



2023 KANSAS LEGISLATIVE PREVIEW

Introduction

The 2023 Kansas legislative session began on Monday, January 9. Because 2023 is the first year in the legislative biennium, or two-year cycle, none of the more than 50 unfinished health-related bills from last session remain on the calendar.

In addition to the re-election of Gov. Laura Kelly, the 2022 general election included races for all 125 House seats.



Laura Kelly
Governor

As a result of the election, and some resignations, there will be 33 new House members in 2023 and three new senators. Republicans continue to hold majorities in both chambers

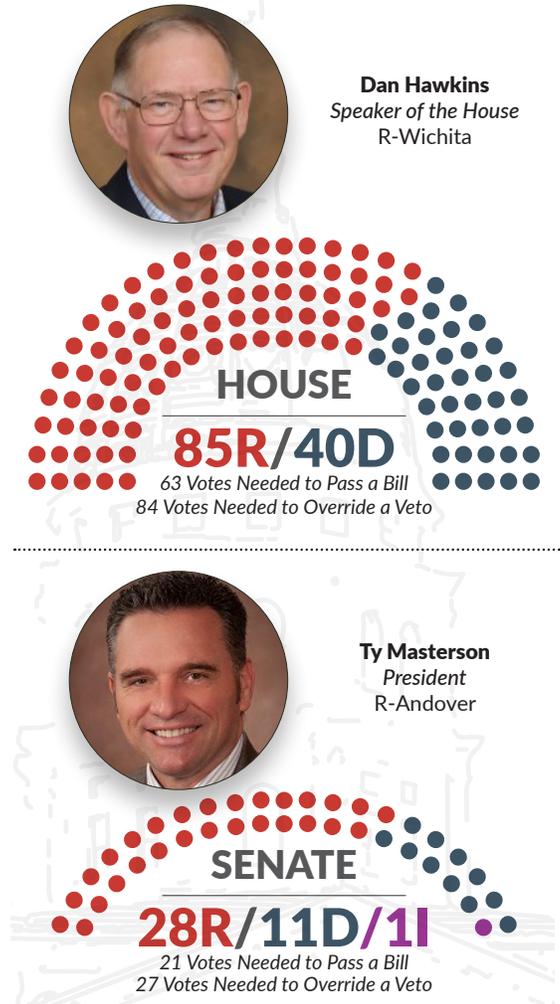
with 28 Republicans, 11 Democrats, and one independent in the Senate and 85 Republicans and 40 Democrats in the House.

Legislators and other stakeholders were busy throughout the summer and fall with 25 interim committees – including seven committees specifically focused on health-related issues – meeting during August through mid-December. Medical marijuana will likely be on the table early in the session after members of the Special Committee on Medical Marijuana met for four days during October through

KEY POINTS

- ✓ During the 2023 session, legislators will likely review several issues related to KanCare, including Medicaid expansion and the work of the 2022 Special Committee on Intellectual and Developmental Disability Waiver Modernization.
- ✓ The recommendations of the 2022 Special Committee on Mental Health Beds that met five times between August and December include development of up to 50 state institution beds to be located in the Sedgwick County area.
- ✓ It is likely that a medical marijuana bill will be introduced at the beginning of the 2023 session that will include recommendations from the 2022 Special Committee on Medical Marijuana that met four times during October and December.
- ✓ In 2023, legislators may consider “Tobacco 21” legislation to codify federal law raising the minimum age for the sale of tobacco products from 18 to 21 years. Recent research continues to show high rates of use of e-cigarettes among middle and high school students during 2022.

Figure 1. 2023 Kansas Legislative Makeup



December. The 2023 Legislature also may consider issues or recommendations from other interim committees.

Special Committee members were told that as of July 1, 2022, there were 4,758 individuals on the waitlist for the I/DD waiver and typical wait time can exceed 10 years.

