

## LEGISLATIVE UPDATE

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A quote by Mark Twain perhaps most aptly describes the feelings left with many involved in the legislative process during the Legislature's Sine Die session on May 21, "*Those that respect the law and love sausage should watch neither being made.*"

Indeed it seemed rules regarding multiple subject bills, finishing on Sine Die and bill debate were thrown by the wayside as the legislature sought to pass a laundry list of tax, insurance, COVID liability, budget and education measures in just under 24 hours. Most of the legislation was driven by the Senate, which introduced legislation in House shell bills (gut and go's), as the House chose not to open general orders bill debate.

Sen. Dinah Sykes (D-Lenexa) attempted, at one point in Senate debate, to replace the contents of a bill being debated with the bipartisan Medicaid expansion legislation – aka, a “gut and go” – but it was ruled non-germane because the content of her amendment was not related to the underlying bill. Many GOP leaders had feared opening debate for the very reason Medicaid expansion might just pass, as a majority of House and Senate members support the measure.

The process in the Senate became more hostile when the Senate majority leader announced to the body, just following extended comments and questions by Democratic senators, that he intended to “call the question” on every bill going forward and shut down debate. Calling the question is a procedural rule that stops debate and forces a vote on the current floor measure.

It is hard to describe the ensuing frenzy of a judiciary conference committee attempting to rush through an, “all but the kitchen sink” COVID-19 response bill that included liability protections for healthcare workers and businesses, along with a host of limitations on the governor's emergency powers. The result of those efforts led to the passage of [CCRB 2054](#) (about 23 hours in), by a vote of 24-11 in the Senate and 76-34 in the House, largely along party lines.

Predictably, this resulted in Governor Kelly vetoing the bill and calling the legislature back for a “special session” on June 3, to prepare a more “balanced” response to the COVID-19 pandemic in Kansas.

### **Governor Vetoes Omnibus COVID-19 Response Bill**

Governor Kelly vetoed Senate Substitute for HB 2054 on Tuesday, May 26. In her [press release](#) she lamented the bill would “damage Kansas’ ability to respond to COVID-19 and all future disasters and... weakens local county health officer authorities and adds unnecessary layers of bureaucracy to their emergency response efforts.”

Most disappointing for KAFP members is the bill contained key physician liability protections, related to COVID-19. This provision would cover liability for health care services and procedures delayed, altered or otherwise changed by the COVID State of Emergency – Executive Order 2026 – in Kansas. It specified the types of issues covered and did *not* include wanton or willful misconduct.

Other measures included in the vetoed bill were:

- Removed the governor's authority over the \$1.2 billion CARES Act federal funding from the governor and places it in the hands of the Legislative Coordinating Council, comprised of House and Senate leaders, including the minority leaders of each chamber;
- Extended the governor's previous emergency declaration to May 31 and would require a super-majority vote of the State Finance Council to take further action;
- Allowed county commissions to override their local health officials and the governor and approve less stringent measures;
- Removed liabilities for products and businesses related to COVID-19;
- Suspended the in-person requirement for notaries;

- Required county health officers to work with first responders to inform them where those testing positive or being quarantined for COVID-19 live;
- Required the Kansas Department of Aging and Disability Services to make infection control inspections of adult care homes and provide PPE, sanitizing supplies, and test kits on an ongoing basis;
- Included new telemedicine provisions;
- Allowed hospitals to admit patients in excess of its number of licensed beds and use non-hospital space and off-campus space to perform COVID-19 services; and,
- Provided for court video-conferencing.

KAFP will continue working with Kansas Medical Society in the legislative special session to ensure vital and specific liability protections are afforded to physicians, related to the COVID-19 emergency orders.