



KANSAS LEGISLATIVE INSIGHTS NEWSLETTER | FEBRUARY 8, 2019

2019 SESSION IS GAINING MOMENTUM

This week saw significant work on the budget, potential signs of progress on school finance, and the first significant tax policy debate on the Senate floor. Senate President Susan Wagle chaired the Senate Select Tax Committee that approved SB 22 last week. Sen. Wagle explained (“carried”) the bill during the debate in the Senate Chamber on Wednesday. During final action on Thursday, SB 22 passed by a margin of 26-14. This is one vote short of the two-thirds needed to override an expected veto by Governor Kelly.

Kansas Public Employees Retirement System (KPERs) was the other major issue debated in the Senate this week. SB 9, providing a \$115 million payment to KPERs to reduce the growing unfunded liability, came before the full Senate. It was debated on Monday and passed 40-0 on Tuesday.

The House of Representatives debated and passed some non-controversial measures relating to spousal inheritance rights after divorce, environmental remediation, and tribal court judgments. HB 2044, a bill providing tax credits for certain purchases of goods and services from qualified vendors employing individuals who are blind or severely disabled, passed 115-1.

SCHOOL FINANCE UPDATE

Despite the freezing temperatures and severe winter weather, there was a thaw in the glacial ice surrounding the ongoing K-12 school funding dilemma during a meeting of the Senate Select Committee on Education Finance on Wednesday. Bill Brady, Schools for Fair Funding lobbyist, testified in favor of Governor Kelly’s education plan. Brady expressed a willingness by the plaintiff’s organization to drop its claims in the *Gannon* case (pending before the Kansas Supreme Court) if the Governor’s plan is passed without amendment. Last year the Kansas Supreme Court stated that if the Legislature added a yearly 1.44 percent increase over the five-year phase-in of extra funding, the constitutional funding provision would be satisfied.

After the Thursday Senate session, Sen. Susan Wagle’s Senate Select Committee on Federal Tax Code met briefly to introduce two education bills that split the Governor’s education budget. The first bill addresses the \$92 million legislative response to the *Gannon* lawsuit. This amount is expected to satisfy the Supreme Court on adequate funding for K-12 public education. Prompt action is important to allow the Attorney General time to prepare the

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State's response to last year's Supreme Court Order. The other education bill addresses the balance of Governor Kelly's budget for the Department of Education.

BUDGET UPDATE

The House Appropriations Committee and the Senate Ways and Means Committee have divided into subcommittees to work on the Governor's budget and state agency requests. The January revenue numbers cloud and complicate the budget and tax policy debate. The Kansas tax-only revenue was \$51.7 million less than the consensus estimate and \$101 million below January 2018. Year-to-date, the state revenue is a little over \$108 million above last fiscal year.

STATE OF THE JUDICIARY

On Wednesday, Chief Justice Lawton Nuss delivered the State of the Judiciary address from the Kansas Supreme Court chambers. The House leadership didn't extend an invitation to the Chief Justice to speak in the House chamber. The Chief Justice thanked the Legislature for providing funding for increased salaries for the judicial branch the last two sessions. However, he expressed his ongoing concern that Kansas' low pay is making retention of judicial branch employees difficult. Salaries for Kansas trial judges now rank last (51st) in the United States behind the other 49 states and the District of Columbia. Justice Nuss noted that Kansas is making significant progress on the electronic filing of lawsuits and motions.

HEALTHCARE AND FARM BUREAU

SB 32, introduced by the Kansas Farm Bureau, was amended and passed by the Senate Financial Institutions and Insurance Committee. The bill would exempt a nonprofit agricultural membership organization incorporated in Kansas on June 23, 1931 (*i.e.*, the Kansas Farm Bureau), which provides healthcare benefit coverage for the payment of expenses to or for the members of the organization and their dependents from the jurisdiction of the Insurance Commissioner.

The bill suggests the healthcare benefit coverage provided by the Farm Bureau would not be considered insurance, notwithstanding any provision of law to the contrary. SB 32 would permit the risk under such coverage to be reinsured by a company authorized to conduct reinsurance in Kansas.

So, if the Farm Bureau health benefit product is not an insurance contract, what is it? If a Farm Bureau subscriber has a claim (or complaint), who does he or she turn to? Obviously, not the Kansas Insurance Department.

BILL INTRODUCTIONS

HEALTHCARE

Senate Concurrent Resolution No. 1604 – Amends the Kansas Constitution to expand the rights of human beings to begin at the biological development of the human being, including fertilization. Referred to the Senate Committee on State and Federal Affairs, Sen. Bud Estes, Chair.

SB 61 – Relates to the scope of practice and licensure of podiatry. Surgery on the ankle by a podiatrist would be permitted if podiatrists completed a two-year post-doctoral surgical residency prior to July 1, 2007, or a three-year post-doctoral surgical residency program on or after July 1, 2007. Also, the practice of podiatry would be placed under the control of the Board of Healing Arts. Referred to the Senate Committee on Public Health and Welfare, Sen. Gene Suellentrop, Chair.

SB 113 and HB 2163 – Enacts the veterans first medical cannabis law legalizing medical cannabis dispensaries. The proposal provides for a regulatory commission for the registration of patients, and licensure of medical cannabis growers, grower distributors, and dispensaries. It authorizes the taxation of cannabis and provides a list of qualifying medical conditions and qualified patients. Referred to the Senate Committee on Public Health and

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Welfare, Sen. Gene Suellentrop, Chair, and the House Committee on Health and Human Services, Rep. Brenda Landwehr, Chair.

