



2023 Legislative Preview

2023 begins a new biennium. All bills are required to be introduced as they will not carry over to the new session starting on Jan. 9.

Major policy items have included work by the legislature during the interim. A budget surplus is a central focus of what policies and state investments are built upon. A continued desire to tackle tax reform, emphasizing buying down the sales tax on food, is likely to carry over from previous sessions. With a heavy interim focus, the legislature will likely continue its discussions on medical marijuana in Kansas. Interim committees also have spent time exploring the need for additional mental health beds, particularly in the south-central Kansas area, and the Intellectual and Development Disability Waivers Modernization. Finally, the legislature is expected to focus heavily on workforce challenges.

Other resources include the 2022 Last Bill Tracker Report and the 2022 Legislative Wrap-Up.

Kansas State Budget and Medicaid

Kansas State Budget

In 2022, the legislature passed [Substitute for Senate Bill 267](#), which included expenditures of \$20.7 billion, including \$8.2 billion from the State General Fund. The amount is an all-funds increase of \$1.2 billion in expenditure authority carried over from FY 2021 and a SGF decrease through the lapse of \$102.2 million SGF from the amount approved by the 2021 legislature.

November Consensus Revenue Estimate numbers indicate Kansas tax collections were \$642 million in November, an increase of \$15 million over November 2021. However, the revenues did not meet the revised estimates because the previous CRE estimates had been increased based on recent trends. That change ends the more than two-year-long pattern of monthly receipts exceeding estimates.

These estimates will largely shape the budget discussion headed into the legislative session.

Medicaid

During the 2022 session, Governor Laura Kelly proposed an expansion of Medicaid and included expansion funding in her proposed budget. However, the proposal didn't receive a hearing in either the House or the Senate. Consequently, the associated funds were removed from the appropriations

recommendations of the legislature.

Discussion on the topic during the 2023 session will likely focus on how expansion could be tied to workforce needs.

During the 2022 legislature, the state expanded postpartum coverage for new mothers enrolled in KanCare, increased funding for the availability of adult dental services, raised provider rates for pediatric primary care services, and increased reimbursement rates for emergency medical services provider codes.

Discussion during the 2023 legislature will likely include investments in home health services and possible Medicaid rate increases.

The legislature will likely hear the plan to renew the managed care organization contracts in Kansas. The KanCare MCO request for proposal will likely be issued in 2023, with implementation in 2024.

Health

Telehealth

Following the introduction of [House Bill 2552](#) in 2022, the Kansas Telemedicine Act is likely to be discussed during the upcoming legislative session, as providers and patients have recognized the value in both the flexibility and safety it provides to patients. In addition, the United Methodist Health Ministry Fund has invested in a statewide telehealth survey program to help evaluate the use of telemedicine by both patients and providers relating to efficacy, satisfaction and access. Changes to the Act relating to COVID response, establishing a provider-patient relationship for specialty services, coordination of care with primary providers and payment parity will be critical.

Right to Prescribe Off Label

Legislation allowing patients to be prescribed prescription drugs approved for “off-label use” with a liability waiver was introduced in [Senate Bill 211](#). Additionally, discussion around off-label use to prevent and treat COVID-19 infections in [Senate Bill 381](#) may continue during the 2023 session.

Vaccination Policies

During the 2022 legislative session, the Senate passed [House Bill 2280](#), requiring childcare facilities and schools to grant religious exemptions from vaccination requirements without inquiring into the sincerity of religious beliefs and a need to attend educational or childcare facilities. The committee also added language allowing for prescribing and dispensing of medications for off-label use to treat and prevent COVID-19. Additional legislation on vaccination requirements in Kansas schools and businesses could be considered during the 2023 session.

Insurance

Short-Term, Limited-Duration Health Plans

Last year, the Senate passed [Senate Bill 199](#), amending the law to allow short-term insurance policy periods of six or 12 months to be extended to a maximum policy period of 36 months in total duration. The bill has been previously passed and vetoed.

Prior Authorization

Kansas Hospital Association members have expressed significant concern about the prior authorization process. Hospitals have identified a need to consider policy reform in prior authorization response times, streamlining processes for submissions, notification of change requirements, limitation of retroactive denials, the ability to expedite the peer review process and ensuring the peers' specialty areas are aligned, and protections from requirements to purchase specific prior authorization products. In addition, last year, [House Bill 2637](#) was introduced based on the Texas Gold Card legislation. We anticipate more education and discussions with legislators on this topic.

