



2018

Kansas Legislative Summary





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2018 Legislative Summary

Kansas State Budget and Medicaid

Kansas State Budget

House Substitute for Senate Bill 109 includes adjusted funding for state fiscal years (SFY) 2018 and 2019 for most state agencies and SFYs 2018 and 2019 capital improvement expenditures for a number of state agencies. The approved SFY 2018 budget in House Substitute for Senate Bill 109 includes expenditures of \$16.3 billion, including \$6.7 billion from the State General Fund (SGF). The amount is an all funds decrease of \$118,118 and an SGF decrease of \$8.3 million below the Governor's recommendation in FY 2018.

In SFY 2019, the bill includes expenditures of \$16.8 billion, including \$7.0 billion from the SGF. The amount is a decrease of \$84.0 million, including \$59.3 million from the SGF, below the Governor's recommendation for SFY 2019. The bill also reduces SGF revenue by \$99.9 million for SFY 2019.

The budget approved by legislature includes the following items:

Kansas Department of Health and Environment

- A 4.0 percent rate increase beginning July 1, 2018, to Medicaid inpatient and outpatient rates to all hospitals, which will be included in the hospital Medicaid fee schedule.
- A transfer of \$11.5 million in 2018 from the Health Care Access Improvement Fund the Medical Programs Fee Fund, contingent on the final approval by the Legislature of the 4.0 percent rate increase for 2019 and the resolutions of concerns regarding the fund balance being resolved.
- Language in state fiscal years 2018 and 2019 requiring the Kansas Department of Health and Environment to provide information on the state's Medicaid expenditures to a third-party consultant to reconcile the hospital provider tax program.
- Language in SFY 2018 requiring the agency and all Medicaid managed care organizations to implement a no less than 60-day initial authorizations policy for Medicaid eligible individuals whose needs require inpatient treatment in a psychiatric residential treatment facility.
- The addition of \$425,200 to implement Substitute for Senate Bill 195, which would allow prisoners and persons who reside in state hospitals to have their Medicaid eligibility restored without reapplication once they are released in SFY 2018.

- The addition of \$3.0 million for graduate medical education in SFY 2018 and \$5.9 million in SFY 2019.
- Language prohibiting all agencies from making changes to the Medicaid program as of Jan. 1, 2018, without the approval of the legislature, but allowing changes to address the federal Medicaid institutions for mental disease, behavioral health access and telehealth options.
- Language requesting an extension of the current KanCare wavier for three years with an option for two one-year extensions in SFY 2018 and 2019.
- Add \$600,000 for 12 new positions for KanCare eligibility in SFY 2019.

Kansas Department for Aging and Disability Services

- Language allowing the secretary of the Kansas Department for Aging and Disability Services to provide an adjusted rate increase for nursing facilities in 2018 and 2019 outside of the requirements of KSA 75-5958.
- An additional \$22.1 million for an increase in reimbursement rates beginning July 1, 2018.
- Language added to continue the Mental Health Task Force authorized by the legislature last year and adding a member appointed by the Kansas Hospital Association and Kansas Association for the Medically Underserved.

Legislative Status: House Substitute for Senate Bill 109 was signed by the Governor.

KanCare Expansion – Bridge to a Healthy Kansas

Senate Bill 38 establishes the KanCare Bridge to a Healthy Kansas Program. The Kansas Department of Health and Environment would be required to administer and promote the program. The bill would modify the eligibility requirements for the Kansas Medical Assistance Program, on or after Jan. 1, 2019, to include any non-pregnant adult under 65 years of age, who is a U.S. citizen or legal resident and who has been a resident of Kansas for at least 12 months, whose income does not exceed 133 percent of the federal poverty level (FPL), to the extent allowed under the federal Social Security Act, as it exists on the effective date of the bill and subject to the requirements of the program. The bill would require referral to workforce training programs, create a drug rebate fund and a privilege fee fund, create a health insurance coverage premium assistance program, address federal denial and approval of financial participation, require submission of a waiver request to the federal government, require various reports to the Legislature, and create a working group.

Legislative Status: Senate Bill 38 was heard and passed by the Senate Public Health and Welfare Committee. However, no action was taken by the full Senate.

