

Legislative Update

February 18, 2018

Overview

The Legislature has wrapped up committee hearings for the first half of the session and both the House and Senate will spend this week on their chamber floors debating bills that must pass their chamber of origin before the mid-session break. If bills have been advancing and they are not from exempt committees, they will be worked and fail or die this week. By the end of this week we will have a good summary of the mid-point of the legislative session.

Big Picture Issues

Governor Colyer announced Tracey Mann, a commercial real estate broker and farmer from Salina, as his lieutenant governor Tuesday. There were many names thrown around from whom Colyer might choose and Mann was a surprising choice to many. His history with elected office consists only of an unsuccessful run for Congress in 2010 when he lost to Tim Huelskamp. Mann will also be on the ballot with Colyer come August.

The most heavily attended hearing of the week came on Wednesday when the Senate Health committee heard SB 38; a bill that would expand Medicaid coverage to approximately 150,000 Kansans. The meeting had a large turnout that included testimony from over 140 individuals. The bill itself is very similar to the House bill that passed both chambers last year and the Governor vetoed. Proponents touted that the extra year only gave the state more time to see the success expansion has brought to other states citing that Kansas has forfeited nearly \$2.4 billion of its own tax dollars by not expanding Medicaid. Opponents included Jeff Anderson, new Acting Secretary of KDHE, the Kansas Policy Institute, and Americans for Prosperity. They argued an insurance card, in this case a Medicaid card, does not guarantee anyone access to care. The Secretary mentioned Governor Colyer had meetings this week with the U.S. Department of Health and Human Services to get better guidance on the direction the administration is leaning.

Bills that have not been blessed by leadership must make it out of committee by “Turnaround” next Thursday, February 22nd. Both chambers will spend almost all of the week working bills to pass to the other chamber before leaving town for a five-day break. Budgets, taxes, and school finance will all wait to be addressed during the second half of the session.

Health Issues

We are wrapping up the mid-point of session and most committee work has work has been wrapped up for the break. Most activity this week will take place in the House and Senate chambers. Among the topics getting attention at mid-session are:

KanCare Renewal

- The Administration announced the termination of KanCare 2.0, but they report they are continuing the review of the RFP bids if or until the Legislature tells them to not review the bids. There are many questions about what comes next.. There are a couple of bills that will shape the conclusion of KanCare.
- Senate Bill 300
 - Senate Ways and Means Committee passed out to the full Senate an amended version of the bill with two key amendments. The new bill includes the ability to expand access to behavioral health services. It authorizes KDHE to continuing reviewing the RFP submissions and modify the current plan.
 - The bill will likely remain in the Senate chamber awaiting action later in the session.
 - Original bill: The bills require KanCare to remain exactly like it is as of 1/1/17. Only changes approved by the Legislature can be made to the Medicaid system or to contracts with managed care companies. Any negotiations or renewals are only for one year with legislative approval.
- House Bill 2591: Extends current KanCare contracts for three additional years. Medicaid services are continued as of 1/1/18 and any changes must have legislative approval. The bill is similar to Senate Bill 300 but with a three year extension and without the behavioral health flexibility.
 - House Health Chairman Hawkins bill heard on 2/8. The bill remains in committee for action and could be acted on 2/19 so it can be on the House floor.
 - This plan, with legislative approve amendments and adjustments to the state plan, is the pro-current MCO bill. It does not exclude the State reviewing and using any of the new bids, but it does not require them to make use of any bids and can simply retain the current contractors.

Medicaid Expansion

- Medicaid Expansion. Senate Bill 38.
 - Senate Public Health and Welfare Committee heard SB 38 on 2/14. The bill should advance to the Senate floor on 2/19 and remain there until the Senate is ready to address Medicaid expansion.
 - The bill would expand Medicaid eligibility in full by allowing those whose income does not exceed 133 percent of poverty. It is estimated to add approximately 150,000 to Medicaid coverage.
 - Same bill that passed the Legislature during 2017 and Governor vetoed.

Telehealth

- Telehealth in House Health and Human Services Committee. House Bill 2674.

- Generally the same bill as HB 2512 but includes specific language allowing professionals working under supervision of a physician. Does not include abortion provision.
- Includes 42 CFR protection for SUD providers.
- Hearing in House Health 2/12 and bill should pass out of Committee on 2/19.
- Telehealth in House Health and Human Services committee. House Bill 2512 was heard in House Committee and the bill remains in Committee and will not be passed.
 - The bill creates coverage parity for insurance providers so that if a service is covered it is covered whether delivered in person or electronically.
 - Does not include pay parity, meaning the payment for services can be different if delivered in person or electronically.
 - Hearing continues into the current week with significant opposition from those who want to expand eligible providers and services beyond physicians (and those working under their supervision) and mental health workers.
 - Bill includes abortion provisions that may make it difficult to pass.

