



KANSAS LEGISLATIVE INSIGHTS NEWSLETTER | MARCH 22, 2019

BUNDLING TIME

This week was the last chance to work and pass bills in non-exempt committees. Next Wednesday, March 27 is the last day to consider non-exempt bills not in the originating chamber. Both chambers will be debating bills all day next Monday, Tuesday, and Wednesday. To complete their work, committees are bundling bills to save time and for tactical reasons. The Senate Committee on Financial Institutions and Insurance provides a good example with Senate Sub. for HB 2143. The bill would amend several health insurance provisions in the Kansas Insurance Code related to the regulation of association health plans (AHPs) and small employer plans. As amended by the Committee, the bill now incorporates the provisions of SB 29, as introduced, and the modified provisions of SB 36, SB 34, and SB 30 (these bills relate to the regulation of AHPs) with SB 32, the Kansas Farm Bureau bill currently stalled in the House Insurance Committee.

MEDICAID EXPANSION CLEARS HOUSE

On Wednesday, the House of Representatives was debating House Bill 2066 (see *infra*) on expanding the role of advanced practice registered nurses when Rep. Kathy Wolfe-Moore used a technique called “gut and go” to insert the Governor’s Medicaid expansion bill in place of the original bill. The House leadership challenged whether the Medicaid bill was germane and asked for a ruling by the House Rules Committee. The Rules Committee determined it was not germane. The key vote was a motion rejecting the ruling 62-55 with 21 Republicans voting against leadership. This allowed the issue to be debated.

The interesting twist in the Wolfe-Moore version of Governor Kelly’s bill was what Representative Wolfe-Moore characterized as a “poison pill.” It states that if the level of federal funding for expansion drops below 90% then the program will be halted. Two amendments were added during the lengthy debate. The vote to advance the bill to final action was 70-54. More than 130,000 additional Kansans could be eligible for Medicaid coverage if the bill is enacted.

On Thursday, the House of Representatives passed Medicaid expansion 69-54. Twenty-eight Republicans voted for the bill. Now, the measure goes to the Senate.

SENATE DEBATES BUDGET

On Thursday, the Senate debated its mega-budget bill which covers the next two fiscal years. Democrats unanimously opposed the bill because it forecasts this year's \$560 million balance shrinking to less than \$245 million and a deficit-ending balance by fiscal year 2022 of \$525 million. It contains the individual/corporate income tax decoupling, food sales tax cut, and the internet sales tax provisions. Senate Minority Leader Anthony Hensley said it guarantees future tax increases. The bill passed with only 21 Senators in favor.

NEW CORPORATE PRACTICE OF MEDICINE BILL

The latest corporate practice of medicine bill (HB 2402) was introduced on Tuesday. House Health and Human Services Chair Rep. Brenda Landwehr had given lobbyists on both sides of the policy debate until March 20 to reach an agreement. On Wednesday, Rep. Landwehr held a hearing, which was continued into Thursday. Health providers voiced concerns about the unintended consequences of rushing to pass this legislation and offered compromise language. On Friday morning, the House Health and Human Services Committee met and finished reviewing the differences in language. The Committee amended HB 2402 and passed the measure as amended.

BILL INTRODUCTIONS

HEALTHCARE

HB 2307 – As amended, would revise provisions of law pertaining to contracts between a health insurer and a dentist provider. The Committee has recommended the bill be passed as amended by the House Committee on Health and Human Services, Rep. Brenda Landwehr, Chair.

HB 2082 – As amended, would amend the Pharmacy Act of the State of Kansas by permitting a licensed pharmacist to administer a drug by injection that, in the judgement of the prescriber, could safely be self-administered by a patient pursuant to a prescription order, unless the prescription order includes the words “not to be administered by a pharmacist,” or words of like effect. The bill would define “medication order” to mean an order by a prescriber for a registered patient of a Kansas licensed medical care facility. Additionally, nothing in the provisions of the bill would replace, repeal, or supersede requirements prescribed in K.S.A. 65-4a10, which states, among other things, no abortion shall be performed or induced by any person other than a physician licensed to practice medicine in Kansas. Final action was passed on March 21; Yea: 122, Nay: 1.

SB 232 – Would make substantial revisions to the Kansas Adult Care Home Act and amend K.S.A. 39-955 *et seq.* Referred to the Senate Committee on Public Health and Welfare, Sen. Gene Suellentrop, Chair.

HB 2066 – Once about nurse practitioners has now, due to a “gut and go”, become a Medicaid expansion measure. The bill would modify the eligibility requirements for the Medical, on or after January 1, 2020, to include any non-pregnant adult under 65 years of age, whose income does not exceed 133% of the federal poverty level, to the extent allowed under the Social Security Act. The bill was passed as on final action; Yea: 69, Nay: 54.

HB 2389 – As amended, would amend the Pharmacy Act of the State of Kansas to require every prescription order issued for a controlled substance that contains opiate to be transmitted electronically, except as otherwise provided. The Committee recommended the bill be passed as amended by the House Committee on Health and Human Services, Rep. Brenda Landwehr, Chair. (See also, SB 234)

HB 2185 – Previously reported in our March 1 issue, the bill revises the Naturopathic Doctor Licensure Act and amends the definition of “naturopathic medicine” to include diagnostic imaging. The bill passed the House as amended on a Feb. 27 final action vote – Yea: 123, Nay: 1, and was introduced in the Senate. On March 21, the Senate Committee on Public Health and Welfare recommended the bill be passed as amended.

