired by Sen. Julia Lynn, is charged with reviewing state policies and making recommendations to the Legislature related to economic recovery from the impact of COVID-19; the Special Committee for Foster Care Oversight, chaired by Rep. Susan Concannon, is charged with examining the child welfare system in Kansas and making recommendations regarding improvements and oversight, and the Special Committee on Kansas Emergency Management Act (KEMA), chaired by Rep. Fred Patton, is charged with examining KEMA, Special Session HB 2016, and the oversight and emergency management approaches utilized in other states and making recommendations regarding improvements or changes. The Robert G. (Bob) Bethell Joint Committee on Home and Community Based Services and KanCare Oversight also will be holding its quarterly meeting in the fall. KHI will be monitoring these interim committee meetings and providing a summary of their actions in a special edition of our *Health at the Capitol* series.

Bill Tracking

Since 2020 was the second year of the biennial cycle, bills not passed during the session are not available for action in 2021. The following table describes some of the health-related bills monitored by KHI during the 2020 session, showing how far they moved through the legislative process.

Bill	Summary	Originating Committee	Originating Chamber Vote	Opposite Committee	Opposite Chamber Vote	Governor/ Other Action
Behavioral Health Bills						
SB 407	Requiring the Kansas department for aging and disability services to operate acute psychiatric inpatient beds for children in Hays and Garden City	Hearing, no vote				
Child Welfare Bills						
SB 384	Requiring the state department of education and the Kansas department for children and families to prepare an annual report on educational outcomes for foster care students	Passed, as amended	Passed, as amended	Passed, as amended		Related bills: S Sub for HB 2346, HB 2510
S Sub for HB 2346	Education; relating to schools; requiring a Kansas foster care children academic report card; authorizing school districts to pay tuition and fees for concurrent or dual enrollment courses; providing ACT college entrance exams and workkeys assessments to students enrolled in accredited nonpublic schools; relating to the calculation of capital improvement state aid	Passed, as amended	Passed, as amended	Passed, substitute bill		Related bills: SB 384

Bill	Summary	Originating Committee	Originating Chamber Vote	Opposite Committee	Opposite Chamber Vote	Governor/ Other Action
HB 2438	Allowing certain exceptions to the confidentiality of state child death review board documents	Passed	Passed			
HB 2510	Amending law related to the provision of free ACT exams for Kansas high school students, concurrent and dual enrollment for high school students, the authority of healing arts school clinics to provide healing arts services, creating a foster care report card, establishing the Kansas Promise Scholarship Act	Passed	Passed	Passed, as amended	Passed, as amended	Veto sustained. Related bills: SBs 277, 384, S Sub for HB 2515
SB 5*	Creating the Kansas promise scholarship act; requiring a Kansas foster care children annual academic report card; authorizing the practice of the healing arts by healing arts school clinics	Passed				

Controlled Substance & Marijuana Bills

SB 28	Would create Claire and Lola's Law; relating to the use of cannabidiol with tetrahydrocannabinol to treat certain medical conditions; affirmative defense to prosecution for possession; practice of podiatry; qualifications	Passed	Passed	Passed, as amended	Passed, as amended	Signed; Related bills: SB 61, S Sub for HB 2244
SB 449	Removing cannabis products that contain up to 0.3% THC from the list of controlled substances listed in schedule I of the uniform controlled substances act	Hearing, no vote				
HB 2570	Limiting certain Schedule II, III and IV opioid prescriptions to a seven-day supply	No hearing				
HB 2709	Removing cannabis products that contain up to 0.3% THC from the list of controlled substances listed in schedule I of the uniform controlled substances act	No hearing				
HB 2740	Creating the Kansas medical marijuana regulation act	No hearing				
HB 2742	Creating the Kansas equal access act to authorize the use of medical marijuana	No hearing				

COVID-19 Bills

S Sub for HB 2054	Enacting the governmental response to the 2020 COVID-19 pandemic in Kansas and providing certain relief related to health, welfare, property and economic security during this public health emergency	Passed, substitute bill	Passed, substitute bill	Passed	Passed	Veto sustained; Related bills: HBs 2055, 2056, 2058, 2209, Sub for SB 238, S Sub for HB 2244 (2019), S Sub for HB 2396, S Sub for HB 2619
S Sub for HB 2244	Enacting the COVID-19 response and reopening for business liability protection act; relating to limitations on liability associated with the COVID-19 public health emergency; providing immunity from civil liability for healthcare providers during the COVID-19 public health emergency	Passed, as amended	Passed, as amended			Related bill: SB 28
S Sub for HB 2396	Governmental response to the 2020 COVID-19 pandemic in Kansas and providing certain relief related to health, welfare, property and economic security during this public health emergency	Passed	Passed, as amended			Related bill: S Sub for HB 2054