Suspend Medicaid eligibility

- Suspension rather than termination of Medicaid eligibility. Senate Bill 195/ House Bill 2508.
 - Bill will suspend Medicaid eligibility for members who enter prison, jail, or a state mental health hospital. The bill, discussed for over a decade, has passed out of Committee and is waiting action on the Senate floor.

Dental Therapy

- Dental Therapy. Senate Bill 312.
 - Other bills introduced but SB 312 is a negotiated agreement between the Kansas Dental Association, the Kansas Dental Hygienists Association. Agreement reached on parameters of direct supervision for dental hygienists who can practice as dental therapists and perform some additional procedures under supervision of a dentist.
 - The bill passed to the full Senate for action on 2/8.

Legislation of Interest

Because we are in the second year of the biennial cycle, all bills not passed or killed during the 2017 session are available for action during the 2018 session. Bills from the 2017 session will not be included on this list unless they are subject to action or they are likely to be taken up again.

Bills that have been published and the bill history can be found on the Legislature's official website: http://www.kslegislature.org/li/b2017_18/measures/bills/

KanCare/Medicaid

Prohibition against KanCare 2.0 without legislative approval. Senate Bill 300/ House Bill 2507

- Prohibiting KanCare 2.0 renewal without legislative consent.
- The bill requires KanCare exactly like it is as of 1/1/17. Only changes approved by the Legislature can be made to the Medicaid system or to contracts with managed care companies. A one year extension of current contracts.
- Senate Bill 300 hearing in Senate Ways and Means Committee, 1/30-31. Bill was amended and passed to the full Senate with language allowing Medicaid changes for behavioral health access.
- Awaiting action on Senate floor.

Prohibition against KanCare 2.0 without legislative approval. House Bill 2507

- Prohibiting KanCare 2.0 renewal without legislative consent and extends current contracts with MCOs for three years.
- The bill requires KanCare exactly like it is as of 1/1/18. Only changes approved by the Legislature can be made to the Medicaid system or to contracts with managed care companies.
- Hearing in House Health Committee, possible action 2/19.

Extend current KanCare Contracts. House Bill 2591

- Extends current KanCare Medicaid contracts for three additional years, allowing changes only with legislative approval.
- House Chair Dan Hawkins bill.
- Hearing in House Health 2/8. Bill will remain in Committee and could be worked 2/19.

Remove IDD services from KanCare. Senate Bill 332.

- Removes intellectual and developmental disabilities population from KanCare.
- Hearing in Senate Public Health and Welfare 2/9. Bill remains in Committee

Suspension of Medicaid eligibility. Senate Bill 195/ House Bill 2508.

- Bill from 2017 session, suspends rather than terminates eligibility when incarcerated or in state hospital.
- Would eliminate months of eligible member losing coverage and having to reenroll in Medicaid.
- House Bill 2508 unlike SB 195, eliminates the duty for state agencies to notify the State when an individual enters or leaves eligibility and requires KDHE to monitor and report
- Hearing in Senate Health and passed to full Senate with amendment from HB 2508. Awaiting action on Senate floor.

Require Medicaid coverage for smoking cessation. Senate Bill 316.

- For Medicaid eligible population, would require coverage of tobacco cessation treatment.

- No limits or caps on services and no pre-authorization allowed.
- Hearing in Senate Public Health and Welfare. 2/8. Bill remains in Committee.

General Healthcare

Establish the Kansas Telemedicine Act. House Bill 2512/ House Bill 2674

- The bill creates coverage parity for insurance providers so that if a service is covered it is covered whether delivered in person or electronically.
- Does not include pay parity, meaning the payment for services can be different if delivered in person or electronically.
- There is strong focus on mental health telemedicine and physicians but bill does include mid-levels working under supervision.
- Hearing in House Health 2/1, continued to 2/5.
- House Bill 2674 is Chairman Hawkins replacement bill for HB 2591. It specifies professions working under supervision, removes the abortion provision, and adds 42 CFR protections for SUD providers.
- Hearing in House Health on 2/12, possible action on 2/19.

Dental Therapy. Senate Bill 308/312.

- Creates mid-level dental hygienists position to serve in safety net clinics and with Medicaid providers.
- Senate Bill 308 is the advocates bill and Senate Bill 312 is the compromise bill that Dental Association supports.
- Senate Bill 312 is the focus of hearings and action.
- SB 312 hearing in Senate Health 2/1, 2/5 and passed out on 2/8.
- Compromise brokered by dental association and dental hygienists expands some procedures for hygienist with additional training, clarifies supervision on premises in out of office locations.
- Awaiting action on Senate floor.

