

**HOUSE BILL No. 2253**

By Committee on Federal and State Affairs

2-6

Balloon Amendments for HB 2253  
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Office of the Revisor of Statutes  
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1 AN ACT concerning abortion; relating to the funding of abortion services;  
2 relating to restrictions on late-term abortions; relating to the woman's-  
3 right-to-know act; amending K.S.A. 2012 Supp. 40-2246, 65-6701, 65-  
4 6703, 65-6709, 65-6710, 76-3308, 79-32,117, 79-32,138, 79-32,182b,  
5 79-32,195, 79-32,261 and 79-3606 and repealing the existing sections.  
6

7 *Be it enacted by the Legislature of the State of Kansas:*

8 New Section 1. As used in sections 1 through 8, and amendments  
9 thereto:

10 (a) "Abortion" has the same meaning as such term is defined in  
11 K.S.A. 65-6701, and amendments thereto.

12 (b) "Health benefit plan" means any hospital or medical expense  
13 policy, health, hospital or medical services corporation contract, and a plan  
14 provided by a municipal group-funded pool, or a health maintenance  
15 organization contract offered by any employer or any certificate issued  
16 under any such policy, contract or plan.

17 (c) "Health care entity" means an individual physician or other health  
18 care professional, a hospital, a provider-sponsored organization, a health  
19 maintenance organization or any other health care facility or organization.

20 (d) "School district" means any public school district organized under  
21 the laws of this state.

22 (e) "State agency" has the same meaning as such term is defined in  
23 K.S.A. 75-3701, and amendments thereto.

24 New Sec. 2. (a) The legislature hereby finds and declares the  
25 following:

26 (1) The life of each human being begins at fertilization;

27 (2) unborn children have interests in life, health and well-being that  
28 should be protected; and

29 (3) the parents of unborn children have protectable interests in the  
30 life, health and well-being of the unborn children of such parents.

31 (b) On and after July 1, 2013, the laws of this state shall be  
32 interpreted and construed to acknowledge on behalf of the unborn child at  
33 every stage of development, all the rights, privileges and immunities  
34 available to other persons, citizens and residents of this state, subject only  
35 to the constitution of the United States, and decisional interpretations  
36 thereof by the United States supreme court and specific provisions to the

1 contrary in the Kansas constitution and the Kansas Statutes Annotated.

2 (c) As used in this section:

3 (1) "Fertilization" means the fusion of a human spermatozoon with a  
4 human ovum.

5 (2) "Unborn children" or "unborn child" shall include all unborn  
6 children or the offspring of human beings from the moment of fertilization  
7 until birth at every stage of biological development.

8 (d) Nothing in this section shall be construed as creating a cause of  
9 action against a woman for indirectly harming her unborn child by failing  
10 to properly care for herself or by failing to follow any particular program  
11 of prenatal care.

12 New Sec. 3. Except to the extent required by federal law:

13 (a) No moneys appropriated from the state general fund or from any  
14 special revenue fund shall be expended for any abortion;

15 (b) no tax credit shall be allowed against any income tax, premium or  
16 privilege tax liability and no exemption shall be granted from sales or  
17 compensating use tax for that portion of such amounts paid or incurred for  
18 an abortion, or that portion of such amounts paid or incurred for a health  
19 benefit plan, including premium assistance, for the purchase of an optional  
20 rider for coverage of abortion in accordance with K.S.A. 2012 Supp. 40-  
21 2,190, and amendments thereto;

22 (c) in the case of any tax-preferred trust or account, the purpose of  
23 which is to pay medical expenses of the account beneficiary, any amount  
24 paid or distributed from such an account for an abortion shall be included  
25 in the gross income of such beneficiary; and

26 (d) no health care services provided by any state agency, or any  
27 employee of a state agency while acting within the scope of such  
28 employee's employment, shall include abortion, nor shall money  
29 appropriated from the state general fund or from any special revenue fund  
30 be used to pay for the lease or operation of any facility in which abortions  
31 are performed.

32 New Sec. 4. No school district, employee or volunteer thereof, or  
33 educational service provider contracting with such school district shall  
34 provide abortion services. No school district shall permit any person or  
35 entity to offer, sponsor or otherwise furnish in any manner any course  
36 materials or instruction relating to human sexuality or sexually transmitted  
37 diseases if such person or entity is an abortion services provider, or an  
38 employee or volunteer of an abortion services provider.

39 New Sec. 5. Nothing in sections 1 through 8, and amendments  
40 thereto, shall repeal, amend or have any effect on any other state law to the  
41 extent such law imposes any limitation on the use of funds for abortion,  
42 more restrictive than the limitations set forth in sections 1 through 8, and  
43 amendments thereto.