Coverage Requirements

In past years, bills have been introduced to cover diagnostic examinations for breast cancer, elimination of STEP therapy requirements and other insurance-related reforms. Similar legislation could be discussed in 2023.

Any Willing Provider

Similar to prior years, legislation may be introduced requiring health insurance carriers to allow health care providers to become members of the carrier's networks of providers if certain conditions are met.

Workers' Compensation

Bills have been introduced to explore changes to workers' compensation benefits in Kansas. Continued proposals designed to change the workers' compensation structure are likely.

Behavioral Health

Behavioral Health Care

The interim committee on mental health beds has recommended the legislature implement a two-year pilot program for mental health patient observation expenses. The program would focus on patients who have been assessed and are awaiting admissions to a state hospital or state institutional alternatives bed. Additional reimbursement increases for mental health services also will likely be discussed in the upcoming session.

It is expected that the 2023 legislature will continue analyzing funding to add a 50-bed behavioral health facility in south-central Kansas with the on-site space to add 50 additional beds. In addition, conversations are likely to continue into 2023 about ways the state can create accelerated programs for staffing needs in the behavioral health industry to fulfill the workforce needs.

Health Care Workforce

Temporary Nurse Assistant Training

Temporary nurse aides used during the COVID-19 response helped address workforce shortages. As a result, the legislature may look to codify the temporary nurse aide certification in the state statute.

Increase in Instruction for Health and Nursing Programs

A proposal to allow for an increased student-to-staff ratio and the ability for technical and community

colleges to pay more to allied health and nursing program instructors who can make substantially more income bedside at the current time are likely to be discussed in 2023. In addition, the legislature may hear more about proposals designed to increase participation in allied health and nursing programs, such as additional funding for the Kansas Nursing Initiative, new programs to support allied health and expansion of the existing PROMISE Act.

Anesthesiologist Assistant Licensure Act

In 2021, a letter issued by the Kansas Board of Healing Arts indicated that an anesthesiologist assistant could practice under the delegation of authority in Kansas. The letter also urged the legislature to address the matter in the statute. In previous sessions, a bill creating the Anesthesiologist Assistant Licensure Act has been introduced. It required anesthesiologist assistants to be licensed by the Kansas Board of Healing Arts. The bill included definitions of terms, established licensure requirements, maximum license fees, as well as causes for revoking, suspending or limiting a license. In addition, the bill limited the number of anesthesiologist assistants an anesthesiologist could supervise at any time to four. The bill also established the Anesthesiologist Assistant Council within the Kansas Board of Healing Arts to advise the board in carrying out the Act's provisions. This same or similar language could be brought before the 2023 legislature.

Licensure of Surgical Technologists

Legislation may be considered requiring the Kansas Board of Healing Arts to regulate health care professionals practicing as surgical technologists. In 2018, legislation was introduced defining and listing qualifications for surgical technologists and requiring the board to adopt rules and regulations to establish continuing education requirements for surgical technologists. The bill prohibited medical care facilities from employing surgical technologists without specified qualifications. The bill also specified that the practice of the healing arts does not include surgical technologists.

Advanced Practice Registered Nurse Scope of Practice

[House Bill 2279](#) allowed advanced practice registered nurses authorized scope of practice to permit the prescribing of drugs without a supervising physician and the requirement to carry medical malpractice coverage. However, with several questions around enactment, the bill could be re-addressed by the 2023 legislature.

Assault of a Health Care Worker

Assault on health care providers at work continues to concern Kansas hospitals. In 2022, [House Bill 2620](#) was passed to increase the penalty for assault or battery of a health care provider, and the crime of interference with health care (legislation or Act) was created. The legislation was vetoed after being merged with other policy matters. This topic is likely to be explored by the 2023 legislature.

Naturopathic Doctors

Legislation has been proposed in [Senate Bill 275](#) and [Senate Bill 274](#) to amend the scope of practice and allow naturopathic doctors to engage in the corporate practice of medicine and perform physical and laboratory examinations, as well as prescribe, administer and dispense medications and order labs. This may be revisited in 2023.

