

House Appropriations Committee - Thursday April 23 beginning at 10:00 am and Friday April 24 beginning at 9 am in Room 112-N

Senate Ways and Means Committee - Tuesday April 28 beginning at 3 pm in Room 548-S

List of Legislation

Sub for SB 4 – Rescission Bill FY 2015 Budget Adjustments

Adopted and effective February 12. The bill increases expenditures by \$120.2 million, including \$45.1 million from the State General Fund. The bill also deletes authority for three bond issuances totaling \$90.7 million for the Regents Institutions. The bill also includes transfers and State General Fund reductions to the Legislative and Judicial Branches from the Governor's December 9, 2014, allotment plan that require Legislative approval. The bill adds \$106.6 million, including \$46.2 million from the State General Fund, to fully fund Human Services Consensus Caseload estimates, adds \$2.9 million from the State General Fund for technical education tuition, and \$2.5 million from the State General Fund for Department of Administration—Office of Information Technology Services to reimburse the federal government for various expenditures. The bill also includes State General Fund transfer adjustments in FY 2015 totaling \$247.7 million. The largest transfers are \$158.5 million from the State Highway Fund, \$55.0 million from the Medical Program Fees Fund, \$12.0 million from the Kansas Endowment for Youth Fund, and a reduction of \$7.1 million in the transfer to the Job Creation Program Fund.

SB 35 – Senate Appropriations

The bill had January hearings. Provisions were rolled into other budget legislation.

SB 39 – Technical Amendments to ERO

SB 39 would update statutory references to align the appropriate agency with its statutory responsibilities under 2012 Executive Reorganization Order No. 41. This order shifted disability and behavioral health services from the Department of Social and Rehabilitation Services to the Department of Aging. In addition, the agencies were renamed the Department for Children and Families and the Department for Aging and Disability Services, respectively.

SB 69 - APRN Scope of Practice

Advance Practice Registered Nurses – expanded scope of practice. Had a hearing January 29 in Senate Public Health and Welfare. No action.

SB 123 – Medicaid Mental Health Medications – Repeal Exemption from Management to Allow PA and PDL

SB 123 would have repealed KSA 2014 Supp. 39-7,121b, which prohibits requirements for prior authorization or other restrictions on medications used to treat individuals with mental illnesses who are Medicaid recipients. Medications in the existing statute available without prior authorization or other restrictions include atypical medications, conventional antipsychotic medications, and other medications used for the treatment of mental illness.

Senate Public Health and Welfare held a public hearing February 11. The bill failed to pass the Senate 15-25 on February 25th. See amended bill SB 181.

SB 181 – Medicaid Prescription Drug Authorization Process

SB 181 would amend the procedures regarding restrictions of patients' access to any new prescription-only drug under the Medicaid program and would establish meeting requirements for the Medicaid Drug Utilization Review Board (Board). The Senate passed 39-1 on February 26 and the House Health Committee held a hearing March 16. The contents were inserted by the Senate into HB 2149.

Access to New Prescription-only Drugs under Medicaid Program The Secretary of Health and Environment (Secretary) would be allowed to implement prior authorization of any new prescription-only drugs until such drugs are reviewed by the Board at the next scheduled meeting. During the period before the new drugs are reviewed by the Board, the drugs would be approved for use as indicated in package insert guidelines approved by the federal Food and Drug Administration and clinically reputable compendia, as approved by the Secretary in rules and regulations. Under existing law, the Secretary is prohibited from restricting patient access to prescription-only drugs through a program of prior authorization or a restrictive formulary, except by rules and regulations. The current requirement that these proposed rules and regulations be submitted to the Board for written comment would be eliminated.

Board Meeting Requirements The Board would be required to meet at least quarterly. The meetings would be open to the public and provide an opportunity for public comments. The Board would be required to post notice of the meetings at least 14 business days before the scheduled meetings.

SB 254 – Removes DSM from Behavioral Sciences Regulatory Board statutes

The bill removes references to the DSM – the American Psychiatric Association’s Diagnostic and Statistical Manual from its definitions for various behavioral health professional licenses. The deleted language does not refer to a specific version of the DSM. There was a hearing March 17 in the Senate Public Health and Welfare Committee. No further action.