Delay (and Extension) of the KanCare Program

Senate Bill 300 and House Bill 2507 prohibit substantial changes to the Kansas Medical Assistance Program without prior legislative approval. House Bill 2591 extends the current KanCare program through calendar year 2021 and halts the KanCare request-for-proposal process. Senate Bill 300 would postpone the implementation of KanCare 2.0 for three years and continue with the current contracting process for KanCare managed care organizations. It included language allowing modification to the current program to

implement the Kancare reforms in 2017 Senate Substitute for House Bill 2026 and expand behavioral health and telemedicine services.

Legislative Status: The contents of Senate Bill 300 were inserted as a budget proviso into House Substitute for Senate Bill 109. The Governor signed House Substitute for Senate Bill 109.

Creating a Suspended Status for Recipients of Medicaid Services

Substitute for Senate Bill 195 and House Bill 2508 would create a suspended eligibility status for recipients of state Medicaid services. The legislation allows the suspension, instead of the current termination, of Medicaid enrollment for persons who are admitted to a state hospital or other mental health hospital having more than 16 beds or are incarcerated in a correctional facility or jail or placed in a juvenile correctional facility. Federal law prohibits Medicaid reimbursement for medical care provided by these facilities, unless the person is placed in a hospital for 24 hours or more.

Legislative Status: The funding needed to administer Senate Bill 195 was inserted as a budget proviso into House Substitute for Senate Bill 109. The Governor signed House Substitute for Senate Bill 109.

Tobacco Cessation Coverage for Medicaid Recipients

Senate Bill 316 requires the Kansas Department of Health and Environment to provide coverage for tobacco cessation treatments for any state Medicaid beneficiary. Tobacco cessation treatments include all FDA-approved medications, as well as individual, group or telephone counseling. Coverage of tobacco cessation treatments would not be limited in the number of attempts, whether on an annual or lifetime basis. No prior authorization or co-pay would be required for the treatment.

Legislative Status: Senate Bill 316 was heard and passed by the Senate Public Health and Welfare Committee. However, no action was taken by the full Senate.

Legal

Corporate Practice of Medicine

House Bill 2721 allows a business entity to engage in the practice of medicine if it obtains a certificate of authorization from the Kansas State Board of Healing Arts. To obtain the certificate, a business entity must meet the following: 1) each person engaged in the practice of healing arts shall be licensed to practice in such profession by the Kansas State Board of Healing Arts; 2) the method and manner of patient treatment and the means by which the patients are treated are left to the discretion of the licensed individuals treating such patients; and 3) the business entity shall not impose or substitute its judgement for that of the licensed individuals.

Legislative Status: House Bill 2721 was referred to the House Health and Human Services Committee. No action was taken by the committee.

Wrongful Death Actions

House Bill 2550 clarifies that provisions in the Kansas Code of Civil Procedure relating to the types of damages that may be awarded in wrongful death and personal injury actions only apply to judgments based on medical malpractice of a health care provider as defined in KSA 40- 3401.

Legislative Status: House Bill 2550 was first referred to the House Judiciary Committee and then the House Appropriations Committee. Neither committee considered the bill.

Liability of County Hospital Debt

Senate Bill 373 absolves a county for any debts incurred by a county hospital if that county hospital closed. Specifically, the proposed legislation states "the county shall not be liable for any debts of the county hospital other than general obligation bonds issued for the county hospital or for any other debt obligation where the county specifically has agreed to be liable for such debt."

Legislative Status: Senate Bill 373 was referred to the Senate Ethics, Elections and Local Government Committee. No action was taken by the committee.

Health Care Workforce

Telemedicine

Senate Substitute for House Bill 2028 establishes the Kansas Telemedicine Act (Act). The KHA-supported legislation places into statute several definitions regarding the practice of telemedicine, as well as requires coverage parity by insurance carriers. The coverage parity provision states that insurance carriers must provide coverage for services via telemedicine if that same service is also covered in a face-to-face setting. The bill also provides for coverage of speech-language pathologist and audiologist services via telehealth under the Kansas Medical Assistance Program (KMAP), if such services are covered under KMAP when delivered via in-person contact.

