



2015 KANSAS LEGISLATIVE SESSION

Review of key health policy themes

Political Landscape

Following the November 2014 elections, Republicans held supermajorities in both the Senate and House. Conservative Republican Governor Sam Brownback was re-elected, promising to continue his signature income tax plan and maintain his focus on economic growth, K-12 education funding, and reforming the public employees' retirement system.

Overview

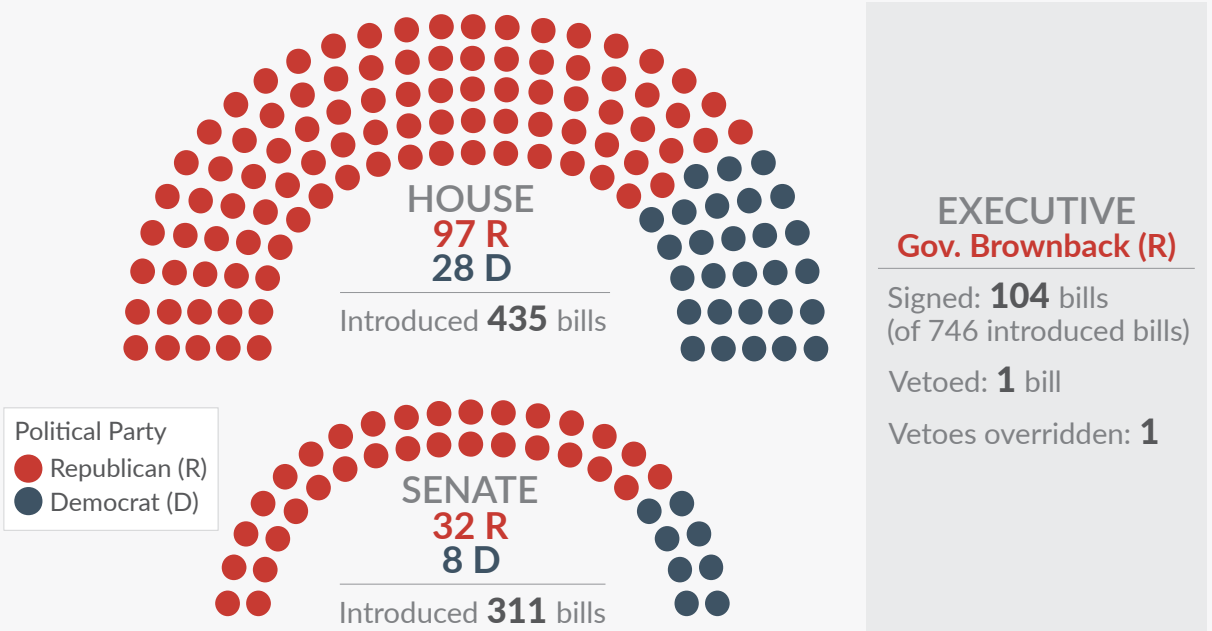
Much of the media attention during the 2015 session focused on fiscal issues following the implications of the 2012 tax cuts signed into law by Governor Brownback, which represented the largest tax cut in Kansas history. Shortfalls in tax revenue through fiscal year (FY) 2015 required Governor Brownback to implement cuts in the approved budget before the Legislature returned in January 2015. The 2015 Legislature adopted a budget early in the session that accepted current-year reductions

and replaced the K-12 education funding formula with fixed, inflation-adjusted amounts for each school district, or block grants. The final weeks of the session saw legislators gridlocked over tax policy in order to fill the remaining \$400 million gap between 2016 revenue estimates and the \$6.2 billion budget.

The session ended after a record 113 days, with the Legislature passing a bill that largely closed the budget gap by raising state sales tax from 6.15 to 6.5 percent, raising cigarette taxes by 50 cents per pack, creating a new tax of 20 cents/mL on e-cigarette fluid, and eliminating a number of income tax deductions. The budget bill won some additional votes by eliminating income taxes for the poorest Kansans, though a proposal to lower the food sales tax did not make it into the final bill.

