



KANSAS LEGISLATIVE INSIGHTS NEWSLETTER | MARCH 20, 2020

WEEK 10 OVERVIEW

The reality of the COVID—19 pandemic seriousness became apparent last Friday with the news that a member of the House of Representatives was being tested for the virus. The test was negative. Last Thursday, Gov. Laura Kelly's emergency declaration underscored the situation, and it prompted a show of bipartisanship in the House Appropriations Committee last Friday when a base state budget was quickly approved with deferral of debate on many high-profile budget items until the veto session. Even though the House of Representatives had not voted on the budget, the House, in an unusual move, offered to start conference committee discussions on the budget with the Senate over the weekend. The Senate preferred to wait until the budget passed on the Senate floor this week.

Last week, the virus prompted discussions among legislative leaders for options to try to complete two weeks of work on a compressed timeline to adjourn early. On Monday, Senate President Susan Wagle stated the Legislature needs to concentrate only on essential legislation before adjourning until late April. Both chambers passed differing versions of the 10-year transportation plan. A House and Senate Conference Committee has been appointed to resolve the differences. On Thursday, the House voted 112-3 to pass the conference committee report on the transportation plan.

On Tuesday, the Senate debate on their version of the budget lasted only four hours amid the uncertainty of the economic impact of the closing or partial closings of businesses, the courts, schools, and state agencies. Cancellation of numerous meetings, conventions, and social distancing created additional urgency to conclude the regular legislative session ahead of the first adjournment date of April 4. Tuesday evening, the Budget Conference Committee started discussing the 87 differences on various issues between the House and Senate versions of the budget.

On Wednesday evening, the Budget Conference Committee reached an agreement, clearing the way for first adjournment on Thursday. Whether or not to include funding for Medicaid expansion was a major sticking point between the House and Senate. The Conference Committee left the funding with the proviso that if Medicaid expansion does not pass, the funding would be transferred to the State Finance Council for coronavirus efforts. An additional \$50 million was added for the Legislative Coordinating Council to be used for prevention of coronavirus and other needs. They also reduced the highway fund transfer to the state general fund by \$25 million. Finally, the

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Conference Committee inserted the contents of the latest versions of SB 409 (nursing facility bed tax) and SB 225 (hospital provider tax) into the conference committee report on HB 2168.

EROS REJECTED

On Wednesday, the House of Representatives voted 82-35 to disapprove of Gov. Kelly's Executive Reorganization Order (ERO) 44, renaming the Department of Children and Families (DCF)/Kansas Department for Aging and Disability Services (KDADS) to Health and Human Services. The votes were generally along party lines. The House also disapproved, by 72-46 vote, Gov. Kelly's ERO 46 regarding the Energy Office and removing it from the Kansas Corporation Commission (KCC). During floor debate, it was mentioned that 40 states had independent energy offices.

COVID-19 RELATED BILLS

On Monday, the House voted 113-5 to pass House Substitute for SB 102 concerning the courts relating to extension or suspension of deadlines or time limitations on litigation to secure the health and safety of court users, staff, and judicial officers. On Thursday, Mar. 19, Gov. Kelly signed SB 102.

On Monday, the House of Representatives passed House Concurrent Resolution 5025 granting Gov. Kelly broad emergency powers to address the coronavirus crisis. On Wednesday the Senate, after a two-hour debate, limited the Governor's broad powers in the resolution. The House of Representatives non-concurred with the Senate changes, and a conference committee was appointed.

On Tuesday, the House and Senate overwhelmingly passed two essential bills related to the pandemic, addressing education and extending eligibility for unemployment insurance to as much as 26 weeks for covered workers. Gov. Kelly signed both bills on Thursday, Mar. 19. The unemployment bill was originally introduced to assist Wichita aircraft manufacturing after the Boeing aircraft layoffs. With the pandemic, the impact will be much greater than aircraft. The education bill granted the State Department of Education authority to allow public school districts to end classroom instruction without jeopardizing their state funding for teaching less than the required number of hours this year. Gov. Kelly also ordered Kansas schools to close for the remainder of year on Tuesday.