Telemedicine,” including “telehealth” means the delivery of health care services or consultations while the patient is at an originating site and the health care provider is at a distant site. Telemedicine is to be provided by means of real-time, two-way, interactive audio, visual, or audio-visual communications, including the application of secure video conferencing or store-and-forward technology, to provide or support health care delivery that facilitates the assessment, diagnosis, consultation, treatment, education, and care management of a patient’s health care. The term does not include communication between health care providers consisting solely of a telephone voice-only conversation, e-mail, or facsimile transmission, or between a physician and a patient consisting solely of an e-mail or facsimile transmission.

This will take effect on and after Jan. 1, 2019.

Legislative Status: Senate Substitute for House Bill 2028 was signed by the Governor.

Nurse Licensure Compact

House Bill 2496 enacts the Nurse Licensure Compact and amends the Kansas Nurse Practice Act to enable the Kansas State Board of Nursing to carry out the provisions of the compact and establish the duties of registered nurses and licensed practical nurses under the compact. The compact allows RNs and LPNs to have one multi-state license, with the privilege to practice in the home state of Kansas and in other compact states physically, electronically, telephonically, or any combination of those. The bill takes effect from and after July 1, 2019, and upon its publication in the statute book.

Legislative Status: House Bill 2496 was signed by the Governor.

Physical Therapy Licensure Compact

House Bill 2471 would allow Kansas to join the Physical Therapy Licensure Compact. Like other licensure compacts, this program would allow physical therapists and physical therapy assistants to provide interstate physical therapy services and have multi-state licensure.

Legislative Status: House Bill 2471 was heard by the House Health and Human Services Committee. No action was taken by the committee.

Licensure of Surgical Technologists

Senate Bill 338 requires the Kansas State Board of Healing Arts to regulate health care professionals practicing as surgical technologists. The bill defines and lists qualifications for surgical technologists and would require the board to adopt rules and regulations to establish continuing education requirements for surgical technologists. The bill would prohibit medical care facilities from employing surgical technologists who do not have specified qualifications. The bill also specifies that the practice of the healing arts does not include surgical technologists.

Legislative Status: Senate Bill 338 was heard by the Senate Public Health and Welfare Committee. No action was taken by the committee.

Licensure of Dental Therapists

Senate Bill 312 expands the Dental Practices Act by creating the practice of dental therapy and requiring the Kansas Dental Board to authorize a person to practice as a dental therapist, if such person meets the qualifications set forth in the bill.

Prior to practicing as a dental therapist, a person would be required to pass an examination by the board. Upon passing the examination, such person would pay a license fee to the board as set by the board. The board would authorize a person to practice as a dental therapist if such person meets specific qualifications, works under the direct or general supervision of a Kansas licensed dentist, is licensed by the board, and practices in accordance with the requirements set forth in the bill and the rules and regulations adopted by the board.

Legislative Status: Senate Bill 312 was passed by the full Senate and was heard by the House Health and Human Services Committee. No action was taken by the committee.

Anesthesiologist Assistant Licensure Act

House Bill 2046 establishes the Anesthesiologist Assistant Licensure Act. The legislation allows anesthesiologists assistants to provide patient services under the direction and supervision of a responsible physician. The concept of AAs developed in the 1960s by physicians as a response to an anesthesia shortage. The first program was established at Emory University in 1969. At present, 17 states allow the practice of AAs. One of the requirements in statute for new professions to seek licensure in Kansas is to complete the Health Occupations Credentialing Application through the Kansas Department of Health and

Environment. Thus far, AAs have submitted their application and are awaiting review. It is anticipated that legislation may be brought forth by AAs during the 2019 legislative session.

Legislative Status: House Bill 2046 was heard by the House Health and Human Services Committee. No action was taken by the committee.

Adding Veterinarians to the Prescription Monitoring Program

House Bill 2759 removes the exemption from reporting to the Kansas Prescription Drug Monitoring Program for veterinarian-dispensed controlled substances. Some stakeholders believe the inclusion of veterinarians into the K-TRACS system is essential to ensure all opiate supply sources are monitored.

Legislative Status: House Bill 2759 was heard by the House Appropriations Committee. No action was taken by the committee.