Legislators also may choose to weigh in on any new requests for proposal for the administration and provision of the benefits provided under KanCare and any new contracts with managed care organizations. Under House Bill (HB) 2387, passed at the end of the 2022 session over the governor's veto, that process can begin on or after January 31, 2023, when the provisions of the bill expire.

Behavioral Health

During the 2022 session, legislators discussed the need for additional mental health beds in the state and included a proviso in 2022 HB 2510 to create an interim study committee on Sedgwick County regional mental health bed expansion that would provide recommendations to the 2023 Legislature for consideration. The Special Committee on Mental Health Beds, charged with reviewing the need for inpatient psychiatric beds, developing a long-term plan to address mental health needs, reviewing the regional bed expansion plan, including how many beds would be constructed, reviewing best practices for operation and oversight of the expanded beds, and reviewing the long-term fiscal impact of additional beds, met five times between August and December. Conferees included representatives from state agencies, mental health advocacy organizations, the Kansas Hospital Association, Kansas Association of Counties, law enforcement officials, Sedgwick County, Larned and Osawatomie state hospitals, Kansas colleges and universities, and mental health providers. During the November 28 meeting of the Special Committee, the members outlined their recommendations for the Legislature, which included:

- Development of up to 50 state institutional beds to be located in the Sedgwick County area in a location with room for expansion;
- Initiation of this development within calendar year 2023;
- Allocation of \$40 million in funding from SPARK funds, as requested by Sedgwick County, for the purchase and renovation of a facility to house the beds;

- Approval of \$15 million in state general funds in fiscal year (FY) 2023 to the Kansas Department for Aging and Disability Services (KDADS) to be used to begin the process for a request for proposal for the project; and
- Approval of \$5 million per year to KDADS for FY 2024 and FY 2025 for a two-year pilot program to reimburse Kansas hospitals that provide observation services for patients during the period prior to the availability of the new state institutional beds, as requested by the Kansas Hospital Association (KHA), including a requirement that KHA provide at least annual reporting to the Legislature regarding this reimbursement program.

During the Special Committee's final meeting on December 21, the members focused on the issue of the behavioral health workforce in the state and conducted a roundtable discussion on various topics including:

- Increasing the accessibility of entry-level certifications for licensed mental health technicians (LMHTs) and mental health developmental disability technicians (MHDDTs), including whether recruiting for MHDDTs would be easier if all or part of the training could be transferred toward another degree;
- Reducing barriers that prevent retired behavioral health professionals from returning to the workforce, including issuing temporary licenses for those with expired licenses or those who have not completed their required continuing education credits;
- Improving incentive programs for the behavioral health workforce, such as relocation bonuses, partnering with universities for recruitment, and offering credit toward other healthcare degrees for LMHTs;
- Improving the tracking and evaluation of incentive programs to determine if they are being utilized and meeting their goals; and
- Taking steps to ensure that Kansas behavioral health professionals' wages are comparable to those in other states and similar professions.

David Fye, Executive Director, Kansas Behavioral Sciences Regulatory Board, reported that the Board is considering changes to its regulatory requirements for licensure reciprocity and also

considering reducing the requirement for practicing in a specific area for a certain number of months and allowing students to complete addiction counseling, marriage and family therapy, and social work programs online rather than in-person as currently required.

Committee members also discussed the importance of access to therapy and clinical supervision for the behavioral health workforce and the need to address high patient-to-staff ratios and the stressors faced by workers in the field. The Special Committee will be submitting a report to the 2023 Legislature with their final recommendations.

Medical Marijuana

Legislation to create a regulatory framework for medical marijuana in the state will likely be on the table early in the session. The 2022 Special Committee on Medical Marijuana, which was charged with studying medical marijuana regulation legislation considered

by the Legislature during the 2021 and 2022 sessions – [House Substitute \(H Sub\) for Senate Bill \(SB\) 158](#) and [SB 560](#), respectively – and soliciting testimony from potential licensees, state agencies, medical providers, and law enforcement officials, met four times during October and December. During the meetings, legislators heard both support for and opposition to the legalization of medical marijuana from more than 60 conferees. During the Special Committee’s meeting on October 19, members also heard from professionals from other state medical marijuana programs, who spoke about their successes and struggles when implementing their programs and recommendations for committee members to consider when crafting a bill. Proponents of medical marijuana legislation have pointed to the November 8 passage of a constitutional amendment in Missouri that legalized recreational marijuana as an incentive for Kansas to at least pass medical marijuana.