1 New Sec. 6. Nothing in sections 1 through 8, and amendments  
2 thereto, shall be construed:

3 (a) To require any state agency or municipality to provide or pay for  
4 any abortion; or

5 (b) as creating or recognizing a right to an abortion.

6 New Sec. 7. No state agency shall discriminate against any individual  
7 or institutional health care entity on the basis that such health care entity  
8 does not provide, pay for or refer for abortions.

9 New Sec. 8. The limitations set forth in sections 1 through 8, and  
10 amendments thereto, shall not apply to an abortion which is necessary to  
11 preserve the life of the pregnant woman.

12 Insert A  
13 Sec. 9. K.S.A. 2012 Supp. 40-2246 is hereby amended to read as  
14 follows: 40-2246. (a) A credit against the taxes otherwise due under the  
15 Kansas income tax act shall be allowed to an employer for amounts paid  
16 during the taxable year for purposes of this act on behalf of an eligible  
17 employee as defined in K.S.A. 40-2239, and amendments thereto, to  
18 provide health insurance or care and amounts contributed to health savings  
19 accounts of eligible covered employees, *except that for taxable years*  
20 *commencing after December 31, 2013, no credit shall be allowed pursuant*  
21 *to this section for that portion of any amounts paid by an employer for*  
22 *healthcare, a health benefit plan, as defined in section 1, and amendments*  
23 *thereto, or amounts contributed to health savings accounts for the*  
24 *purchase of an optional rider for coverage of abortion in accordance with*  
25 *K.S.A. 40-2,190, and amendments thereto.*

26 (b) (1) For employers that have established a small employer health  
27 benefit plan after December 31, 1999, but prior to January 1, 2005, the  
28 amount of the credit allowed by subsection (a) shall be \$35 per month per  
29 eligible covered employee or 50% of the total amount paid by the  
30 employer during the taxable year, whichever is less, for the first two years  
31 of participation. In the third year, the credit shall be equal to 75% of the  
32 lesser of \$35 per month per employee or 50% of the total amount paid by  
33 the employer during the taxable year. In the fourth year, the credit shall be  
34 equal to 50% of the lesser of \$35 per month per employee or 50% of the  
35 total amount paid by the employer during the taxable year. In the fifth year,  
36 the credit shall be equal to 25% of the lesser of \$35 per month per  
37 employee or 50% of the total amount paid by the employer during the  
38 taxable year. For the sixth and subsequent years, no credit shall be  
39 allowed.

40 (2) For employers that have established a small employer health  
41 benefit plan or made contributions to a health savings account of an  
42 eligible covered employee after December 31, 2004, the amount of credit  
43 allowed by subsection (a) shall be \$70 per month per eligible covered  
44 employee for the first 12 months of participation, \$50 per month per

1 eligible covered employee for the next 12 months of participation and \$35  
2 per eligible covered employee for the next 12 months of participation.  
3 After 36 months of participation, no credit shall be allowed.

4 (c) If the credit allowed by this section is claimed, the amount of any  
5 deduction allowable under the Kansas income tax act for expenses  
6 described in this section shall be reduced by the dollar amount of the  
7 credit. The election to claim the credit shall be made at the time of filing  
8 the tax return in accordance with law. If the credit allowed by this section  
9 exceeds the taxes imposed under the Kansas income tax act for the taxable  
10 year, that portion of the credit which exceeds those taxes shall be refunded  
11 to the taxpayer.

12 (d) Any amount of expenses paid by an employer under this act shall  
13 not be included as income to the employee for purposes of the Kansas  
14 income tax act. If such expenses have been included in federal taxable  
15 income of the employee, the amount included shall be subtracted in  
16 arriving at state taxable income under the Kansas income tax act.

17 (e) The secretary of revenue shall promulgate rules and regulations to  
18 carry out the provisions of this section.

19 (f) This section shall apply to all taxable years commencing after  
20 December 31, 1999.

21 (g) For tax year 2013 and all tax years thereafter, the income tax  
22 credit provided by this section shall only be available to taxpayers subject  
23 to the income tax on corporations imposed pursuant to subsection (c) of  
24 K.S.A. 79-32,110, and amendments thereto, and shall be applied only  
25 against such taxpayer's corporate income tax liability.

