

NEWSLETTERS



KANSAS LEGISLATIVE INSIGHTS NEWSLETTER | APRIL 13, 2018

MIDNIGHT SHOWDOWN

It was almost midnight last Saturday and the House and Senate were engaged in a high-stakes game of legislative chicken. The Senate didn't want to vote for a school finance bill (**Sub for SB 423**) which they knew they had to vote for but didn't like, while the House was boxed into voting for the Senate's adjournment resolution which they didn't like, but knew the whole session would implode if they didn't vote for it. With literally minutes to spare, the House approved the adjournment resolution, and the Senate reluctantly followed with a 21-19 vote to approve the school finance bill.

Earlier in the day, the house had managed to squeeze the school finance bill – which contained more than \$500 million in new state support for Kansas school districts during the next five years – through that body by the minimum number of “Yes” votes (63-56). However, throughout the afternoon and evening, passage of the bill in the Senate was very much up in the air as senators indulged in hours of contentious debate before finally approving the bill, also by the slimmest of margins (21-19), after the House had agreed to an extension of the adjournment resolution.

Governor Colyer indicated he would sign the bill and that will allow Attorney General Derrick Schmidt to start preparing arguments in defense of the bill before the Kansas Supreme Court in mid-May. Following the May arguments, the Court will then issue an opinion on the bill no later than June 30 as to whether it fulfills the necessary constitutional requirements of “equity” and “adequacy.”

Unfortunately, earlier this week an \$80 million error was found in the bill that will have to be corrected when the Legislature reconvenes April 26. Whether there will be efforts to block correction of the error remains to be seen, but numerous conservatives, especially in the Senate, are very opposed to the bill and may see this as an opportunity to reopen the school finance battle.

As noted above, the Legislature finally approved the Senate version of an adjournment resolution, but it contains an unusual provision that moves *sine die* (final) adjournment to May 4. Because the governor has the constitutional right to take up to 10 days to sign or veto bills presented to him, the early *sine die* date effectively expands

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Governor Colyer's veto power. Normally, the Legislature leaves a two- or three-week gap between regular adjournment and *sine die* adjournment to give the Legislature an opportunity to override gubernatorial vetoes on bills passed in the closing days of the session.

By moving *sine die* adjournment to May 4, it means that most of the legislation passed after legislators return on April 26, including the budget bills, will not have to be acted on by the governor until after the Legislature has adjourned permanently for the year on May 4. Thus, there will be no opportunity for legislators to override any vetoes exercised by the governor after that date. That is particularly important since the Kansas Constitution gives governors the power to veto specific line items in budget bills.

AN IMPORTANT DATE

We usually associate April 15 with an income tax deadline, but for Kansas state government, it is also a very important day. It is the date on which the estimates for revenues flowing into the State General Fund (SGF) during the next 18 months are announced. This year, the announcement will actually be made on April 16, since April 15 falls on a Sunday.

In turn, the budgets for the remainder of FY 2018 (which ends on June 30) and for all of FY 2019 are finalized using these projections. Obviously, these numbers will be extremely important regarding school finance. If the numbers show that there would be sufficient revenues to fund the bill just passed, it would likely diminish the need for tax legislation this session. A gloomier revenue forecast combined with a possible Supreme Court demand for more than \$500 million additional dollars for school finance might well mean a special legislative session later this summer.

BILL SUMMARIES

Listed below are selected bills that were acted on last Friday and Saturday. Additional information on any of the bills can be accessed by clicking on the bill number.

AGRIBUSINESS

SB 263 – Creates the Alternative Crop Research Act allowing the Kansas Department of Agriculture (KDA), in conjunction with Kansas institutions of higher learning, to do research and cultivate industrial hemp as an alternative crop. It allows the KDA to set up multiple-county pilot programs, establishes a licensing fee fund, and grants KDA authority to promulgate rules and regulations by Dec. 31, 2018, to carry out the provisions of the Act. It also requires individuals in the test programs to be licensed and carry such license at all times, and eliminates any possible references to industrial hemp as marijuana or a cannabinoid. A program for growing and selling industrial hemp must be forwarded by the KDA to the Legislature by Jan. 12, 2019. *(Passed by the Senate on a vote of 40-0. Awaiting action by the Governor)*

BUSINESS AND ECONOMIC DEVELOPMENT

HB 2482 – Now contains the provisions of **HB 2778**, which prohibits the state from entering into contracts exceeding \$100,000 with a company (as defined) unless the company submits a written certification that the company is not involved in a boycott of Israel. *(Passed by the House on a vote of 88-32 and by the Senate on a vote of 36-1. Awaiting action by the Governor)*

Senate Sub for HB 2701 – Establishes a 22-member (17 voting) Statewide Broadband Expansion Task Force composed of legislators and representatives of various statewide organizations and associations with interest in greater broadband availability throughout the rural areas of Kansas. The Task Force would sunset on June 30, 2020. *(Passed by the Senate on a vote of 40-0 and by the House on a vote of 117-3. Awaiting action by the Governor)*