Following the December 9 meeting of the Special Committee, Chairman Rob Olson stated that he

Senate Leadership

28 Republicans, 11 Democrats, 1 Independent
Majority - Republicans

M A J O R I T Y



Ty Masterson
President
Andover



Rick Wilborn
Vice President
McPherson



Larry Alley
Majority Leader
Winfield



Renee Erickson
Asst. Majority
Leader
Wichita

C H A I R S



Rick Billinger
Ways and Means
Goodland



Jeff Longbine
Insurance
Emporia

M I N O R I T Y



Dinah Sykes
Minority Leader
Lenexa



Oletha Faust-Goudeau
Asst. Min. Leader
Wichita



Pat Pettey
Minority Whip
Kansas City



Marci Francisco
Agenda Chair
Lawrence



Jeff Pittman
Caucus Chair
Leavenworth

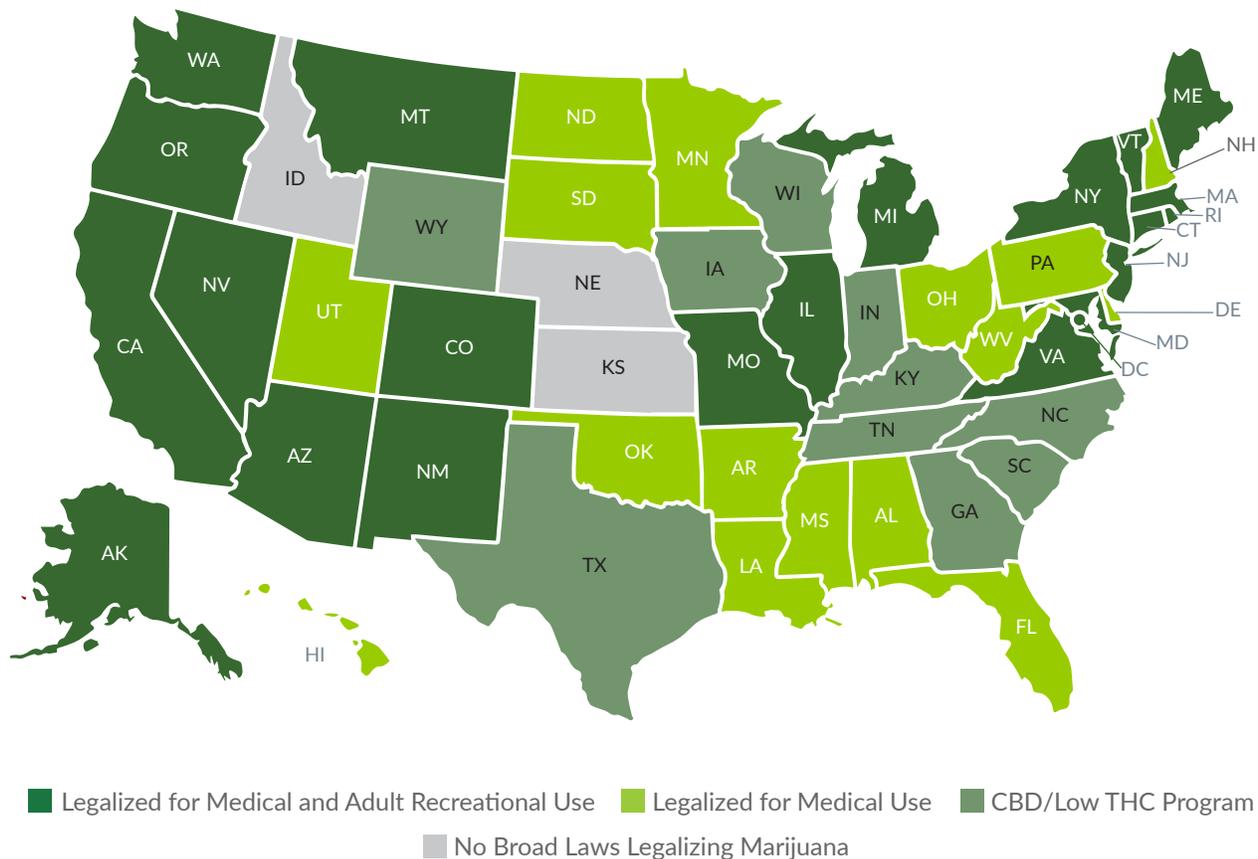


Mike Thompson
Federal
and State
Affairs
Bonner Springs



Beverly Gossage
Public Health &
Welfare
Eudora

Figure 3. Status of State Marijuana Legalization Decisions



Source: National Conference of State Legislatures, [State Medical Cannabis Laws](#), accessed December 12, 2022.

planned to introduce a medical marijuana bill at the beginning of the 2023 session. However, there may be opposition to medical marijuana legislation in the Senate. Senate President Ty Masterson has not expressed his support for the legalization of medical marijuana and [recently stated](#) that the state budget and school funding are higher priorities for him. Opposition has also come from members of the Special Committee on Workforce Development, which passed a recommendation, on a vote of 4-3, with some members abstaining, that the Legislature “proceed with caution” with medical marijuana legislation. During their meeting on November 21, members of the Workforce Development Committee, including Sen. Virgil Peck, [expressed concerns](#) about employers who are unable to hire employees who cannot pass drug screening tests, specifically those individuals applying for jobs requiring the use of heavy machinery.

During the Special Committee’s final meeting on December 15, Kansas Legislative Research Department (KLRD) staff presented information