HB 2042 – Amending GBHSPC membership and KanCare Oversight Committee days and membership

Senate Sub. for HB 2042 would change the composition of the Governor’s Behavioral Health Services Planning Council (Council) and would change the meeting days and membership makeup of the Robert G. (Bob) Bethell Joint Committee on Home and Community Based Services and KanCare Oversight (Joint Committee).

The original bill containing the Council amendments was not controversial and passed the House 122-0. The Senate Public Health and Welfare inserted the contents of SB 121 – changing the makeup of the Joint KanCare Oversight Committee and the Senate passed 30-10. The bill is in conference committee.

Council. The bill would increase the membership of the Council from 33 to 34 by adding the Governor’s Tribal Liaison. The bill also would remove from the Council’s membership the Commissioner of the Juvenile Justice Authority, abolished in 2013, and insert the Deputy Secretary of Juvenile Services of the Department of Corrections or the Deputy Secretary’s designee.

Joint Committee. The bill would change the number of meeting days by specifying the meetings in the third and fourth calendar quarters would be for two consecutive days in each quarter. The bill would remove the following membership appointments to the Joint Committee: • One member of the House Committee on Appropriations appointed by the Chairperson of the House Committee on Appropriations; • One member of the Senate Committee on Ways and Means appointed by the Chairperson of the Senate Committee on Ways and Means; • One member of the House Committee on Appropriations appointed by the Ranking Minority Member of the House Committee on Appropriations; • One member of the Senate Committee on Ways and Means appointed by the Ranking Minority Member of the Senate Committee on Ways and Means; and • One member of the House of Representatives appointed by the Majority Leader of the House of Representatives.

The bill would replace the membership appointments removed with the following appointed members to the Joint Committee: • Two members of the House of Representatives appointed by the Speaker of the House of Representatives; • One member of the House of Representatives appointed by the Minority Leader of the House of Representatives; and • Two members of the Senate appointed by the President of the Senate. The Joint Committee membership would remain at 11 members.

HB 2045 – Medicaid Expansion introduced by Rep. Ward

Medicaid Expansion bill received no hearing and no action.

Senate Sub for HB 2135 – Senate Mega-Budget Bill

Senate adopted Mega-Budget Bill March 25 23-17. Currently, Senate Sub for HB 2135 remains in conference committee – this is the 2015 Legislative Session’s Mega-Budget Bill. Only the Senate has passed a mega-budget bill this session, which puts the House of Representatives in the uncomfortable position of having to either concur with the version as it emerges from conference, or send it back for more work. There is no opportunity for floor amendments unless they move forward their own House bill. The House and Senate Conference Committee ended its negotiations with a tentative agreement, but did not move it to the floor for concurrence – choosing instead to hold it over to the Veto Session. It is likely that the late session budget adjustments that typically are passed in an Omnibus bill will simply be rolled into Senate Sub for HB 2135. As it stands, the bill spent about \$16 million more than the Governor’s proposed budget – ending up around \$141 million below revenue estimates.

Senate Sub for HB 2149 – Donor Breast Milk / Medicaid Prior Authorizations of Prescriptions / Medicaid Mental Health Medications Management – Creating MH Medication Advisory Committee

Senate Sub for HB 2149 is currently in conference and expected to pass. HB 2149 was originally a bill to provide for Medicaid coverage of donor breast milk. The Senate added the provisions of SB 181 and a new plan for instituting management of mental health medications in Medicaid through a specialized advisory committee. The bill amends the procedures regarding restrictions of patients’ access to any new prescription-only drug under the Kansas Medicaid Program and would establish meeting requirements for the Medicaid Drug Utilization Review Board (Board).