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FINANCIAL SERVICES

SB 335 – Brings state savings and loan associations and savings banks under the state banking code and repeals the savings and loan code. Grants specified powers to mutual state banks and to the service corporation of a savings and loan association or savings bank. Alters the process for conversion to a state bank or a national bank. Allows banks to invest in bonds, securities, or other “evidences of indebtedness” up to 15% of the bank’s capital stock and surplus. Also makes several technical amendments to the Kansas Mortgage Transmitter Act (KMTA). (*Passed by the House on a vote of 116-4. Awaiting further action by the Senate*)

HEALTH CARE

SB 282 – As amended by the House Committee on Health and Human Services, SB 282 would amend the Uniform Controlled Substances Act and certain statutes pertaining to crimes involving controlled substances. The bill would amend the definition of “marijuana” and authorize the sale of certain CBD (cannabidiol) products provided they meet the appropriate THC dry-weight test. The bill would add several synthetic opioid fentanyl compounds and an opioid analgesic drug to Schedule I; update several cannabinoid classes in Schedule I to include new synthetics and substitutes adds oral solutions and certain chemical precursors to fentanyl to Schedule II. Also, the bill updates the list of anabolic steroids in Schedule III. 2. Exempts cannabidiol from the definition of marijuana and removes references to cannabidiol products. (*Passed by the House on a vote of 120-0. Awaiting further action by the Senate*)

HB 2232 – Was originally introduced during the 2017 Legislature. Now, as amended, the bill would allow a resident of an adult care home or a resident’s guardian or legal representative to conduct authorized electronic monitoring (monitoring) in the resident’s room subject to requirements set out in the bill. The bill would define applicable terms and establish guidelines for monitoring. Authorized electronic monitoring means the placement of one or more electronic monitoring devices in the room of an adult care home resident and making recordings with such devices after notifying the adult care home of the resident’s intent to conduct electronic monitoring. (*Passed by the House on a vote of 119-0. Awaiting action by the Governor*)

Senate Sub for HB 2600 – Would amend the Nuclear Energy Development and Radiation Control Act and provide for the study *and* investigation of maternal deaths by the Secretary of Health and Environment (KDHE Secretary). First, the bill would increase license charges for noncontiguous sites holding radioactive material. Second, the bill would provide for the study and investigation of maternal deaths by the KDHE Secretary, and provide for access to records related to maternal deaths. The bill contains the contents of HB 2600, as amended by the Senate Committee on Public Health and Welfare, and the contents of HB 2573, as amended by the House Committee on Health and Human Services, states that maternal deaths in the United States are increasing, and an estimated half of these deaths could be prevented. Potential causes should be the subject of a statewide study. Also contains the provisions of **HB 2031**, which creates the Palliative Care and Quality of Life Interdisciplinary Council (Council) and the State Palliative Care Consumer and Professional Information and Education Program (Program) within the Kansas Department of Health and Environment (KDHE). The Council would be responsible for developing recommendations and advising KDHE on matters related to evaluation of palliative care initiatives in the state, and effectiveness of the Program. The Program’s purpose would be to maximize the effectiveness of palliative care initiatives in the state by ensuring that comprehensive and accurate information and education about palliative care is available to the public, health care providers, and health care facilities. The bill would also define “palliative care”. (*Passed by the House on a vote of 120-0 and by the Senate on a vote of 27-12. Awaiting action by the Governor*)

STATE GOVERNMENT

HB 2597 – Designates Sedgwick County as an urban county, thus allowing legislation to be enacted that applies exclusively to that county. Restructures the powers of the election commissioners in the four urban counties and shifts the budgeting process to the county commissioners in those counties. Also exempts non-profit cemetery

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corporations in urban counties from certain maintenance requirements. (*Passed by the Senate on a vote of 29-10 and by the House on a vote of 90-30.*)

TAXES

Senate Sub for HB 2228 – Allows for specified reductions on Kansas state income taxes. Speeds up schedule for allowing full deduction of medical expenses, mortgage interest, and property taxes. Allows certain expensing deductions and increases standard deductions by 25% and also allows specific tax credits. Allows itemized deductions on state returns even if standard deductions were taken on the federal income tax. (*Passed by the Senate on a vote of 24-16. Awaiting further action by the House*)

Kansas Legislative Insights is a publication developed by the Governmental Relations & Public Policy Law practice group of Foulston Siefkin LLP. It is designed to inform business executives, human resources and governmental relations professionals, and general counsel about current developments occurring in current Kansas legislation. Published regularly during the Kansas legislative session, it focuses on issues involving health care, insurance, public finance, taxation, financial institutions, business & economic development, energy, real estate & construction, environmental, agribusiness, employment, and workers compensation. Bill summaries are by necessity brief, however, for additional information on any issue before the Kansas Legislature, contact Foulston Siefkin's Governmental Relations & Public Policy Law practice group leader, James P. Rankin at 785.233.3600 or jrankin@foulston.com.

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PRACTICE AREAS

- Government Affairs & Public Policy Law