requested by committee members during the December 9 meeting related to physician liability, access to public housing, gross sales revenue in other states, employment laws, social equity licensing programs and possession limits. At the end of the meeting, Chairman Olson again stated his plans to introduce a bill with elements from H Sub for SB 158 and additional provisions based on the information presented by KLRD. He noted that the bill may be assigned to the Senate Federal and State Affairs Committee and acknowledged that additional bills may be introduced.

Tobacco Products/ Electronic Cigarettes

During the 2022 session, the House passed HB 2340, which would have amended the Kansas Cigarette and Tobacco Products Act, the Kansas Indoor Clean Air Act, and criminal statutes related to the use and possession of cigarettes, electronic cigarettes (e-cigarettes), consumable material and tobacco products by persons under the age

of 21. Although federal law raising the federal minimum age for the sale of tobacco products from 18 to 21 years (known as “Tobacco 21” or “T21”) was enacted in 2019 and applies to all retail establishments and persons with no exceptions, Rep. John Eplee testified during a hearing on the bill in the Federal and State Affairs Committee in February 2021 that passing the bill would codify the federal minimum legal age in Kansas, reduce tobacco use among adolescents, and help strengthen enforcement of the law.

While HB 2340 did not pass the Senate in 2022, in 2023 Kansas legislators may consider similar legislation, as recent research continues to show high rates of use of e-cigarettes among middle and high school students during 2022. In a [study](#) released by the U.S. Food and Drug Administration and the U.S. Centers for Disease Control and Prevention on October 6, 2022, researchers found that 2.55 million U.S. middle and high school students reported current (during the past 30 days) e-cigarette use in 2022. Nearly 85 percent of those youth used flavored e-cigarettes, and more than half used disposable e-cigarettes. HB 2340 included provisions making it illegal to distribute samples of regulated

products, including e-cigarettes, within 500 feet of a school when the facility is primarily used by persons under age 21 and prohibited the sale of regulated products through vending machines to persons under age 21. The bill also required the director of taxation to perform compliance checks to engage persons under age 21 to perform at least two controlled buys of regulated products at licensed retail dealer establishments in the state each year.