Further, the bill would allow prior authorization or other restrictions on medications used to treat mental illness to be imposed on Medicaid recipients for medications subject to guidelines developed by the Board in accordance with provisions of the bill; establish instances not to be construed as restrictions; provide for the development of guidelines; establish requirements for Board review of medications used to treat mental illness available for use before and after July 1, 2015; and create a Mental Health Medication Advisory Committee (Committee), outlining Committee membership and appointments, meeting frequency, and member compensation.

Advocates view the new provisions as a better option than SB 123 - which would have simply deleted the statutory exemption from Medicaid management for MH drugs. SB 123 was defeated by the Senate. Read more about this issue at the website News section.

HB 2170 – Seclusion and Restraint

Senate Substitute for HB 2170 is currently in negotiation in the Education Conference Committee. The bill is known as the Freedom from Unsafe Restraint and Seclusion Act. It passed the House 122-1 Feb 26 and passed the Senate 38-1 March 25. The bill clarifies rules and parent notification in the use of restraint and seclusion of students. The bill defines terms, requires documentation of emergency safety intervention (ESI), and creates a dispute resolution process for parents. The Kansas Board of Education would be required to adopt rules and regulations as necessary for implementation.

HB 2202 – Restricting Medicaid Provider Audits

HB 2202 would impose restrictions on audits conducted on Medicaid providers as well as processes and procedures the Kansas Department of Health and Environment (KDHE) must follow when conducting audits of Medicaid providers. The bill had a hearing in the House Health and Human Services Committee February 16 and was blessed March 17, but had no further action. The fiscal note was \$630,000 and asserted there would also be lost audit recoveries at an undetermined amount.

Under the provisions of the bill clerical errors discovered in a record or a document during an audit conducted by KDHE could not be considered intent to violate Medicaid rules unless KDHE could prove that intent occurred. The bill would also prohibit KDHE from engaging in provider audits unless the provider is notified at least 30 days prior to the audit. There would be an exception if KDHE determines that beneficiary health and safety is at risk or the provider is engaging in fraudulent activities. The bill would require KDHE to consult with a licensed service provider when conducting an audit requiring clinical or professional judgment. In addition, the bill would prohibit KDHE from using extrapolation to determine improper payments with exceptions, would give the provider 30 days to provide supporting documentation and would require audit findings to be available to the provider no more than 60 days after the conclusion of the audit. The bill also would allow the provider to request an independent review of the audit findings. HB 2202 would require KDHE to provide free training to providers on how to bill without errors and publish audit protocols to assist providers in developing internal compliance methods. Such audit protocols would not be used to create any substantive or procedural right or benefit enforceable by law or in equity by any person, including a corporation. KDHE would have to establish separate audit protocols for each provider type or category of service. KDHE would be required to consult with a medical or dental professional during the course of an audit. The bill would prohibit KDHE from contracting with an entity to reimburse for auditing services based on a commission or a percentage of recoupments.

HB 2100 / HB 2216 - ABLE ACT (Achieving a Better Life Experience)

HB 2100 creates a tax-deferred savings plan for persons with disabilities to help pay for services and life expenses. An attempt to amend the bill with Medicaid Expansion brought the committee action to a halt and the bill was dropped. Subsequently, the ABLE Act provisions were amended into HB 2216 and passed by a vote of 40-0 in the Senate. HB 2216 is in conference committee.

HB 2258 – Welfare Restrictions

The Senate passed the bill 30-10 on the last day of the regular session. The House concurred with the amendments shortly after 87-35. Governor Brownback added his signature April 16. The bill was introduced by the Department of Children and Families as Senate Bill 256 in order to place the authorization of the Temporary Assistance for Needy Families (TANF) program in statute rather than by rule and regulation, which is the current means used to establish the program. The Senate Public Health Committee inserted SB 256 into HB 2258 to expedite passage.

The bill modifies and creates certain definitions and requirements pertaining to child care, TANF assistance, and food assistance programs. It repeals certain sections of law that authorize the KanWork Act and general assistance. In addition, the bill requires an electronic check for any false information provided on an application for TANF or other programs by the Department for Children and Families (DCF). DCF is required to maintain sufficient staffing to conduct work program case management services in a timely manner.