Miscellaneous

Statewide Broadband Expansion Task Force

House Bill 2701 establishes the Statewide Broadband Expansion Task Force. The Task Force would be composed of 16 voting members and five ex-officio members, including a representative appointed by the Kansas Hospital Association. Among the mission of the Task Force is to work collaboratively to develop an approach that includes, but is not limited to, the development of criteria for the creation of a statewide map for defining and evaluating the broadband needs of Kansas citizens, business, industries, institutions, and organizations. It is also expected to identify and document risks, issues, and constraints associated with a statewide broadband expansion project and to develop any corresponding risk mitigation strategies where appropriate. The bill also requires the Task Force to submit an initial report to the House Committee on Energy, Utilities and Telecommunications and the Senate Committee on Utilities regarding its initial work and progress prior to January 15, 2019. Unless all work is completed and reported in the initial report, the Task Force is required to submit a final report outlining its recommendations to the Legislature prior to January 15, 2020.

Legislative Status: House Bill 2701 was signed by the Governor.

Treatment Facility Deemed Status License Renewal

House Bill 2106 authorizes the Secretary for Aging and Disability Services to grant a treatment facility licensed by the Secretary under the Alcohol or Other Drug Addiction Treatment Act and also accredited by the Commission on Accreditation of Rehabilitation Services, The Joint Commission, the Council on Accreditation, or another national accrediting body approved by the Kansas Department for Aging and Disability Services (KDADS), a license renewal based on such accreditation, referred to as “deemed status.” An accredited treatment facility that loses accreditation is required to notify KDADS immediately. Additionally, the bill requires KDADS to inspect an accredited treatment facility to determine compliance with state licensing standards and rules and regulations not covered by the accrediting entity’s standards, or inspect and investigate in response to a complaint made against the accredited treatment facility.

Legislative Status: House Bill 2106 was signed by the Governor.

Electronic Monitoring in Adult Care Homes

House Bill 2232 allows a resident of an adult care home, or a resident’s guardian or legal representative, to conduct authorized electronic monitoring in the resident’s room subject to requirements set out in the bill. The bill defines applicable terms; provides protections for the residents and adult care homes; establishes guidelines for monitoring, including the required notification and the content of the notification form; addresses the responsibilities of an adult care home and a resident or a resident’s guardian or legal representative; addresses the privacy rights of a resident and any other person sharing a room with the resident; addresses the terms under which a tape or recording could be admitted into evidence or considered during any proceeding; establishes penalties for violations related to permissible electronic

monitoring; and requires the Secretary for Aging and Disability Services to adopt rules and regulations necessary to administer the provisions of the bill.

Legislative Status: House Bill 2232 was signed by the Governor.

Tobacco Tax Increase

House Bill 2231 and Senate Bill 376 increase the tobacco tax on cigarettes from \$1.29 per pack to \$2.79. They also increase the tax on other tobacco products to 65 percent of the wholesale price.

Legislative Status: Senate Bill 376 was heard by the Senate Assessment and Taxation Committee. No action was taken by the committee.

Right to Shop

Senate Bill 399 and House Bill 2575 requires Kansas insurance carriers to offer incentives for insureds to compare health care services and split potential saved costs. House Bill 2575 also requires medical care facilities to provide timely responses to patients seeking cost information.

Legislative Status: House Bill 2575 was heard by the House Health and Human Services Committee. No action was taken by the committee.

Behavioral Health Task Force

House Bill 2688 establishes the Behavioral Health Task Force. The task force would be required to meet a minimum of six times per year. The bill outlines the requirements for membership of the task force, including one member appointed by the Kansas Hospital Association. The bill also requires the Kansas Department for Aging and Disability Services to provide administrative assistance to facilitate the organization and meetings of any working group convened by the task force. The task force would study the general administration and oversight of the behavioral health system by KDADS and state mental hospitals, as well as the continuum of care for behavioral health services and payment for behavioral health services. Committee members approved the addition of a member appointed by the Kansas Association for the Medically Underserved.

Legislative Status: House Bill 2688 was heard and passed by the House Appropriations Committee. No action was taken by the full House. A budget proviso was added to House Substitute for Senate Bill 109 that added a KHA and KAMU representative to the Behavioral Health Task Force.