COURTS, LAWS, AND REGULATIONS

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HB 2400 – The bill would limit the sale of Kratom and Kratom products. Kratom is considered a psychotropic substance. Referred to the House Committee on Federal and State Affairs, Rep. John Barker, Chair.

HB 2209 – As amended, the bill would amend law pertaining to the Committee on Surety Bonds and Insurance (Committee) to permit the Kansas Board of Regents (KBOR) to purchase cybersecurity insurance as KBOR deems necessary to protect student records, labor information, and other statutorily protected data KBOR maintains, independent of the Committee, and without complying with the purchasing procedures of the Department of Administration. The term “cybersecurity insurance” would include, but not be limited to, first-party coverage against losses such as data destruction, denial of service attacks, theft, hacking, and liability coverage guaranteeing compensation for damages from errors, such as the failure to safeguard data. The Committee of the Whole recommended the bill be passed as amended.

HB 2244 – As amended, would amend laws relating to cannabis possession and create “Claire and Lola’s Law,” which would prohibit state agencies and political subdivisions from initiating child removal proceedings or child protection actions based solely upon the parent’s or child’s possession or use of cannabidiol treatment preparation. That is an oil including cannabidiol and tetrahydrocannabinol concentration of no more than 5% that has been tested by a third-party, independent laboratory. The Committee recommended the bill be passed as amended by the House Committee on Judiciary, Rep. Fred Patton, Chair.

SB 205 – Would amend law related to administration of the Kansas Charitable Gaming Act (Act). The law requires the Secretary of State to designate an administrator of charitable gaming who is responsible for administration and enforcement of the Act. The Committee recommended the bill be passed as amended by the Senate Committee on Federal and State Affairs, Sen. Bud Estes, Chair.

HB 2137 – Would avoid a pending sunset on the existing 17 exceptions to the Kansas Open Records Act. The Committee recommended the bill be passed as amended by the House Committee on Judiciary, Rep. Fred Patton, Chair.

SB 233 and HB 2173 – Would establish a regulatory scheme for a commercial industrial hemp program in Kansas. The House Committee on Agriculture has recommended the bill, as amended, be passed. The Senate companion, SB 233, is currently before the Senate Committee on Agriculture and Natural Resources, Sen. Dan Kerschen, Chair.

HB 2406 – Would authorize the relinquishment of any firearms in a defendant’s custody, control, or possession and any concealed carry license in accordance with certain court orders. The bill would amend K.S.A. 2018 Supp. 22-3426, 60-3107, and 60-31a06 and repeal the existing sections. On March 21, the bill was introduced to the House and referred to the House Committee on Federal and State Affairs, Rep. John Barker.

INSURANCE

HB 2041 – Would amend a provision in the unfair trade practices law to add the refusal to insure or limiting life insurance coverage to an individual, solely because of that individual’s status as a living organ donor, to the list of unfair methods of competition and unfair or deceptive acts or practices in the business of insurance. The bill was introduced by the House Committee on Insurance at the request of the National Kidney Foundation. The bill passed on final action on March 21; Yea: 94, Nay: 29.

HB 2177 – As amended, would create a law permitting life insurance companies that offer fixed index annuities (FIA) to utilize an alternative methodology of accounting for FIA hedging and associated reserves. The Committee recommended the bill be passed as amended by the House Committee on Financial Institutions and Insurance, Rep. Robert Olsen, Chair.

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SB 228 – Would amend the Kansas Insurance Code relative to licensure and renewal application fees and establish an annual report fee in the Third-Party Administrators (TPAs) Act. The initial application fee for home state and non-resident TPAs would be a specified amount of \$400. Annual reports of \$100 for both home state and non-resident TPAs would be required. The Committee recommended the bill be passed as amended by the Senate Committee on Financial Institutions and Insurance, Sen. Robert Olsen, Chair.

ALCOHOLIC BEVERAGES

SB 53 – As amended, would designate the official Kansas red wine grape as chambourcin and the official Kansas white wine grape as vigneoles. The sunflower, the meadowlark, and now grapes would be symbols of life in Kansas. The Committee recommended the bill be passed as amended by the Senate Committee on Federal and State Affairs, Sen. Bud Estes, Chair.

HB 2133 – As amended, would require every express company or other common carrier that delivers alcoholic liquors from outside of the state to consumers within the state to prepare a monthly report of known alcoholic liquors shipped by the carrier to be filed with the Director of Alcoholic Beverage Control. The intent of the bill was to enforce liquor gallonage taxes in the state and to provide information regarding the amount of alcoholic liquor shipped in the state directly to consumers. The Committee recommended the bill be passed as amended by the House Committee on Federal and State Affairs, Rep. John Barker, 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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Lawyers in America® and the Missouri & Kansas Super Lawyers® list. He is the firm's representative with State Law Resources, Inc., a national network of independent law firms selected for their expertise in administrative, regulatory, and government relations at the state and federal level.

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PRACTICE AREAS

- Government Affairs & Public Policy Law