DOCKING STATE OFFICE BUILDING

On Monday, the Senate Ways and Means Committee had a hearing on SB 487. It would authorize the Department of Administration, in consultation with the Kansas Department of Health and Environment (KDHE), to issue bonds to construct and equip a KDHE laboratory on parking lot number four of the Capitol Complex in Topeka. The bill also authorizes the Department of Administration to issue bonds to renovate the Docking State Office Building by preserving the first three floors and building three additional floors. The hearing was scheduled before the virus outbreak and designed to start the conversation on options for the building.

FIRST ADJOURNMENT

On Thursday morning, Senate Majority Leader Jim Denning announced there were only five remaining pieces of legislative business before adjournment. The five issues were: SB 66 (budget); HB 2168 (nursing home and hospital fix); SB 173 (transportation plan); HRC 5025 (emergency powers for the Governor); and the formal adjournment resolution. The House voted 112-3 to pass SB 173. The Senate passed the Conference Committee Report (CCR) on HCR 5025. The compromise within the CCR was it allowed the Legislative Coordinating Council to review the state of emergency every 30 days, the language about suspending certain sections on controlling persons and animals in and out of disaster areas, and limiting sales of alcohol and combustibles was removed. The CCR was approved by both Houses. The Legislature worked all day on Thursday to complete the remaining items with the budget the key to first adjournment. The Legislature will return on April 27 for the veto.

CONDOLENCES

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The Kansas Legislative Insights newsletter extends our deepest sympathy to Senate President Susan Wagle, R-Wichita, on the loss of her daughter Dr. Julia Marie Scott, 38, who died this week after a four-year battle with cancer. Dr. Scott was a physician at Stormont Vail Health. She is survived by her husband Riley Scott and four children, Olivia, Ben, Ellie and Hugh. Riley Scott is a lobbyist and son of former AT&T Kansas President Mike Scott.

BILL INTRODUCTIONS

INSURANCE

HB 2479 – As amended, would revise provisions in the Kansas Insurance Code governing requirements associated with corporate governance annual reporting. The bill applies to insurers and insurance groups. The Committee recommended the bill be passed as amended by the House Committee on Financial Institutions, Rep. Robert Olson, Chair.

SB 292 – As amended, would revise provisions in the Insurance Code governing excess lines coverage and taxation to authorize, rather than require, the Commissioner of Insurance to collect double the amount of tax as a penalty from a licensee or individual who fails, refuses, or neglects to transmit the required affidavit or statement for *surplus lines* insurance, or fails to pay the imposed tax for surplus line insurance. The Committee has recommended the bill be passed as amended by the Senate Committee on Insurance, Sen. Jene Vickrey, Chair.

SB 290 – As amended, would revise the law governing the Office of the Securities Commissioner and the appointment and removal authority assigned to the Commissioner of Insurance. The Committee has recommended the bill be passed as amended by the Senate Committee on Insurance, Sen. Jene Vickrey, Chair.

COURTS, LAWS, AND REGULATIONS

House Sub. For SB 102 – As amended, would create and amend law related to orders by the Chief Justice of the Supreme Court regarding deadlines, time limitations, and two-way electronic audio-visual communications (video conferencing). The substitute bill passed the House on emergency final action as amended; Yea: 113, Nay: 5. The Senate concurred with amendments; Yea: 27, Nay: 7. The Governor approved this bill on Mar. 19, 2020.

SB 501 – Would amend the existing employment security law so as to revise contradicting employer's contribution rates. Referred to the Senate Committee on Commerce, Sen. Julia Lynn, Chair.

HB 2527 – As recommended by the House Committee on Rural Revitalization, would remove the sunset date for the Advisory Committee on Trauma of the Kansas Department of Health and Environment and regional trauma councils regarding the ability to conduct closed session meetings when reviewing trauma cases and any records or findings that are privileged. Current law would sunset these provisions on July 1, 2021. The bill has been withdrawn from the Consent Calendar and placed on General Orders.