Bill	Summary	Originating Committee	Originating Chamber Vote	Opposite Committee	Opposite Chamber Vote	Governor/ Other Action
HB 2016*	Enacting the governmental response to the 2020 COVID-19 pandemic in Kansas and providing certain relief related to health, welfare, property and economic security during this public health emergency	Passed	Passed	Passed	Passed	Signed

Electronic Cigarette Bills

HB 2450	Amending the Kansas clean indoor air act to include vaping of tobacco-derived products	Passed	Stricken from calendar			
HB 2563	Increasing the minimum age to purchase or possess cigarettes and tobacco products from 18 to 21; prohibiting cigarette vending machines and flavored vaping products	Passed, as amended				

Executive Reorganization Orders Bills

ERO 44	Renaming the Kansas department for children and families the Kansas department of human services; abolishing the Kansas department for aging and disability services and transferring the functions to the Kansas department of human services; transferring the functions of the department of corrections regarding the juvenile services programs and juvenile facilities and institutions, excluding the Larned juvenile correctional facility, to the Kansas department of human services.	ERO disapproved		ERO disapproved		
ERO 45	Transferring the functions of the state employee health benefits plan and the state workers compensation self-insurance fund from KDHE to the division of the state employee health benefits plan within the Dept. of Administration	ERO approved		ERO approved		
ERO 46	Establishing the Kansas energy office and transferring the powers, duties and functions of energy division of the state corporation commission to the Kansas energy office	ERO disapproved		Hearing, no vote		

Health Insurance Bills

SB 376	Instituting a \$100 maximum out-of-pocket cost-share per month per covered person for prescription insulin drugs	No hearing				
HB 2053	Providing for short-term, limited-duration health plans	Passed, as amended				
HB 2246	Updating the definition of long-term care insurance utilized by the insurance department in the long-term care insurance act; creating the cancer research and public information trust fund for the university of Kansas medical center; authorizing transfers to such fund; changing the rate of the hospital provider assessment subject to approval by the healthcare access improvement panel and imposed by the Kansas department of health and environment	Passed	Passed	Passed, as amended	Passed, as amended	Signed; Related bills: SB 255, HB 2480
HB 2459	Limiting utilization review conducted by health plans under certain circumstances involving the treatment of mental illness or substance abuse disorder	Hearing, no vote				

Bill	Summary	Originating Committee	Originating Chamber Vote	Opposite Committee	Opposite Chamber Vote	Governor/ Other Action
S Sub for HB 2480	Updating the definition of long-term care in the long-term care act	Passed	Passed	No hearing		Related bill: HB 2246
HB 2557	Establishing a \$100 maximum out-of-pocket cost-share per month per covered person for prescription insulin drugs	Hearing, no vote				
Sub for HB 2598	Providing for enhanced regulation of pharmacy benefits managers and requiring licensure of such entities rather than registration of such entities	Passed, substitute bill	Stricken from calendar			

KanCare Bills

SB 225	Amending the hospital provider assessment rate and uses and membership of healthcare access improvement panel	Passed, as amended	Passed, as amended			Related bill: HB 2168
SB 348	Increasing reimbursement rates for providers of home and community-based services under the intellectual or developmentally disabled waiver	Hearing, no vote				
SB 409	Making permanent the quality care assessment imposed on skilled nursing care facilities	Passed, as amended	Passed, as amended			Related bill: HB 2168
HB 2168	Health provider assessments; relating to the hospital provider assessment and the quality care assessment; increasing the rate and expanding the base of the hospital provider assessment; amending membership on the healthcare access improvement panel; extending the quality care assessment	Passed, as amended	Passed, as amended	Passed, as amended	Passed, as amended	Signed; Related bills: SBs 225, 409, HBs 2158, 2159 (2019)
HB 2549	Setting the protected income level for persons receiving home and community-based services at 150 percent of SSI	Passed	Stricken from calendar			
HB 2550	Increasing reimbursement rates for providers of home and community-based services under the intellectual or developmentally disabled waiver	Passed, as amended	Stricken from calendar			