26 Sec. 10. K.S.A. 2012 Supp. 65-6701 is hereby amended to read as  
27 follows: 65-6701. As used in this act K.S.A. 65-6701 through 65-6721, and  
28 amendments thereto:

29 (a) "Abortion" means the use or prescription of any instrument,  
30 medicine, drug or any other substance or device to terminate the  
31 pregnancy of a woman known to be pregnant with an intention other than  
32 to increase the probability of a live birth, to preserve the life or health of  
33 the child after live birth, or to remove a dead unborn child who died as the  
34 result of natural causes in utero, accidental trauma or a criminal assault on  
35 the pregnant woman or her unborn child, and which causes the premature  
36 termination of the pregnancy.

37 (b) "Bodily function" means *physical functions only*. The term "bodily  
38 function" does not include mental or emotional functions.

39 (c) "Counselor" means a person who is: (1) Licensed to practice  
40 medicine and surgery; (2) licensed to practice psychology; (3) licensed to  
41 practice professional or practical nursing; (4) registered to practice  
42 professional counseling; (5) licensed as a social worker; (6) the holder of a  
43 master's or doctor's degree from an accredited graduate school of social

New Sec. 9. (a) The secretary of the department of health and environment may authorize and oversee certain activities, including the awarding of grants, contracts or cooperative agreements to eligible entities to:

- (1) Collect, synthesize and disseminate current evidence-based information relating to Down syndrome or other prenatally or postnatally diagnosed conditions; and
- (2) coordinate the provision of, and access to, new or existing supportive services for women and the spouses of such women who receive a positive diagnosis for Down syndrome or other prenatally or postnatally diagnosed conditions, including, but not limited to:
  - (A) The establishment of a resource telephone hotline or website accessible to women and the spouses of such women who receive a positive diagnosis for Down syndrome or other prenatally or postnatally diagnosed conditions;
  - (B) the development of outreach programs to new and expecting parents to provide them with up-to-date information on the range of outcomes for individuals living with the diagnosed condition, including physical, developmental, educational and psychosocial outcomes;
  - (C) the development of local peer-support programs to effectively serve women and the spouses of such women who receive a positive diagnosis for Down syndrome or other prenatally or postnatally diagnosed conditions;
  - (D) the establishment of a network of local registries of families willing to adopt newborns with Down syndrome or other prenatally or postnatally diagnosed conditions, and links to adoption agencies willing to place babies with Down syndrome or other prenatally or postnatally diagnosed conditions, with families willing to adopt; and
  - (E) the establishment of awareness and education programs for health care providers who provide, interpret or inform parents of the results of prenatal tests for Down syndrome or other prenatally or postnatally diagnosed conditions to patients.
- (b) A grantee under this section shall make available to health care providers of parents who receive a prenatal or postnatal diagnosis the following:
  - (1) Up-to-date, evidence-based, written information concerning the range of outcomes for individuals living with the diagnosed condition, including physical, developmental, educational and psychosocial outcomes;
  - (2) contact information regarding support services, including information hotlines and websites specific to Down syndrome or other prenatally or postnatally diagnosed conditions, resource centers or clearinghouses, local peer support groups and other education and support programs.
  - (c) Information provided under this subsection shall be culturally and linguistically appropriate as needed by women and the spouses of such women who receive a positive diagnosis for Down syndrome or other prenatally or postnatally diagnosed conditions, and approved by the secretary.
  - (d) In distributing funds under this section, the secretary shall place an emphasis on funding partnerships between health care professional groups and disability advocacy organizations.
  - (e) On or before January 12, 2015, the secretary shall prepare and submit a report to the governor and the legislature on the grants, contracts and cooperative agreements made under this section and the effectiveness of the programs supported by such grants, contracts and cooperative agreements.

Insert A continued

(f) As used in this section:

- (1) "Down syndrome" means a chromosomal disorder caused by an error in cell division that results in the presence of an extra whole or partial copy of chromosome 21.
- (2) "Eligible entity" means the state, or any political subdivision thereof, or any other entity with appropriate expertise in prenatally and postnatally diagnosed conditions, as determined by the secretary.
- (3) "Health care provider" shall have the same meaning as that term is defined in K.S.A. 40-3401, and amendments thereto.
- (4) "Postnatally diagnosed condition" means any health condition identified during the 12-month period beginning at birth.
- (5) "Prenatally diagnosed condition" means any fetal health condition identified by prenatal genetic testing or prenatal screening procedures.
- (6) "Prenatal test" means diagnostic or screening tests offered to pregnant women seeking routine prenatal care that are administered on a required or recommended basis by a health care provider based on medical history, family background, ethnic background, previous test results, or other risk factors.
- (7) "Secretary" means the secretary of the department of health and environment.