Health policy bills were featured prominently in legislative discussions during the 2015 session, both as stand-alone issues and tied with debates over the budget. The key themes in these bills are likely to return in future sessions.

Figure 1. Kansas Legislature Political Makeup, 2015



Source: Information compiled by KHI from kslegislature.org, 2015.

Major Themes

Medical Marijuana

As other states approve or consider legalization of marijuana for medical use, bills on this issue received committee hearings for the first time in Kansas. Bills allowing legalization of medical marijuana and legalization of hemp preparations for seizures were introduced in the Senate and House. The latter

included provisions to limit cannabis to preparations with three percent or less of tetrahydrocannabinol, or THC, widely known as the psychoactive substance in marijuana. While that bill (HB 2282) failed to pass in committee, a number of legislators have indicated that the issue will be a priority in 2016. The Kansas Health Institute (KHI) provided neutral testimony in two instances regarding the impact of medical marijuana legalization, and has conducted a health impact assessment on the topic that will be released this fall.

Figure 2. Medical Marijuana Bills, Kansas Legislative Session, 2015

	Bill	Summary	Introduced	Committee Hearing	Floor Vote	Signed by Governor
MEDICAL MARIJUANA BILLS	SB 9	Cannabis Care and Compassion Act (Senate version)	X			
	HB 2011	Cannabis Care and Compassion Act (House version)	X			
	HB 2282	Hemp treatments for seizure disorders; creation of medical hemp advisory panel	X	X		

Note: Bills signed by the Governor are described here based on their final version. All other descriptions are based on the bills as they were introduced.

Source: Information compiled by KHI from kslegislature.org, 2015.



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Approximately **50,000** Kansans could be eligible to apply for and receive a medical marijuana card based on the approved medical conditions in SB 9 and its House version.

- KHI neutral testimony on HB 2282 before the House Committee on Health and Human Services (February 17, 2015)

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Medicaid Expansion

Moderate Republicans and Democrats in the Kansas Legislature pushed for Medicaid expansion, and the topic had its first hearing in the Vision 2020 Committee. That discussion was followed by a two-day hearing in the House Health and Human Services Committee in March, held in response to a threatened floor vote on Medicaid expansion during an early budget debate. KHI provided neutral testimony during the well-attended hearings, which included over 150 pieces of written testimony in favor of expansion from major provider associations, health foundations,

consumer advocates and others. A number of opponents—including think tanks advocating for fiscal restraint—also testified. Proposals put forward would have allowed for expansion of Medicaid eligibility to all adults up to 138 percent of the federal poverty level, or an annual income of about \$33,000 for a family of four. Critics of the legislation contended that expansion would have hit the state budget hard after 2016, when states assume some of the costs for the newly eligible population after the federal match decreases. Nonetheless, Kansas will likely continue debating whether or not to join the 29 states that have already expanded Medicaid eligibility.

Figure 3. Medicaid Expansion Bills, Kansas Legislative Session, 2015

	Bill	Summary	Introduced	Committee Hearing	Floor Vote	Signed by Governor
MEDICAID EXPANSION BILLS	HB 2045	Creation of the Healthy Kansas Act to expand Medicaid	X			
	HB 2270	Creation of the KanCare II Expansion Act to expand Medicaid	X			
	HB 2319	Request for Kansas Department of Health and Environment to prepare a federal waiver to expand Medicaid, creating KanCare 2.0	X	X		