Scope of Practice and Licensing

During 2023, legislators may decide to study licensure requirements for some healthcare professionals. In early December, Rep. Brenda Landwehr challenged the licensing boards for healthcare professions to consider changes to licensure requirements to address the state’s shortage of healthcare workers. Landwehr, chair of the House Health and Human Services Committee and vice chair of the 2022 Special Committee on Mental Health Beds, stated that she would like the licensing boards to come back to legislators with ideas for how to reduce licensure requirements or legislators may elect to hold hearings on the issue to determine what types

House Leadership

85 Republicans, 40 Democrats
Majority - Republicans

M A J O R I T Y



Dan Hawkins
Speaker of the House
Wichita



Blake Carpenter
Speaker Pro Tem
Derby



Chris Croft
Majority Leader
Overland Park



Les Mason
Asst. Majority Leader
McPherson



Susan Estes
Whip
Wichita



Kristey Williams
Caucus Chair
Augusta

M I N O R I T Y



Vic Miller
Minority Leader
Topeka



Valdenia Winn
Asst. Minority Leader
Kansas City



Stephanie Clayton
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Overland Park



Barbara Ballard
Caucus Chair
Lawrence



Jerry Stogsdill
Agenda Chair
Prairie Village



Christina Haswood
Policy Chair
Lawrence

of actions the Legislature might consider. Speaking directly to Carol Moreland, executive administrator of the Board of Nursing, and Kelly Sommers, executive director of the Kansas State Nurses Association (KSNA), Landwehr asked what changes could be made in some nursing programs related to requirements for hours of education, including the hours required to become a certified nurse aide, and also suggested that the boards review their licensing requirements to determine if they are comparable to other states. Sommers noted that the KSNA's board would be discussing ways to address any concerns regarding barriers to nurses entering or rejoining the workforce.

Telehealth

The Legislature also may be interested in taking another look at legislation such as SB 248, which would have made a significant number of changes to the Kansas Telemedicine Act, including updated definitions and new requirements related to the coordination of care by telemedicine providers with a patient's Kansas-based primary care provider or medical home.

Child Welfare

For several years, lawmakers have focused on addressing problems with the child welfare system in Kansas. For the second year in a row, legislators will have an opportunity to consider recommendations for changes to the system from members of the Joint Committee on Child Welfare Oversight, which was created in 2021. The Joint Committee met five times between September and November and heard testimony from foster parents, representatives of KDADS, the Department for Children and Families (DCF), the Division of the Child Advocate, case management providers, foster care and family preservation contractors and individuals. Special topic areas addressed by the Joint Committee included foster youth mental health needs, and permanency and adoption. Recommendations from the Joint Committee included:

- Passage of a foster parent's bill of rights to inform foster parents of their rights within the child welfare system;
- Review of the Guardian ad Litem system;
- Consideration of bringing case management back under the direct control of DCF;
- Directing DCF to develop a more uniform way to get information to parents who are attempting to