Sub for HB 2416 – Would create the Kansas Targeted Employment Act, establishing a tax credit for businesses that employ individuals with intellectual and developmental disabilities. The Committee has recommended the substitute bill be passed by the House Committee on Commerce, Labor and Economic Development, Rep. Sean Tarwater, Chair.

HB 2501 – As amended, would authorize a salvage vehicle pool or a salvage vehicle dealer to apply for an ownership document for a vehicle, without forwarding a statement of origin or certificate of title for the vehicle to the Division of Vehicles under certain circumstances. A salvage vehicle pool is defined as, "any person who as an agent for a third party primarily engaged in the business of storing, displaying, and offering for sale salvage vehicles." The Committee has recommended the bill be passed as amended by the House Committee on Transportation, Rep. Mike Peterson, Chair.

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House Sub. For SB 173 – Would authorize and direct the Secretary of Transportation to initiate a program to be called the Eisenhower Legacy Transportation Program. The bill would specify the types of projects authorized. The substitute bill passed the House on emergency final action as amended; Yea: 103, Nay: 16.

HB 2510 – As amended, would establish a procedure for a city or county to assume the powers, responsibilities, and duties of any special district located within the city's corporate limits or county's boundaries, and dissolve such a special district if approved by a joint resolution adopted by the city or county and the special district. "Special district" for this purpose would mean an airport authority, cemetery district, drainage district, fire district, industrial district, library district, port authority, rural water district, sewer district, or rural watershed district. The bill passed as amended on emergency final action as amended; Yea: 39, Nay: 0.

SB 432 – As amended, would revise law related to the terms of special shipping licenses held by wineries. The bill would also amend the Kansas Liquor Control Act, the Central Malt Beverage Act, and the statutes concerning local election authorizing the sale of alcoholic liquor to expand the hours and days during which alcoholic liquor could be sold. The bill would also make changes to retailer's license applications for individuals who had been issued a producer's license. The bill passed the Senate on emergency final action as amended; Yea: 39, Nay: 0. The bill has been received and introduced to the House Committee on Federal and State Affairs, Rep. John Barker, Chair.

SB 435 – As amended, would create law related to personal delivery services. The bill would define a "personal delivery device" as a powered device operated primarily on sidewalks and crosswalks and intended primarily for the transport of property on public rights-of-way that does not exceed 150 pounds, excluding cargo, and is capable of navigating with or without the active control or monitoring by a person. The bill would exclude personal delivery device from the definition of "motor vehicle" and "vehicle" in the Kansas vehicle registration law. The Committee has recommended the bill be passed as amended by the Senate committee on Commerce, Sen. Julia Lynn, Chair.

SB 458 – As amended, would revise the law relating to the compensation of members of the State Banking Board to increase the per diem compensation rate. Current law authorizes members of various boards and similar entities to receive compensation, subsistence allowances, mileage, and any other expenses, but limits the per diem compensation of any member of a board to \$35 for each day of actual attendance of a board meeting (K.S.A. 75-3223). The Committee has recommended the bill be passed as amended by the Senate Committee on Financial Institutions and Insurance, Sen. Robert Olson, Chair.

SB 456 – As amended, would revise the Kansas Liquor Control Act, the Cereal Malt Beverage Act, and statutes concerning local elections authorizing the sale of alcoholic liquor to expand the hours and days during which alcoholic liquor could be sold. The Committee has recommended the bill be passed as amended by the Senate Committee on Federal and State Affairs, Sen. Bud Estes, Chair.

SB 484 – Would authorize the Secretary for Children and Families to request a waiver from the U.S. Department of Agriculture for time-limited assistance provisions under food assistance provisions for able-bodied adults ages 18-49 without dependents in the household, if the Secretary can establish there are insufficient jobs in an area using standards not less restrictive than standards in federal regulations in effect on January 1, 2020. Current law prohibits the requesting of such a waiver. The Committee has recommended the bill be passed by the Senate Committee on Ways and Means, Sen. Carolyn McGinn, Chair.