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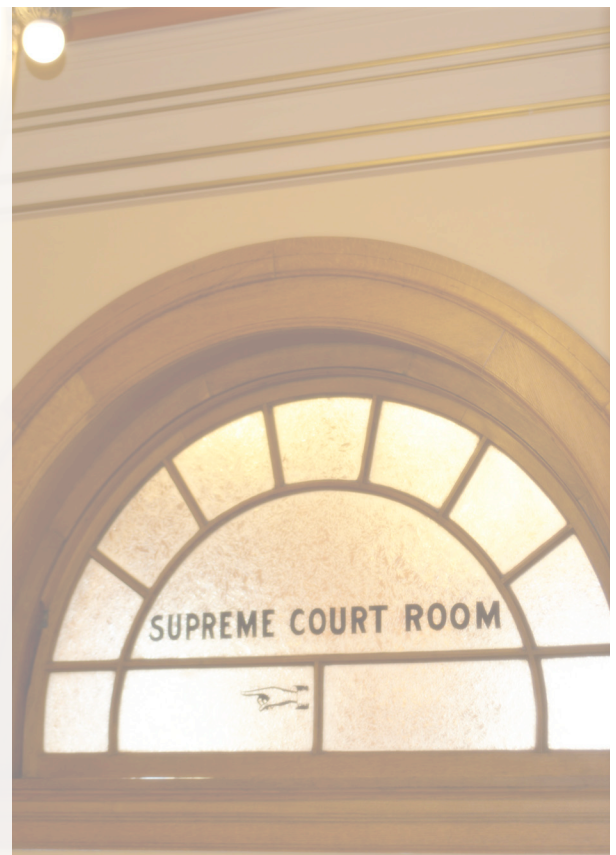
Source: Information compiled by KHI from kslegislature.org, 2015.

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All of our analysis on the issue—using data about Kansas and reviewing the results from other states—suggests that raising the eligibility level for adults to 138 percent of the federal poverty level (\$33,465 for a family of four in 2015) would cover an additional **151,000** low-income adult Kansans.

- KHI neutral testimony on Medicaid expansion before the House Committee on Health and Human Services (March 18, 2015)

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KanCare

Following the 2013 privatization of state Medicaid services through KanCare, the Kansas Legislature invested time studying the effects of the program on state spending and health outcomes. Bills were put forward in this session to change the structure of KanCare oversight and give the Kansas Department of Health and Environment (KDHE) more flexibility to control prescription drug access and cost. This included a proposal from KDHE related to the use of mental health drugs for Medicaid enrollees.

As the third year of the state contracts for KanCare managed care organizations (MCOs) ends before the 2016 session, legislators are likely to review the goals and outcomes of KanCare to continue to shape the program.

One of the bills that passed in 2015, Senate Substitute for HB 2042, changed the structure of the KanCare Oversight Committee by allowing the Senate President to appoint two members, at least one of whom must come from the Senate Committee on Ways and Means. The Speaker of the House must also appoint a member from the House Appropriations Committee.

Senate Substitute for HB 2281 was one of the last

bills passed in 2015, and makes several changes to the authority of the Insurance Commissioner, such as granting him power (under certain conditions) to terminate the privilege fees paid by health maintenance organizations (HMOs), which include the KanCare managed care organizations.

The bill increased HMO privilege fees from 1.0 to 3.31 percent of all premiums collected through 2017 and 2 percent thereafter. These funds will be deposited in the new Medical Assistance Fee Fund to reduce the amount of State General Fund needed as the state match for Medicaid. The increase in the privilege fee is expected to raise \$106.3 million and reduce state general fund expenditures by \$47.8 million in FY 2016.

Senate Substitute for HB 2149 also passed, allowing the state Medicaid program to manage the use of prescription drugs that treat mental illness in order to control costs. The bill deletes current law that prohibits the state from imposing any limits on access to these medications and creates a specific process for the Medicaid Drug Utilization Review Board and a new panel of experts to make recommendations for how these drugs are used among Medicaid members. The bill is estimated to save Kansas about \$33 million in Medicaid costs during FY 2016.

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Enrollment grew **6 percent** during KanCare's second year (2014); this is nearly **three times** the growth rate (2.1 percent) during KanCare's first year (2013).

