



MEMORANDUM

To: Interested Parties

From: John J. Federico, JD
Stephen P. Duerst, JD

Date: February 26, 2021

Re: Weekly Update - Week of February 22, 2021

Please see our Weekly Update on Kansas Legislative activities:

A Special Note on Finding Bill Language & Bill Trackers

If you need to find specific language of a bill, type the number in the box under “Bill number:” on the right-hand side of [this](#) webpage. Once you find the bill listed, click that specific bill. You will find the PDF logo under the “Documents” label - click the logo...this will lead you to the text of the bill.

If there are bills that you would like *removed* from or *added* to your bill tracker, please contact Katie Whisman (katie@federicoduerst.com).

As always, our office is more than happy to send you specific language as well.

Committees Work Concludes and Turnaround Day Just Ahead

The last week of Committee work has come to a close. Committees had a full week of meetings and final action in a sprint to conclude their work to send bills to their respective Chambers. Next week, Legislators will be on the floor all week and debating bills for passage prior to the March 5 deadline, upon which non-exempt bills which didn't pass their house of origin will “die”. The legislative process known as “Turnaround” begins on March 10, when bills will move from one chamber to the other. Committees will then have two and a half weeks to hear and pass bills back to the floor for passage by March 31.

Because of the flurry of activity that always takes place during the last week of committee work, *we highly encourage our clients to view their Bill Trackers and provide us any feedback they might have*. Should you have questions, do not hesitate to contact our office.

New KEMA Bills Introduced and Worked this Week

With the special rules lawmakers set for COVID-19 and the state of emergency that broadens officials' power temporarily set to expire March 31, lawmakers introduced, heard, and worked measures that will determine how state and local officials can respond to future health emergencies. While neither the House nor the Senate proposal would extend the existing pandemic state of emergency, both proposals

would prospectively place more power with the Legislative branch in declaring and overseeing public health disasters and related states of emergency.

The House Judiciary Committee met Wednesday and Thursday to hear [HB2416](#), which would limit the powers granted to the Governor during a state of disaster emergency. The measure would require a Governor to submit a proposed Executive Order to the Attorney General for legal review and authorize the Legislative Coordinating Council to subsequently approve such proposed Executive Orders. It also would prohibit the Governor and the State Board of Education from closing private schools during a state of disaster emergency. The Committee did not take action on the bill this week but Judiciary has called a meeting for Monday morning, likely to take action on the KEMA bill.

Also, on Wednesday and Thursday, the Senate Judiciary Committee heard [SB273](#), which was significantly lengthier than the House version. The Senate's proposal would similarly require a Governor to submit a proposed Executive Order to the Attorney General for legal review, but calls for the creation of a new Joint Legislative Committee on Emergency Management that would subsequently approve such proposed Executive Orders. That committee would also have the power to require reports from the Governor, Adjutant General, and State Board of Education, among others. It limits the ability of the Governor and State Board of Education in restricting schools and establishes grievance procedures for employees, students, and parents or guardians. Under the bill, a county commission could adopt a less stringent mandate than that which was recommended by a governor and approved by legislators if such mandate was based on accepted scientific justification.

One of Governor Kelly's top aides cautioned against the measure, saying it could seriously hamper the state's response to future public health emergencies.

The Senate Committee worked the bill for nearly 6.5 hours, adopting 15 of the 18 amendments proposed. Notably, the amendments defined "acceptable science", further limited the ability of the Governor act in states of emergency, prohibited the Governor from restricting healthcare facilities to provide healthcare services, and required county governing bodies to first approve recommendations of County Health Officers. SB273 heads to the Senate Committee of the Whole for floor debate.

Agency Budgets Adopted by Budget Committees

House and Senate Budget Subcommittees concluded their reports back to House Appropriations and Senate Ways and Means this week. While some Subcommittees stuck closely to the Governor's budget recommendations under the caveat they would be reviewed at omnibus, others included adjustments that either restored agency allotments taken on the heels of the pandemic or sought to address critical social service needs.

With legislators on the floor next week, the Kansas Legislative Research Department will begin assembling the House and Senate versions of agency budgets and updating the legislative budget profiles necessary for Appropriations and Ways and Means to begin working the budget bills. That action is likely to begin after lawmakers return on March 10.