SB 433 – As amended, would revise the Kansas Liquor Control Act and Drinking Establishment Act by modifying provisions relating to violation of Alcoholic Beverage Control Division (ABC) orders and the issuance of liquor licenses to certain persons. The bill passed the Senate on emergency final action as amended; Yea: 30, Nay: 9. The bill has been received and introduced to the House Committee on Federal and State Affairs, Rep. John Barker, Chair.

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SB 417 – As amended, would modify law related to class A club licensees, would expand the categories of alcoholic liquor licensees who can sell cereal malt beverage (CMB), would allow temporary permit holders to sell CMB along with alcoholic liquor, and would allow CMB to be consumed in common consumption areas. The bill passed the Senate on emergency final action as amended; Yea: 38, Nay: 0. The bill has been received and introduced to the House Committee on Federal and State Affairs, Rep. John Barker, Chair.

SB 485 – Would amend eligibility requirements for Temporary Assistance for Needy Families (TANF) cash assistance to allow for a single parent of a child between three months and one year of age to fulfill existing work participation requirements by engaging in in-home parenting skills training. The Committee has recommended the bill be passed by the Senate Committee on Ways and Means, Sen. Carolyn McGinn.

HB 2606 – Would amend law relating to the Office of the State Treasurer and the Office of the Commissioner of Insurance to require a vacancy in either office to be filled by the state party delegate convention of the party of the official who vacated such office. Current law requires a vacancy in such offices to be filled by appointment by the Governor. The Committee has recommended the bill be passed by the House Committee on Elections, Rep. William Sutton. Chair.

HB 2702 – As amended, would decouple participation in the Kansas Industrial Training (KIT) program of the Kansas Industrial Retraining (KIR) program as a method to qualify for the High Performance Incentive Program (HPIP) tax credit. The bill also would eliminate the HPIP certification and recertification by a business to dedicate 2% of payroll for training purposes. The bill passed the Senate on emergency final action as amended; Yea: 39, Nay: 0.

SB 408 – As amended, would revise law related to the consumption of alcohol on the grounds of the Kansas State Fair and the collection of associated liquor taxes. The Committee has recommended the bill be passed as amended by the Senate Committee on Federal and State Affairs, Sen. Bud Estes.

House Sub for SB 27 – Would amend provisions of the Employment Security Law, commonly referred to as unemployment insurance, (UI), pertaining to unemployment benefits. Workers who started to file UI claims on or after January 1, 2020, would be eligible for a maximum of 26 weeks of benefits. Under current law, the number of weeks for which a worker may claim benefits is capped at 16 weeks, 20 weeks, or 26 weeks if the Kansas unemployment rate (on a three-month seasonally adjusted average) is less than 4.5%, at least 4.5% but less than 6%, or at least 6%, respectively. The substitute bill passed the House on emergency final action as amended; Yea: 119, Nay: 0. The Senate concurred with amendments; Yea: 31, Nay: 3. The Governor approved this bill on Mar. 19, 2020.

SB 251 – As amended, would change the filing schedule for business entity information reports with the Secretary of State from an annual to a biennial basis effective July 1, 2022. Referred to the House Committee on Commerce, Labor and Economic Development, Rep. Sean Tarwater, Chair.

EDUCATION

House Sub. For SB 142 – Would amend existing law to clarify the authority of the State Board of Education (State Board) to grant waivers regarding the minimum number of school hours required each school year. The bill would expand the circumstances in which a local board of education could apply for a waiver to the State Board to include conditions restricting the operation of public schools. The bill would also amend the definition of “disaster” to include any declaration of a state of disaster emergency issued by the Governor or the closure of schools by order of the county or joint board of health, a local health officer, or the Secretary of Health and Environment. K.S.A. 72-3115(b) currently requires students in kindergarten attend at least 465 school hours, students in grades 1-11 attend at least 1,116 school hours, and students in grade 12 attend at least 1,086 school hours per school year. The substitute bill passed the House on emergency final action as amended; Yea: 117, Nay: 2. The Senate concurred with

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amendments; Yea: 30, Nay: 4. The Governor approved this bill on Mar. 19, 2020.