- KHI issue brief, *Kansas Medicaid and CHIP Enrollment Continues to Grow* (September 2015)

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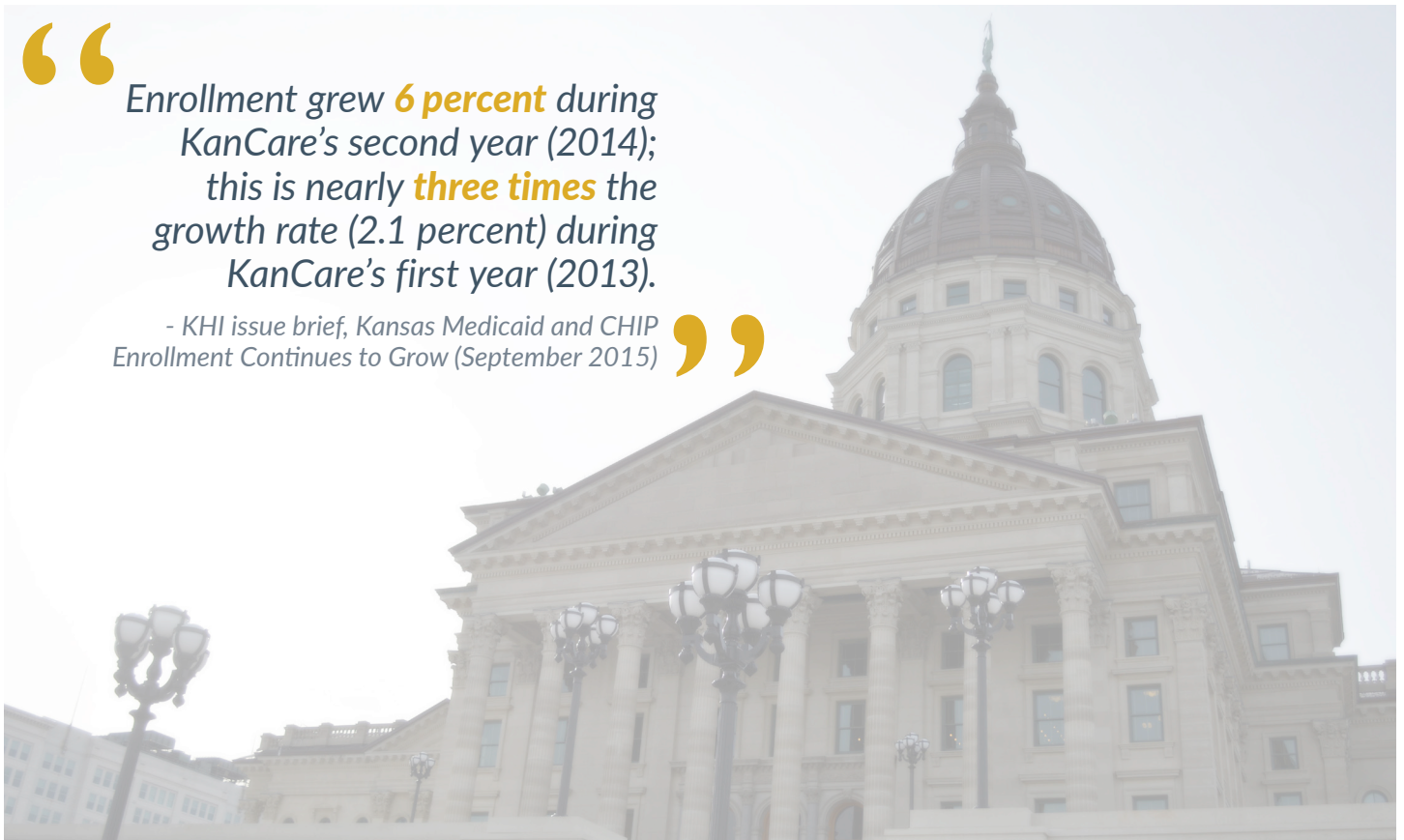


Figure 4. KanCare Bills, Kansas Legislative Session, 2015

	Bill	Summary	Introduced	Committee Hearing	Floor Vote	Signed by Governor
KANCARE BILLS	SB 121	Member composition of the KanCare Oversight Committee	X	X	X	
	SB 123	Allowing for prescription drug restrictions in Medicaid	X	X	X	
	SB 181	Allowing for holds on prescription-only drugs, review by Medicaid Drug Utilization Review Board	X	X	X	
	SB 180	Increasing HMO privilege fees to 5.5 percent of premiums	X	X	X	
	HB 2047	Patient Empowerment Act relating to the Intellectual/Developmental Disabilities (I/DD) waiver program	X			
	HB 2202	Service provider audits in Medicaid	X	X		
	HB 2149	Allowing for prescription drug restrictions and reimbursement for donor human breast milk in Medicaid	X	X	X	X
	HB 2281	Increasing HMO privilege fees; powers of the Insurance Commissioner; amendments to Temporary Assistance for Needy Families	X	X	X	X
	HB 2042	KanCare Oversight Committee and Behavioral Health Services Planning Council composition	X	X	X	X