New Constitutional Amendment Calls for Restoration of Regulatory Oversight

On Tuesday, House and Senate Leadership joined Kansas Attorney General Derek Schmidt in announcing the introduction of a Constitutional amendment on regulatory oversight. The amendment would give Kansans the ability to vote on whether they want to restore oversight of the rule-making and regulatory

process to elected representatives of the people rather than unelected agency heads. Democratic Leaders criticized the effort as partisan gamesmanship and an attempt to curb executive power.

The proposed constitutional amendment was introduced as a concurrent resolution in each chamber. [HCR5014](#) has been referred to House Judiciary while [SCR1609](#) has been referred to the Senate Federal & State Affairs Committee.

Gaming Bill Passed out of Committee

The Senate Federal & State Affairs Committee snuck in action on [SB84](#) this week, which would allow the Lottery to contract with gaming facility managers for in-person and over the internet sports wagering. The Committee adopted 6 amendments. Generally, the amendments made the following changes to the bill:

- Increases the number of platforms allowed from 2 to 3
- Specifies that sports wagering would be conducted solely through lottery gaming facility managers and not by the Kansas Lottery on its own behalf
- Allows gaming facilities to extend credit to patrons and allows platform personnel to place wagers with nonaffiliated casinos and platforms
- Amends the definition of sporting event to exclude any greyhound race
- Prohibits sports wagering on any sporting events at high school level and below
- Changes revenue distributions to provide for transfers to the problem gambling addictions fund

Marketplace Facilitator Bill Advances

The Senate Tax Committee took action on several bills Thursday, including [SB50](#) which was introduced by the Kansas Chamber in an effort to join Kansas with the 47 other states who have passed legislation to collect sales tax from marketplace facilitators.

The Committee amended the bill to strike references to “lodging establishment” and replace them with “hotel” in order to clarify all parties responsible for taxes. It also amended the dates from January 1, 2022 to April 1, 2022 in order to give Amazon time to comply with the e-911 collection and remittance provisions. In doing so, the Committee struck compromise between the Chamber’s proposal and Amazon’s proposal, which was the subject of [HB2173](#).

Legislative Post Audit Hears Unemployment Insurance Report and Authorizes New Audits

The Legislative Post Audit Committee met Wednesday to hear and discuss findings from [Part 1](#) of the audit to Evaluate the Kansas Department of Labor’s Response to COVID-19 Unemployment Claims. The LPA group estimated 1 in 4 claims filed since the implementation of the federal Pandemic Unemployment Assistance (PUA) programs to be fraudulent. Their initial high-level estimate of fraudulent claims paid out in 2020 totaled \$600M. They confirmed PUA to be the source of the fraud and attributed the lack of required supporting documentation to the high instant payouts.

KDOL, who’s fraudulent claims payout estimate was \$249M, claimed the LPA’s estimate was inflated. Despite the significant differences in the fraud estimates, they blamed poor federal implementation of PUA and their outdated computer systems for fraud payouts. Since the early-February system shutdown, KDOL says the system has blocked 5 million fraudulent log-in attempts.

Noting the authorized study focuses on fraud payouts and handling of federal funds, the Audit group could not confirm or deny a hack on the system. A new audit would need to be authorized to examine system security, or lack thereof.

Other Updates & Press Releases

- [Governor Laura Kelly Allows Temporary Authorization for Additional Vaccinators in Kansas](#)
- [Governor Laura Kelly, Department of Agriculture Announce \\$12 Million in Grants Strengthened Kansas' Food Supply System - Governor of the State of Kansas](#)
- [Governor Laura Kelly Announces Administration Appointments - Governor of the State of Kansas](#)

Weekly Schedule: March 1 – 5

Schedule subject to change. Daily Session calendars may be found [here](#).

HOUSE

House will be on General Orders from March 1 – March 5.

House Judiciary will meet Monday, March 1 at 9:00 am in 582-N

The following House Committees have no meetings scheduled but remain on Call of the Chair.

- Appropriations
- Federal & State Affairs
- Veterans & Military
- Transportation & Public Safety Budget

SENATE

Senate will be on General Orders from March 1 – March 4. Senate is Pro Forma on March 5.

The following Senate Committees have no meetings scheduled but remain on Call of the Chair.

- Ways & Means