Medicaid Expansion Bills

SB 252	Expanding medical assistance eligibility and implementing a health insurance plan reinsurance program	Hearing, no vote				
HB 2006*	Expanding medical assistance eligibility and implementing a health insurance plan reinsurance program	No hearing				

Sales Tax Bills

SB 398	Providing a refundable food sales tax credit and discontinuing the nonrefundable food sales tax credit	No hearing				
HB 2720	Providing a refundable income tax credit for certain purchases of food and discontinuing the nonrefundable food sales tax credit	Hearing, no vote				
HB 2012	Exempting sales of food and food ingredients from the sales and compensating use tax	No hearing				
HB 2013	Decreasing the sales and use tax rate on food and food ingredients	No hearing				

Other Bills

SB 61	Amending podiatrist qualifications and scope of practice	Passed, as amended	Passed, as amended	Passed	Stricken from calendar	Related bill: SB 28
SB 66	Making and concerning appropriations for fiscal years ending June 30, 2020, June 30, 2021, and June 30, 2022, for state agencies	Passed	Passed	Passed, as amended	Passed, as amended	Signed

Bill	Summary	Originating Committee	Originating Chamber Vote	Opposite Committee	Opposite Chamber Vote	Governor/ Other Action
SB 255	Appropriations to the University of Kansas Medical Center; creating the Cancer Research and Public Information Trust Fund	Passed, as amended	Passed, as amended			Related bill: HB 2246
SB 277	Clarifying the authority of healing arts school clinics to provide healing arts services	Passed	Passed	Passed		Related bills: S Sub for HB 2515, HB 2510
SB 364	Expanding newborn screening services and increasing transfers from the medical assistance fee fund to the Kansas newborn screening fund	Hearing, no vote				
SB 381	Authorizing medical student and residency loan assistance to encourage the practice of obstetrics and gynecology in medically underserved areas of the state	Passed, as amended	Passed, as amended			
SB 484	Authorizing the secretary for children and families to request a waiver from certain limitations under the food assistance program	Passed				Related bill: SB 66
SCR 1613	Amending the bill of rights of the constitution to reserve to the people the right to regulate abortion through their elected representatives and senators	Passed, as amended	Passed, as amended	Passed, as amended	Not adopted by required 2/3 majority	Related bill: HCR 5019
HB 2488	Authorizing schools to maintain supplies of certain emergency medications and to administer such medication in emergency situations	Passed	Stricken from calendar			
S Sub for HB 2515	Concerning postsecondary education; creating the Kansas reinvest in postsecondary education act; regulating private and out-of-state postsecondary educational institutions; clarifying the authority of healing arts schools exempted from the private and out-of-state postsecondary educational institutions act to practice healing arts	Passed, as amended	Passed, as amended	Passed, as amended	Passed, substitute bill	
HB 2522	Establishing the rural hospital innovation grant program	Passed, as amended				
HB 2618	Establishing a state broadband grant program under the department of commerce to encourage the deployment of broadband in the state	Passed, as amended	Passed	Passed, as amended		
HB 2677	Establishing a primary health center and enacting the primary health center pilot program act contingent upon state acceptance into a demonstration program under the Centers for Medicare and Medicaid Innovation	Passed	Withdrawn from calendar			
HB 2714	Increasing state financial assistance to local health departments under specified circumstances	No hearing				
HCR 5019	Amending the bill of rights of the constitution to reserve to the people the right to regulate abortion through their elected representatives and senators	Resolution adopted				Related bill: SCR 1613

Note: This table tracks bill numbers throughout the legislative process. However, the content of the bill – in all or in part – may have been combined with another bill. We have tried to note where this has occurred, but we may not have captured all instances. *Special Session bills.

Source: KHI analysis of legislation, Kansas Legislature, 2020.

ABOUT THE ISSUE BRIEF

This brief is based on work done by Linda J. Sheppard, J.D., Peter F. H. Barstad, Hina B. Shah, M.P.H., and Sydney McClendon. It is available online at khi.org/policy/article/20-44.

KANSAS HEALTH INSTITUTE

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