C H A I R S



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Appropriations
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Brenda Landwehr
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and Human Services*
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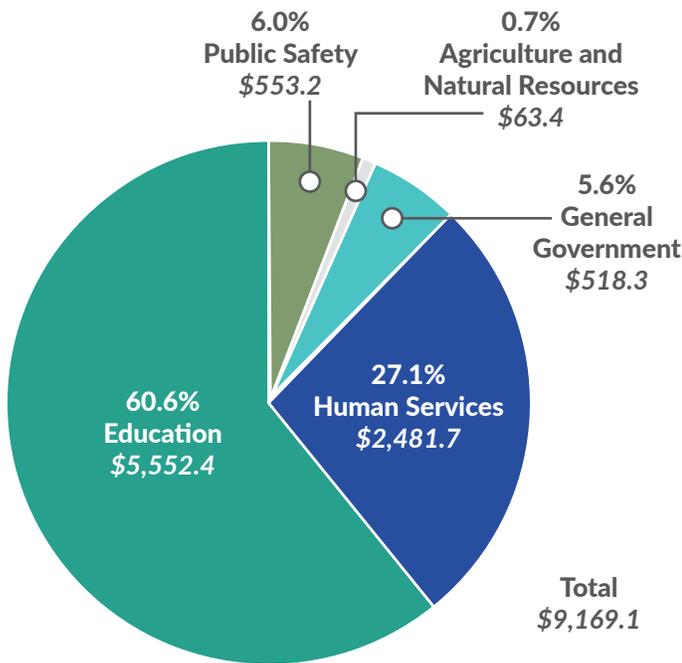


Francis Awerkamp
*Welfare
Reform*
St. Francis

reintegrate after a court hearing and a summary of actions to be taken by parents;

- Directing law enforcement to create best practices for child in need of care interventions;
- Amendment of Adrian's Law, as proposed during the 2022 session in HB 2632, to require a referral of an alleged victim of child abuse or neglect for an examination as

Figure 4. Fiscal Year 2023 Approved Expenditures from the State General Fund (in Millions)



Note: Percentages may not sum to 100 percent due to rounding.
 Source: Fiscal Year 2023 Comparison Report, Kansas Division of the Budget
https://budget.kansas.gov/wp-content/uploads/FY-2023_Comparison_Report-07.14.2022.pdf

part of an investigation, create a program in the Kansas Department of Health and Environment (KDHE) to provide training and payment and defining child abuse review and evaluation providers, networks, examinations and referrals and child abuse medical resource centers;

- Expansion of the Safe Families Kansas program into new geographic areas of the state; and
- Permanent funding for school-based mental health intervention teams.

Food Taxes

Although the Legislature, at the end of the 2022 session, passed HB 2106, which will gradually eliminate

the 6.5 percent state sales tax on food and food ingredients by January 1, 2025, Gov. Laura Kelly announced in December that she intends to push for the complete and immediate elimination of the sales tax on groceries, as well as the sales tax on diapers and feminine hygiene products, when legislators return for the 2023 session. In November, Gov. Kelly pointed to the Consensus Revenue Estimate (CRE) released on November 9 that increased the projected state revenues for FY 2023 and FY 2024 and suggested that the additional revenue could be used for the immediate elimination of the food sales tax. Tax collections for the month of November, announced on December 1, did not meet the CRE announced in November. However, total revenue collections in December were \$140 million above the estimates for the month, and total tax receipts for the first six months of Fiscal Year 2023 were \$4.667 billion, \$104 million more than the prior estimate. Some Republican legislators have indicated they prefer to continue the gradual elimination plan in HB 2106 and focus on other potential tax cuts during 2023.

Budget

On November 21, the Division of Budget and KLRD released a memo regarding the State General Fund Revenue Estimates for FY 2023 and FY 2024. It showed a revised estimate of \$9.701 billion for FY 2023, an increase of \$794.2 million above the adjusted June 2022 estimate, and an initial estimate of \$10.124 billion for FY 2024. During the October 24 meeting of the Consensus Group (DCF, KDHE, KDADS and KLRD), the human services caseloads estimate for FY 2023 was increased by \$259.5 million from all funding sources, including a State General Fund (SGF) decrease of \$198.2 million, compared to the budget approved by the 2022 Legislature. The estimate for FY 2024 was increased by \$7.9 million, from all funding sources, including an SGF increase of \$163.0 million above the FY 2023 revised estimate.

ABOUT THE ISSUE BRIEF

This brief is based on work done by Linda J. Sheppard, J.D., Valentina Blanchard, M.P.H., L.M.S.W., Cynthia Snyder, M.A., and Emma Urledge, C.H.E.S.

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