Staffing Agency

Legislation was proposed in 2022 that would have capped staffing agency rates and required reporting to the Kansas Department for Aging and Disability Services. Proposals to assist with staffing agency-related cost issues may be discussed in 2023.

Additional Compacts

In an effort to speed licensing and credentialing, other compacts for health care professionals may be discussed during the 2023 session.

Expedited Training Programs

The interim legislative committees have expressed an overall interest in exploring ways to expedite training programs for the health care industry to address workforce needs. The options include reducing hour requirements or exploring programs other states have enacted, such as apprenticeships and the necessary investments that could be needed to make those programs work in Kansas.

Pharmacy Techs Vaccine Administration

The legislature may consider allowing pharmacy technicians to continue administering vaccines as they have throughout the COVID-19 response.

Residency Opportunities

There may be a continued conversation around the need for additional residency spots across the state and the payment structure to make it more lucrative for facilities to host residencies.

Rural Opportunity Zone Program Expansion and Extension

In 2021, the legislature extended the sunset on the Rural Opportunity Zone Student Loan Repayment Program until July 1, 2023. In addition, it extended eligibility to 95 counties across the state with a population less than or equal to 40,000. During 2023, more discussion is anticipated on ways the program could be better utilized for student loan repayment, first-time homebuyer assistance and/or childcare assistance in the future.

Miscellaneous

340B Drug Pricing Program

The 340B Drug Pricing Program has been around for more than 20 years. As part of the Affordable Care Act, other entities became eligible to participate in the program. At present, Kansas has more than 85 hospitals participating in the 340B Drug Pricing Program. Some states have sought legislation to provide protections to participating entities to protect network participation and pricing. Similar legislation may be proposed in Kansas.

Medical Marijuana

Medical marijuana has been a frequent topic of discussion at the statehouse, with an interim dedicated to further researching the topic. In 2021, a bill to create the Kansas Medical Marijuana Regulation Act to define terms, amend criminal penalties, creating drug schedule re-programming passed the House in [House Sub for SB 158](#). The Senate didn't pass the bill in 2022, but an interim committee was appointed. The topic is likely to come up during the 2023 session.

Tobacco 21 Initiative

Tobacco 21 is a national initiative to raise the minimum legal sales age for tobacco products to 21. Nineteen states, including Arkansas, Nevada and Ohio, have raised the age limit to purchase tobacco products. Similar legislation may be re-introduced in 2023.

Transgender Youth Care

Policymakers may look to discuss, as they have in other states, policies related to transgender care for youth.

Prescription Monitoring Program

Legislation may be introduced requiring any prescriber, as defined in KSA 65-1626, who holds a current registration issued by the drug enforcement agency and prescribes controlled substances to register with K-TRACS. In addition, it requires they pay additional fees associated with the program's administration, which is currently funded from a combination of fees and grants.

Antipsychotic Medications

Legislation has been considered in the past. It requires a health care prescriber to obtain informed consent before administering an antipsychotic medication with a boxed warning under 21 CFR 201.57 to an adult care home resident. Under the proposed legislation, prescribers are required to obtain written informed consent from the resident or, if the resident is incapacitated, a person acting on behalf of the resident on a form provided by the Kansas Department for Aging Disability Services. Previous bill versions have included an emergency clause sidestepping the written informed consent if the resident is at significant risk of physical or emotional harm or puts others at risk.

Visitation Policies

[House Bill 2062](#) was passed by a Senate committee in 2022 and prohibits restricting visitors of residents of county hospitals or nursing homes. Similar legislation could come up in 2023.

Do Not Resuscitate Orders

[House Bill 2650](#) allows advanced practice registered nurses to sign do not resuscitate orders, which was introduced in 2022 and could be re-introduced in 2023.

Maternal Health

[Senate Bill 42](#) concerns the study and investigation of maternal deaths in Kansas. It received a hearing during the 2022 session and could be re-introduced in 2023.

Presumptive Eligibility

[Senate Bill 501](#), introduced in 2022, eliminates presumptive eligibility for hospitals in Kansas and changes requirements for those receiving food assistance, and requires state agencies to conduct cross-checks to verify eligibility. The bill passed in an amended form in [House Bill 2448](#) in 2022 to only require those able-bodied food assistance beneficiaries without dependents to participate in an employment training program. With the creation of a new committee in the House to examine state welfare reform, the conversation around presumptive eligibility could continue in 2023.