

SESSION OF 2020

**CONFERENCE COMMITTEE REPORT BRIEF
HOUSE BILL NO. 2168**

As Agreed to March 18, 2020

Brief*

HB 2168 would set a sunset provision for the Nursing Facility Quality Care Assessment of July 1, 2030, and would amend law concerning the hospital provider assessment known as the Healthcare Access Improvement Program (HCAIP).

The bill would make the following changes for the hospital provider assessment:

- The annual hospital provider assessment rate would increase from 1.83 percent to 3.0 percent;
- Taxable revenue would expand to include outpatient net operating revenue;
- The hospital provider assessment would be based on the net operating revenue for the hospital's fiscal year three years prior to the assessment year; and
- Distribution of hospital provider assessment revenues generated from Health Maintenance Organizations (HMOs) would no longer be included in the assessment law.

*Conference committee report briefs are prepared by the Legislative Research Department and do not express legislative intent. No summary is prepared when the report is an agreement to disagree. Conference committee report briefs may be accessed on the Internet at <http://www.kslegislature.org/kldr>

In addition, the selection criteria of the Healthcare Access Improvement Panel (Panel), which administers HCAIP, would be modified, as follows:

- The members appointed by the Kansas Medical Society are no longer required to be licensed to practice medicine or surgery;
- A member would be appointed by the Community Care Network of Kansas instead of the Kansas Association for Medically Underserved; and
- The membership of the Panel would be expanded to include one member appointed by the President of the Senate, one member appointed by the Speaker of the House of Representatives, and one member from the Office of the Medicaid Inspector General, appointed by the Attorney General.

The bill would require all disbursements related to HCAIP be paid from moneys appropriated to the Healthcare Access Improvement Fund (Fund) and would further provide no State General Fund appropriations be used to supplement the Fund. On July 1 of each year, the Kansas Department of Health and Environment (KDHE), with the approval of the Panel, would adjust the disbursement process to ensure the amount of disbursements do not exceed the amount of funds appropriated to the Fund. In addition, the bill would require the annual report created by the Panel provide evidence that the disbursements for HCAIP have been made in accordance with disbursement provisions of the bill and are budget neutral to the State General Fund.

The bill would also require KDHE to submit any information necessary to the federal Centers for Medicare and Medicaid Services (CMS) to gain approval to implement the changes directed by the bill and require the Secretary of Health and Environment to certify such approval and publish notice of approval in the *Kansas Register*.

The bill would be in effect upon publication in the *Kansas Register*.

Conference Committee Action

The Conference Committee agreed to:

- Remove the contents of HB 2168, as amended by the Senate Committee on Education;
- Insert the contents of SB 225, as amended by the Senate Committee of the Whole; and
- Insert the contents of SB 409, as amended by the Senate Committee on Ways and Means.

Background

HB 2168, as introduced, authorized the Kansas Board of Regents to sell certain real property on behalf of Kansas State University. During the 2019 Session, the language of the bill was added as a proviso to the Appropriations Bill, House Sub. for SB 25, which was signed into law on June 4, 2019.

SB 225 (Hospital Provider Assessment)

SB 225 was introduced by the Senate Committee on Ways and Means at the request of Senator Denning.

In the Senate Committee hearing during the 2019 Session, a representative for the Kansas Hospital Association provided proponent testimony, stating the proposed changes would add sufficient funding to continue supporting hospital rates and make the assessment rate sustainable.

A representative of the Physician Hospital Association of Kansas, Inc., provided opponent testimony, stating concerns about the distribution of funding and whether proposed changes would ensure the account would not be overspent. No other testimony was provided.

The Senate Committee, on February 26, 2020, amended the bill to prohibit the use of the State General Fund to supplement hospital provider rates and require the Panel to report on the steps, if any, it had taken to ensure disbursements paid from the Fund are budget neutral to the State General Fund. The Senate Committee made further amendments to reflect technical changes. [Note: The Senate Committee amendments also reference a proviso in the 2019 Appropriations Bill, House Sub. for SB 25, regarding KDHE's submission to CMS.]

The Senate Committee of the Whole, on March 5, 2020, amended the bill to add members appointed by the Senate President, Speaker of the House, and Attorney General to the Panel and to make a technical change.

According to the fiscal note prepared by the Division of the Budget on SB 225 as introduced, the Kansas Hospital Association estimates that a 3.0 percent tax on 2016 inpatient and outpatient revenues would generate \$381.5 million in total revenue, including \$163.6 million of provider tax revenue. The fiscal note indicates that in one year, HCAIP program expenditures would be equal to revenues. Any fiscal effect associated with SB 225 is not reflected in the *The FY 2021 Governor's Budget Report*.

SB 409 (Nursing Facility Quality Care Assessment)

SB 409 was introduced by the Senate Committee on Ways and Means at the request of the Kansas Healthcare Association and LeadingAge Kansas.

In the Senate Committee hearing on February 24, 2020, representatives of the Kansas Center for Assisted Living, the Kansas Health Care Association, and LeadingAge Kansas testified as proponents, supporting the removal of the sunset to allow the Nursing Facility Quality Care Assessment to continue to provide funding for nursing facility reimbursement rates.

A representative of Kansas Advocates for Better Care provided neutral testimony supporting continuation of funding for nursing facilities through the assessment, but recommended adding a new sunset date of July 1, 2025, and recommended adding measurable outcomes linked to funding from the assessment. The Kansas Long-Term Care Ombudsman provided written-only neutral testimony. No opponent testimony was provided.

The Senate Committee amended the bill to add a sunset date of July 1, 2030.

According to the fiscal note prepared by the Division of the Budget on SB 409 as introduced, enactment of the bill would increase revenue by \$97.0 million from all funding sources for FY 2021. The assessment is estimated to total \$40.0 million from providers, to be matched with \$57.0 million in federal funding, and the combined amount would be used for nursing facility Medicaid reimbursements. Any fiscal effect associated with SB 409 is not reflected in the *The FY 2021 Governor's Budget Report*.

Nursing facility; quality care assessment; hospital provider assessment; HCAIP

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