HB 2747 – Would authorize the State Board of Education to grant waivers for school districts from the requirement to provide a minimum number of school hours during the school term. Referred to the House Committee on K-12 Education Budget, Rep. Kristey Williams, Chair.

SB 384 – As amended, would require the Kansas State Department of Education (KSDE) and the Department of Children and Families (DCF) to prepare an annual academic report card on educational outcome data regarding foster care students. The bill would require the following data for foster care students to be included in the academic report card: the graduation rate, the number and percentage promoted to the next grade level, and the number and percentage suspended during the school year. The Committee has recommended the bill be passed as amended by the House Committee on Education, Rep. Steve Huebert, Chair.

TAXATION

HB 2746 – Would provide a temporary increase in interest rates for municipal bonds. Referred to the House Committee on Taxation, Rep. Steven Johnson, Chair.

HB 2517 – As amended, would expand the authority of county commissions to abate property taxes on certain types of property destroyed or substantially destroyed by natural disasters. The Committee has recommended the bill be passed as amended by the House Committee on Taxation, Rep. Steven Johnson, Chair.

SB 196 – As amended, would permit individual income taxpayers to begin claiming the expensing deduction (provided by K.S.A. 79-31,143a) for the costs of placing certain tangible property and computer software into service in the state beginning in tax year 2020. The bill also would require all taxpayers claiming the Kansas expensing deduction to offset the amount of federal expensing deduction claimed pursuant to Section 179 of the Federal Internal Revenue Code beginning in tax year 2020. The Committee has recommended the bill be passed as amended by the Senate Committee on Assessment and Taxation, Sen. Caryn Tyson, Chair.

SB 322 – As amended, would repeal the sunset on an exclusion of certain motor vehicle manufacturer rebates from the selling price for sales tax purposes. Current law excludes cash rebates granted by manufacturers to purchasers or lessees of new motor vehicles, if such rebates are paid directly to retailers. This provision is scheduled to sunset on June 30, 2020. The bill would also exclude discounts and coupons, that are reimbursed by a third party, from the definition of sales price for the purpose of Kansas retail sales tax. The bill passed the Senate on emergency final action as amended; Yea: 35, Nay: 2. The bill has been received and introduced to the House Committee on Taxation, Rep. Steven Johnson, Chair.

SB 309 – As amended, would revise law related to judicial review of property tax disputes and membership of the State Board of Tax Appeals (BOTA). The bill passed the Senate on emergency final action as amended; Yea: 36, Nay: 3. The bill has been received and introduced to the House Committee on Taxation, Rep. Steven Johnson, Chair.

UTILITIES

HB 2745 – Would require the Kansas Corporation Commission to develop a comprehensive state energy plan. Referred to the House Committee on Energy, Utilities and Telecommunications, Rep. Joe Seiwert, Chair.

HB 2524 – As amended, would update statutes related to the regulatory authority of the Kansas Corporation Commission (KCC) with regard to motor carriers. The Committee has recommended the bill be passed as amended by the House Committee on Transportation, Rep. Mike Peterson, Chair.

Senate Sub. For HB 2018 – Would amend the Kansas Video Competition Act to prohibit municipalities from imposing additional requirements for the deployment of micro wireless facilities in the public right-of-way and to allow a municipality to require compliance with certain standards. The Committee has recommended the substitute

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bill be passed by the Senate Committee on Utilities, Sen. Ty Masterson, Chair.

HB 2618 – As amended, would establish the State Broadband Deployment Grant Program to be administered by the Office of Broadband Development (Office) in the Department of Commerce. The purpose of this grant program would include the development of a competitive grant program by the Office to award funding to applicants seeking to expand access to broadband internet services in the state. Funding for the Grant Program would be subject to appropriate actions. The Committee has recommended the bill be passed as amended by the Senate Committee on Utilities, Sen. Ty Masterson, 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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PRACTICE AREAS

- Governmental Affairs & Public Policy Law