



KANSAS LEGISLATIVE INSIGHTS NEWSLETTER | JANUARY 25, 2019

WEATHER SLOWS SESSION

The Legislature was closed Monday for Martin Luther King Jr. Day, snow and ice shortened afternoon committees on Tuesday, and Wednesday morning committees were cancelled with the Legislature starting at 11:00 a.m. Committees are hearing updates from state agencies and on key issues. Budget committees are starting to review the Governor's budget recommendations. Governor Kelly recommended a one-year budget with the exception of a two-year budget for education. The Brownback administration had been proposing two-year budgets.

At least seven association health plan bills were introduced in each chamber this week. Other health bills included allowing pharmacists authority to administer drugs pursuant to a prescription, prescriptive authority for advanced practice registered nurses, and the practice of dental therapy.

Other bills addressed abolishing capital punishment and creating the crime of aggravated murder, creation of the Kansas Sports Wagering Act, a three-day waiting period on gun permits for background checks, reestablishing the Kansas Electric Transmission Authority, and a \$115 million transfer from the state general fund to meet KPERS obligations.

HOUSE RULES DEBATE FEATURES "GUT AND GO" TRANSPARENCY

On Tuesday morning, the House of Representatives debated changing the rules to require 70 votes to pull a bill out of a House committee on the same day. Currently, the House rules require only 63 votes. Democrats argued that this gives too much power to committee chairs. The new House rules also address transparency, requiring the name(s) of the sponsor(s) or special interests to be identified on the bill or on the legislative website. The other transparency change addresses the so-called "gut and go" bill technique in which a substitute measure is inserted into and effectively replaces the original bill's language and purpose. The new rules require that this change be noted in the committee minutes, on the legislative website, and possibly on the new bill. On Wednesday, the rule changes passed the House 104-15 on final action. Please note that the transparency language only applies to the House and is not included in the Joint House and Senate rules approved last week by the Senate.

SENATE PRESIDENT ANNOUNCES SENATE SELECT TAX COMMITTEE

Last Friday, Senate President Susan Wagle announced the formation of a Senate Select Committee on Federal Tax Code Implementation. SB 13 was re-referred to the new Select Committee.

On Wednesday, Senate President Wagle named the members of the Select Committee. President Wagle will chair the committee, which is composed of the members of the Senate Assessment and Taxation Committee with the exception of the Senate Tax Chair, Caryn Tyson. Sen. Tyson remains chair of the Senate Assessment and Taxation Committee. The Select Committee will have a narrow focus, specifically addressing the often-referenced “windfall” from the 2017 federal tax cuts. Presumably, the Select Committee’s final report will permit Kansas individuals and businesses to continue itemizing on their state tax returns, effectively decoupling the Kansas income tax system from the federal. The potential windfall (or more accurately unintended tax increase) without action is estimated to be around \$130 million. Lawmakers are waiting for more specific numbers on the impact on various Kansas taxpayers. The goal is to quickly address this issue and send a bill to the Senate floor to allow itemizing on 2018 tax returns.

DEADLINES LOOMING

The first legislative deadline is only 10 days away. Legislators must request individual bills by Feb. 4. Feb. 11 is the deadline for bill request in non-exempt committees. The turnaround date (i.e., the date when non-exempt bills are passed from the chamber of origin to the other chamber) is Feb. 28. At turnaround, if non-exempt committee bills do not pass out of the Chamber of Privacy, the bill is generally considered dead for the remainder of the session. The “exempt committees” (e.g., House Appropriations, Senate Ways and Means, House and Senate Federal and State Affairs, and House Taxation) will continue to receive and work bills after turnaround on Feb. 28.

BILL INTRODUCTIONS

GAMING

SB 23 – Creates the Kansas Sports Wagering Act. The idea is to permit internet sports betting under the Kansas Lottery Act. This measure was introduced as SB 455 in the last session. SB 455 died in committee, but this time around, the measure is expected to progress. Interestingly, HB 2032, introduced last week, would require sports gaming to be operated and managed solely at racetrack gaming facilities. Referred to the Senate Committee on Federal State Affairs, Sen. Bud Estes, Chair.

COURTS, LAWS, AND REGULATIONS

HB 2038 – Revokes inheritance rights of a spouse upon divorce. The bill provides protection for third parties regarding severance, property sales, and good-faith reliance on trusts and other governing investments. Referred to the House Committee on Judiciary, Rep. Fred Patton, Chair.

HB 2010 – Would prohibit elected officials and individuals employed as senior-level governmental officials from lobbying or being employed as a lobbyist within one year of leaving elected office or governmental employment. Referred to the House Committee on Elections, Rep. Jim Ward, Chair.

HB 2024 – This bill would amend the No-Call Act to require any telephone solicitor who sends an unsolicited consumer communication by text message to identify the originator of the message, the business he or she represents, and the purpose of the communication. The bill would require the solicitor to discontinue the communication if the person solicited gives a negative response at any time. The bill would also prohibit a telephone solicitor from using an automatic dialing-announcing device unless the person being solicited has consented to the communication or if the communication is immediately preceded by a live operator who obtains consent. Additionally, the bill would prohibit consumer telephone communications before 9:00 a.m. or after 8:00

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p.m. Referred to the Committee on Energy, Utilities, and Telecommunications, Rep. Joe Seiwert, Chair.

INSURANCE

HB 2072 – Provides that an agreement contained in a contract of insurance between two insurance companies, including reinsurance treaties requiring arbitration of any existing or subsequent controversy arising between the parties, is not valid or enforceable. Referred to the House Committee on Judiciary, Rep. Fred Patton, Chair.

SB 29, SB 30, SB 31, SB 32, SB 33, SB 34, SB 35, SB 36 [The House-side companion measures are: HB 2053, HB 2054, HB 2055, HB 2056, HB 2057, HB 2058, HB 2059] – These measures are confusing but, in general, the purpose is to open the way for association health plans (AHPs) to offer large-group rating to all participating members even if some employers participating in the plan might be small employers (i.e., employer groups of 50 or fewer employees). Under existing law, including employer groups of 50 or fewer employees would force small-group rates (i.e., higher premium costs) on the whole group. The idea is to bring Kansas association group healthcare in line with President Trump's initiative to use association healthcare plans as a means of reducing premium costs and expanding health insurance coverage. See U.S. Department of Labor, Final Rule on Association Health Plans Defining "employer" under ERISA §3(5), effective Aug. 20, 2018. The 2018 federal rule is designated to exempt AHPs from individual and small-group market regulations under federal and state law, contrary to the policy objectives of "Obamacare" (the Affordable Care Act [ACA]). This exemption should allow AHPs to offer less comprehensive but more affordable health benefit insurance products. Apropos of the final point, the proposed changes to Kansas group insurance law appear to authorize an ACA-noncompliant limited-benefit health policy, provided the policy includes a warning statement regarding the limited nature of the coverage. SB 32 and SB 35 appear to be intended to implement the latter concept. Referred to the Senate Committee on Financial Institutions and Insurance, Sen. Robert Olson, Chair.

HEALTHCARE

SB 11 – Clarifies licensure rules for dental therapists. Referred to the Senate Committee on Public Health and Welfare, Sen. Gene Sullentrop, Chair.

GENERAL BUSINESS

SB 42 – Concerns real estate brokers and salespersons, relating to the definitions of rebate and interest for purposes of real estate transactions. 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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PRACTICE AREAS

- Government Affairs & Public Policy Law