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Source: Information compiled by KHI from kslegislature.org, 2015.

Scope of Authority and Practice

A number of bills regarding licensing and practice authority among health care professionals received hearings in the 2015 session. In particular, a few proposals would have enabled advanced practice registered nurses (APRNs) to practice on their own.

One bill (HB 2225) was passed to clarify the status of physicians that are paid through medical retainer agreements under state insurance regulations. Senate Substitute for HB 2225 clarified that these agreements, used by ‘concierge’ physicians who give direct patient care, do not qualify as health insurance

and cannot be regulated by the state’s insurance department.

The 2015 session also included a hearing on a bill that creates a new type of provider license (registered dental practitioner) which expands the types of services dental hygienists can provide after receiving advanced training. Registered dental practitioners have been championed by advocacy groups over the last five years to address the shortage of dental services in rural and frontier counties, though they are opposed by dentist groups. Advocates will continue to push for this and other forms of expanded scope of practice to increase access to care.

Figure 5. Scope of Authority and Practice Bills, Kansas Legislative Session, 2015

SCOPE OF AUTHORITY AND PRACTICE BILLS	Bill	Summary	Introduced	Committee Hearing	Floor Vote	Signed by Governor
	SB 40	Enacting the Massage Therapist Licensure Act (Senate version)	X	X		
	HB 2123	Enacting the Massage Therapist Licensure Act (House version)	X	X		
	SB 49	Creation of registered dental practitioners (Senate version)	X	X		
	HB 2079	Creation of registered dental practitioners (House version)	X	X		
	SB 69	APRNs, allowing for drug prescription without physician authorization (Senate version)	X	X		
	HB 2122	APRNs, allowing for drug prescription without physician authorization (House version)	X			
	SB 218	APRN prescribing authority, joint regulations under the Boards of Nursing and Healing Arts (Senate version)	X	X		
	HB 2205	APRN prescribing authority, joint regulations under the Boards of Nursing and Healing Arts (House version)	X			
	SB 285	Healing Arts licensee amendments, allowing Do Not Resuscitate orders to be issued by physician assistants	X	X		
	HB 2362	Healing Arts licenses issued; health care records	X	X		
	HB 2120	Nurse licensing	X	X		
	SB 141	Allowing for podiatrists to supervise physician assistants and APRNs	X	X		
	HB 2225	Clarification that medical retainer agreements do not constitute insurance	X	X	X	X

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Alcohol/Tobacco

Early in the session, Governor Brownback proposed an increase in the liquor tax to 12 percent from the current rate of 8 percent, though both the Senate and House versions of the relevant bill failed to pass in committee. One bill concerning alcohol, HB 2223, was passed to allow infusion of liquor and alcohol sampling by alcohol retailers and altered standards for citations and licensure.

In addition, several bills were introduced to allow liquor sales in grocery and convenience stores. KHI provided neutral testimony on the health effects of this bill and has conducted a health impact assessment on the topic. A later version of the proposal allowing

counties the option to vote on the measure was discussed in committee, but no action was taken. This issue will likely come up again next session.

Early in the session, Governor Brownback proposed an increase on cigarette taxes to \$2.29/pack, up from the previous rate of \$0.79/pack. Public health organizations applauded the proposal, while critics said the large jump would hit consumers' pockets and drive sales across the border, especially to Missouri—where cigarettes taxes are lowest in the nation at 17 cents/pack. The final tax bill passed in June (Senate substitute for HB 2109) raised the tax to \$1.29/pack and added a new tax rate (\$.20/mL of fluid) for e-cigarettes.