Mandatory Enrollment in Prescription Monitoring Program

House Bill 2574 requires any prescriber, as defined in K.S.A. 65-1626, who holds a current registration issued by the drug enforcement agency and prescribes controlled substances to register with KTRACS by Jan. 1, 2020. The proposed legislation also would require practicing pharmacists to register for the KTRACS program by Sept. 1, 2018. The Kansas Prescription Monitoring Program, KTRACS, has been around for

several years and is instrumental in monitoring the usage of controlled substances in Kansas. Other changes included in HB 2574 would allow the Kansas Board of Pharmacy to provide data from the KTRACS program to individuals under an administrative subpoena or those operating a provider or pharmacists impaired provider program. In addition, HB 2574 would require the prescription monitoring program advisory committee to develop written criteria to monitor and track activities of concern and provide regular updates to the legislature.

Legislative Status: House Bill 2574 was heard by the House Health and Human Services Committee. No action was taken by the committee.

Administration of Drugs by a Pharmacist

Senate Bill 377 authorizes a licensed pharmacist to administer a drug by injection to a patient pursuant to a prescription order, unless the prescription specifically prohibits such administration.

Legislative Status: Senate Bill 377 was heard by the Senate Public Health and Welfare Committee. No action was taken by the committee.

Statewide Protocol for the Practice of Pharmacy

Senate Bill 387 requires the Collaborative Drug Therapy Management Committee to develop and establish statewide protocols to allow pharmacists to perform numerous pharmaceutical-related patient care functions under numerous conditions. The bill would specifically permit a licensed pharmacist to administer a drug to a patient according to a statewide pharmacy protocol, as defined in the bill.

Legislative Status: Senate Bill 387 was heard by the Senate Public Health and Welfare Committee. No action was taken by the committee.

Antipsychotic Medications

House Bill 2704 requires written informed consent be obtained by a health care prescriber prior to administering an antipsychotic medication that has a boxed warning under 21 CFR 201.57 to an adult care home resident. Under House Bill 2704, prescribers would be required to obtain written informed consent from the resident or, if the resident is incapacitated, a person acting on behalf of the resident, on a form provided by the Kansas Department of Aging and Disability Services. House Bill 2704 includes an emergency clause that sidesteps the written informed consent if the resident is at significant risk of physical or emotional harm or if the resident is putting others at risk.

Legislative Status: House Bill 2704 was heard by the House Children and Seniors Committee. No action was taken by the committee.

Step Therapy

Senate Bill 304 establishes restrictions on health insurance use of step therapy protocols. The bill would mandate how health insurance may structure step therapy programs and would establish the ability for providers to override step therapy protocols. KDHE would create a Step Therapy Guidelines Committee to draft the guidelines. The new committee would include four pharmacists and four physicians. The committee's decisions would be subject to approval by the Medicaid Drug Utilization Review Board.

Legislative Status: Senate Bill 304 was heard by the Senate Public Health and Welfare Committee. No action was taken by the committee.

Palliative Care

Senate Substitute for House Bill 2600 creates the Palliative Care and Quality of Life Interdisciplinary Advisory Council and the State Palliative Care Consumer and Professional Information and Education Program within the Kansas Department of Health and Environment. The Council is responsible for developing recommendations and advising KDHE on matters related to the establishment, maintenance, operation, outcomes evaluation of palliative care initiatives in the state, and effectiveness of the Program. The Program's purpose is to maximize the effectiveness of palliative care initiatives in the state by ensuring comprehensive and accurate information and education about palliative care is available to the public, healthcare providers, and healthcare facilities.

Legislative Status: Senate Substitute for House Bill 2600 was signed by the Governor.

Uniform Anatomical Gift Act

House Bill 2472 places a question as to an individual's willingness to give his or her authorization to be listed as an organ, eye, and tissue donor in the Kansas Donor Registry (Registry) in accordance with the Revised Uniform Anatomical Gift Act on the applications for a driver's license, renewal of a driver's license, and an identification card and on the notice of a driver's license expiration. The bill requires the word "donor" be placed on the front of the driver's license or identification card of an individual who provides authorization to be listed in the Registry on an application for a driver's license or an identification card. Further, the bill amends the Act regarding the persons authorized to make an anatomical gift upon a decedent's death, adds a definition for "healthcare provider," and provides an exemption from liability for such providers.

Legislative Status: House Bill 2472 was signed by the Governor.