The bill limits the amount of cash that recipients of Temporary Assistance for Needy Families (TANF) can withdraw each day to \$25 (a Senate floor amendment), reduces lifetime benefits from 48 months to 36 months and restricts recipients from using their

assistance cards for a long list of entertainment items, including theme parks and sporting events. The bill also includes restrictions on Supplemental Nutrition Assistance Program benefits, commonly called food stamps.

HB 2290 – Involuntary Detention at 24 Hour Crisis Centers

HB 2290 would allow any person to be admitted and detained for emergency observation and treatment in a 24-hour crisis center by a law enforcement officer if the officer believes the person is mentally ill, poses a substantial risk of serious or imminent harm to him or herself or to others. A 24-hour crisis center would be defined to mean any facility open 24-hours a day, 365- days a year, serving persons in crisis due to alcohol, substance abuse or mental illness. Admittance would be considered upon completion of a written application from the officer. The application form would be developed by the Judicial Council in consultation with the Kansas Commission on Peace Officers’ Standards and Training. The person may not be detained in the 24-hour crisis center for more than 72 hours. If no 24-hour crisis center exists within the officer’s jurisdiction, the officer must follow procedures in existing law relating to placement in a treatment facility. A jail or other detention facility would not be considered suitable except in circumstances of extreme emergency.

According to the Department for Aging and Disability Services, HB 2290 could result in decreased jail costs for local governments and decreased emergency room visits at local hospitals because law enforcement officer could bring individuals to crisis centers for observation and treatment rather than to emergency rooms or jails. However, the precise decrease in costs for local governments and hospitals is unknown. The Department notes that the bill’s provisions are partially in practice with Johnson and Wyandotte counties using Rainbow Services Inc. (RSI), a 24-hour crisis stabilization center located in the former Rainbow Mental Health Facility. Currently, admission to RSI is voluntary. HB 2290 would permit involuntary admissions to RSI. The Department estimates that using RSI has diverted 571 individuals from local emergency rooms, 115 individuals from jail, and 118 admissions from the state psychiatric hospitals.

The bill had no action this session.

HB 2313 – Creating Crime of Assault of a Health Care Provider

HB 2313 would create the new crimes of assault of a health care provider and aggravated assault of a health care provider when committed against the provider while performing his or her duties. Assault of a health care provider would be a class A, person misdemeanor and aggravated assault of a health care provider would be a severity level six, person felony. More penalties defined for various offenses. The bill had a hearing before the House Corrections and Juvenile Justice Committee but no further action. There was a fiscal note for additional prison beds.

HB 2315 – KDADS Facility Licensure

HB 2315 would provide for the development, establishment, and enforcement of standards for the care, treatment, health, safety, welfare, and comfort of individuals residing in or receiving treatment or services provided by residential care facilities, residential and day support facilities, case management, private and public psychiatric hospitals, psychiatric residential treatment facilities (PRTF), community mental health centers (CMHC), and providers of other disability services licensed by the Secretary for Aging and Disability Services. The bill would also provide for the development, establishment, and enforcement of standards for the construction, maintenance or operation, or any combination thereof, of facilities, hospitals, centers, and providers of services that will promote safe and adequate accommodation, care, and treatment of such individuals. The bill had a hearing February 19 in House Health and Human Services. The bill was blessed, but has had no further action.

HB 2319 – Medicaid Expansion – endorsed by KS Hospital Association

HB 2319 would delete a provision in current law that prevents Medicaid eligibility from being expanded without a legislative act. The bill would also direct the Kansas Department of Health and Environment (KDHE) to develop a Medicaid waiver application for a budget-neutral managed care program, to be known as KanCare 2.0, to provide access to health care coverage options for newly eligible individuals. “Newly eligible individuals” would be defined as otherwise ineligible adults between 19 and 65 years of age and with an income that is equal to or less than 138.0 percent of the federal poverty level. The Kansas Hospital Association has worked with consultants to develop a plan providing for modified expansion with tiered benefit levels. The bill was blessed, then the House Health and Human Services Committee held two days of hearings March 18 and 19. The bill was referred to Taxation on March 24.