Figure 6. Alcohol/Tobacco Bills, Kansas Legislative Session, 2015

ALCOHOL/ TOBACCO BILLS	Bill	Summary	Introduced	Committee Hearing	Floor Vote	Signed by Governor
	SB 233	Increased cigarette, tobacco and alcohol tax rates (Senate version)	X	X		
	HB 2306	Increased cigarette, tobacco and alcohol tax rates (House version)	X	X		
	SB 298	Alcoholic beverages in grocery and convenience stores; enacting the county option retailers act (Senate version)	X	X		
	HB 2200	Alcoholic beverages in grocery and convenience stores	X	X		
	HB 2088	Liquor citation requirements and delivery	X	X	X	
	HB 2089	Liquor licensing restrictions for fraudulence	X	X	X	
	HB 2125	Liquor licensing qualifications, restrictions for fraudulence	X	X	X	
	HB 2191	Alcoholic beverage sampling	X	X	X	
	HB 2162	Allowance of liquor licensing for retailers within 200 feet of a college or church	X	X		
	HB 2208	Definition of powdered alcohol; banning of powdered alcohol	X	X		
	HB 2223	Liquor infusion by drinking establishments; banning powdered alcohol; liquor licensing restrictions and citations; alcoholic beverage sampling; liquor permits	X	X	X	X
SB 203	Tobacco regulation and fines; definition of cigarette and e-cigarette	X	X			

Note: Bills signed by the Governor are described here based on their final version. All other descriptions are based on the bills as they were introduced.

Source: Information compiled by KHI from kslegislature.org, 2015.

Looking Ahead

With the 2016 legislative session occurring during an election year, the state is likely to address a number of politically charged topics. In addition to continuing discussions on the issues described here, there are some new topics that are likely to come up next session.

E-Cigarettes

Electronic cigarettes (e-cigarettes) have grown in popularity since they entered the United States market just a few years ago, with recent data suggesting that use among American teens tripled between 2013 and 2014. E-cigarettes are vaporizers commonly filled with flavored nicotine; proponents suggest they aid tobacco cessation, while opponents label them as an easy way for youth to develop nicotine addictions.

In 2015, the Kansas Legislature passed a bill (Senate Substitute for HB 2109), which taxes e-cigarettes at \$0.20 /mL of fluid, effective July 1, 2016. E-cigarette retailers have spoken out against the legislation, and the policy will likely be debated in the 2016 session before the law goes into effect. KHI is conducting research on this topic to help inform the 2016 legislative discussions.

Food Sales Tax

Though this issue did not receive formal hearings during the 2015 session, legislators repeatedly debated proposals to lower the sales tax on groceries

during budget debates in the final weeks of the session, with some advocating for complete sales tax exemption on fresh fruits and vegetables.

Several versions of HB 2109, the tax policy bill approved by the governor, included provisions to lower food sales tax to 4.95 percent beginning July 1, 2016; however, the final bill did not include this provision. This creates an opportunity for legislators to lower the tax during the 2016 session, before the next election cycle.

With the increase in the sales tax approved during the last days of the 2015 session, Kansas now assesses the second highest state sales tax (6.5 percent) on food in the nation, second only to Mississippi (7.0 percent).

Affordable Care Act

As implementation of the Affordable Care Act (ACA) continues, Kansas legislators have introduced several bills in response to changing insurance markets and rates. One such bill, SB 309, was introduced late in the 2015 session to assess a 3.5 percent surcharge on ACA-compliant health insurance premiums to offset the cost to state agencies of implementing the ACA. With the recent U.S. Supreme Court ruling in *King v. Burwell*, upholding federal marketplace subsidies, the 2016 session will likely bring additional ACA-related bills as legislators continue to see how the law affects Kansans.

ABOUT THE ISSUE BRIEF


This brief is based on work done by Andrea Hinton, Scott C. Brunner, M.A., and Robert F. St. Peter, M.D. It is available online at khi.org/policy/article/2015-legislative-session.

KANSAS HEALTH INSTITUTE

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