Criminal records and professional occupations license. Senate Bill 421.

- State licensing agencies shall list specific civil and criminal records that will be disqualifying for obtaining a license.
- In Senate Federal and State Affairs. No hearing and bill remains in committee.

Children

Immunity from civil liability for damage to motor vehicle related to rescue of person or animal. House Bill 2516/ SB 318.

- Civil immunity for person if locked motor vehicle with person or animal. Act must be in good faith with belief the person or animal is at risk. Required to notify law enforcement before entering.

- Hearing in House Judiciary 2/5. Bill remains in Committee.

Student data privacy protection. Senate Bill 389.

- New unnumbered bill allowing parents/guardian to opt out of student surveys, provided the data is non-identifiable.
- Will allow greater data collection on youth activities based on non-identifiable data. Data in surveys such as Communities That Care will be used for grant reporting and scientific research.
- In Senate Education. Hearing on 2/15. Bill remains in committee.

Child placement agency discrimination. Senate Bill 401.

- Allows child placement agencies to refuse services or placements, and protects their license and contract if they discriminate.
- In Senate Federal and State Affairs. No hearing scheduled.

Emergency medical workers as mandatory reporters. House Bill 2530.

- Emergency medical personnel added to list of mandatory reporters for child abuse and neglect.
- In House Children and Seniors, hearing on 2/8, bill remains in Committee.

Fingerprinting child care facility persons. House Bill 2639.

- Local and state law enforcement officers and agencies to assist KDHE in taking and processing fingerprints of persons residing, working or regularly volunteering in a child care facility. Allowed to charge fees for checks.
- Hearing in House Children and seniors 2/8. Bill remains in committee.

Creates task force on youth transitioning out of child welfare. House Bill 2745.

- Creates wide-ranged tax force to create rights and resources related to the transition of youth from the foster care system.
- In House Children and Seniors. No hearing scheduled but will likely be heard in the second half of the session.

Create office of child advocate for children's protection. House Bill 2751.

- Creates office in the Department of Administration, not Department of Children and Families, appointed by the Governor and Chief Justice of the Supreme Court and Senate confirmed.
- Monitor Children and Families and Corrections to monitor and advocate for children.
- In House Federal and State Affairs, no hearing scheduled.

Revenue and tax policy

Tobacco tax. Senate Bill 376.

- Advocates bill. \$1.50 per pack tobacco tax.
- In House Tax Committee. No hearing scheduled.

Behavioral health

Restrictions on step therapy by insurance. Senate Bill 304.

- Requires established guidelines; exception procedures; establish timeframes for exception approval or rejection.
- Hearing in Senate Health 2/15. Bill remains in committee.

Behavior Crisis Response. House Bill 2611.

- Department of Health and Environment shall study and recommend a plan for behavioral health crisis services and creation of a statewide crisis response system.
- In House Health and Human Services Committee. No hearing scheduled.

Suicide evaluation in treatment facilities. House Bill 2308.

- Requires use of suicide evaluation at mental health and substance use disorder treatment facilities.
- In House Federal and State Affairs, hearing on 2/14. Hearing canceled and should not be rescheduled.

Behavioral Health Task Force. House Bill 2688.

- Creates another legislative and public study of mental health system in Kansas.
- Specifies representation for Kansas Association of Addiction Professionals.
- In House Appropriations. No hearing scheduled.

Next Week Activities

The legislative schedule of hearings is updated regularly throughout the week can be found in the House and Senate calendars on the Legislature website at:

http://www.kslegislature.org/li/b2017_18/chamber/calendars/

Additionally, virtually all hearings are now available on line. You can find those hearings on the Legislature website at: <http://sg001-harmony.sliq.net/00287/Harmony/en/View/Calendar/>

This week, there will only be committee meetings on Monday, and Tuesday through Thursday the House and Senate will be debating bills that have passed out of committees in the first half of the legislative session.

Monday, February 19.

Senate Public Health and Welfare. 9:30 AM.

- Debate and possible action on any bills in committee.

House Health and Human Services. 1:30 PM.

- Debate and possible action on any bills in committee.

Tuesday, February 20.

Wednesday, February 21.

Thursday, February 22.

Friday, February 23.

Wrap Up

Please let me know if you have questions. Regular committee hearings will resume February 28th as we begin the second half of the 2018 session.

[Stuart J. Little, Ph.D.](#)
[Little Government Relations, LLC](#)
[800 SW Jackson, Ste. 1100](#)
[Topeka, Kansas 66612](#)
[785-235-8187 Office](#)
[785-845-7265 Mobile](#)
stuartjlittle@mac.com