SB 114 – Relates to the payment of healthcare costs of persons in the custody of governmental entities. Referred to the Senate Committee on Judiciary, Sen. Rick Wilborn, Chair.

SB 118 – Changes the language of existing statute K.S.A. 19-4625 relating to the closure of a county hospital and provides that a county is not responsible for any debts or obligations incurred by the hospital or hospital board upon closure. Referred to the Senate Committee on Ways and Means, Sen. Carolyn McGinn, Chair.

HB 2155 – Seeks to improve the medicolegal death investigation system. This bill would establish the Office of the State Medical Examiner under the supervision of the Director of the Division of Public Health of the Department of Health and Environment and set continuing education requirements for district and county coroners. Referred to the House Committee on Health and Human Services, Rep. Brenda Landwehr, Chair.

COURTS, LAWS, AND REGULATIONS

SB 70 – Establishes specific requirements and procedures for issuing temporary permits for the sale of alcoholic liquor for consumption on premises. Temporary permits under this bill would be subject to the enforcement provisions of the Kansas Liquor Control Act and the Club and Drinking Establishment Act. The Secretary of Revenue would also be granted authority to adopt rules and regulations for the enforcement of the provisions relating to temporary permits. This bill would amend K.S.A. 2018 Supp. 41-308a, 41-719, 41-2601, and 41-2608 and repeal K.S.A. 2018 Supp. 41-347 and 41-2645. Referred to the Senate Committee on Federal and State Affairs, Sen. Bud Estes, Chair.

HB 2035 – Places enforcement of the Cereal Malt Beverage Act under the authority of the Division of Alcoholic Beverage Control (ABC). Under HB 2035, violations of the Cereal Malt Beverage Act would have the same notice and procedural requirements as violations of the Liquor Control Act and the Club and Drinking Establishment Act. Referred to the Senate Committee on Federal and State Affairs, Sen. Bud Estes, Chair.

HB 2133 – Establishes reporting requirements for the delivery of alcoholic liquors from outside the state into the state of Kansas. Referred to the House Committee on Federal and State Affairs, Rep. John Barker, Chair.

HB 2132 – Proposes an increased penalty for committing certain lewd and lascivious behavior. Referred to the House Committee on Corrections and Juvenile Justice, Rep. J. Russell Jennings, Chair.

HB 2162 – Proposes to amend the Kansas Consumer Protection Act. The act would change the statutory definitions of “consumer transaction” and “supplier.” The definition of “consumer transaction” would be amended to not include the disposition of repossessed collateral to any supplier. The definition of “supplier” would be amended to remove the exclusion of “any bank, trust company or lending institution.” Referred to the Committee on Judiciary, Rep. Fred Patton, Chair.

SB 85 – Establishes certain requirements related to sentencing and imprisonment of individuals convicted of the crime of domestic battery. Referred to the Senate Committee on Judiciary, Sen. Rick Wilborn, Chair.

SB 58 – Grants immunity from civil liability to a person filing a citizen-initiated grand jury petition in good faith. Referred to the Senate Committee on Judiciary, Sen. Rick Wilborn, Chair.

SB 84 – Expands and amends the Kansas Act Against Discrimination to make sexual orientation and gender identity or expression protected categories. Referred to the Senate Committee on Judiciary, Sen. Rick Wilborn, Chair.

INSURANCE

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HB 2107 – Requires health benefit plans which provide coverage for contraceptives to provide full reimbursement for contraceptive prescriptions. Referred to the House Committee on Federal and State Affairs, Rep. John Barker, Chair.

UTILITIES

HB 2080 – Limits the return that an electric utility may recover for transmission-related costs to the actuarially assumed investment rate of return established by the Board of Trustees of KPERS. This bill would only apply to transmission facilities owned by the utility and provides that if a utility elects to recover a transmission delivery charge, it must be the exclusive means for recovery of transmission-related costs. Referred to the House Committee on Energy, Utilities, and Telecommunications, Rep. Joe Seiwert, Chair.

HB 2109 – Requires electric public utilities to acquire a permit from the State Corporation Commission prior to the siting of certain electric transmission lines. Referred to the House Committee on Energy, Utilities, and Telecommunications, Rep. Joe Seiwert, Chair.

HB 2110 – Amends the Kansas No-Call Act to prohibit text-message solicitations in addition to telephone calls. This bill would also establish certain restrictions on the use of automatic dialing-announcing devices and establishes requirements for text-message solicitations. Referred to the House Committee on Energy, Utilities, and Telecommunications, Rep. Joe Seiwert, Chair.

TRANSPORTATION

HB 2087 – Relates to the installation of light-screening material on the windshield and windows of motor vehicles and sets certain requirements relating to the tinting of windows on motor vehicles. Referred to the House Committee on Transportation, Rep. Richard Proehl, Chair.

GENERAL BUSINESS

SB 60 – Amends the provisions for the licensing of real estate brokers and sales persons, including the provisions related to application, temporary licenses, educational requirements, deactivation and reinstatement of licenses, broker's primary office, fees, and the effect on other licenses of the suspension or revocation of certain licenses. Referred to the Senate Committee on Commerce, Sen. Julia Lynn, Chair.

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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This update has been prepared by Foulston Siefkin LLP for informational purposes only. It is not a legal opinion; it does not provide legal advice for any purpose; and it neither creates nor constitutes evidence of an attorney-client relationship.

PRACTICE AREAS

- Governmental Affairs & Public Policy Law