

# LEGISLATIVE UPDATE



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## OUTLOOK: KANSAS BUDGET

There has been both good news and bad news this month for the Kansas budget. Lawmakers will return in January to begin work crafting a two-year budget for FY 2016 & FY2017; while also approving allotments the Governor has made to fund FY 2015, which was roughly \$279 million short due to less tax receipts this fiscal year.



### For the good news:

State budget officials announced in late November that monthly income tax receipts had come in \$4 million above estimates. That was the first time the state had not reported an income tax shortfall in eight months. In addition, the Governor and his Economic Advisory group examined job growth in Kansas last week. Kansas has finally regained all of the private sector jobs lost in the Great Recession. At the end of October, Kansas reported 1.138 million private sector jobs – just above the previous high in April 2008.

### For the bad news:

Following the Consensus Revenue Estimating Group's report in November, it became clear the Governor and legislators will need to cut more than \$715 million from the state budget for the rest of FY 2015 and all of FY 2016. This is partly due to a decrease in income-tax receipts.

While there was good news in November, it also means the state would have to take in \$40 million extra every month until next June to wipe out the need for a \$279 million reduction in the current fiscal year's budget. That's not at all likely to happen.

Staff members for the governor and other state agencies recently released revised revenue estimates that took into account all the tax cuts, plus the jobs they are supposed to create, to come up with the predicted \$279 million cut.

**Session begins January 12, 2015 at 2PM.** Members of the Legislature will be sworn in, as well as Governor Brownback and other statewide elected officials. The Governor's annual State of the State Address will be at 6:30 p.m. on January 15.

### Governor's allotments

Last week Governor Brownback announced a 4% cut to state agencies this fiscal year, which ends June 30, 2015, and called on the Legislature to authorize more than \$200 million in fund transfers to balance the state budget in anticipation of the large revenue shortfall.

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## OUTLOOK: KANSAS BUDGET

*...Continued from page 1*

The cuts in state spending announced last week are expected to save about \$78.5 million. Fund transfers — including \$95 million from the state highway fund — are expected to save about \$201.5 million. The administration has been focused on finding inefficiencies in spending, but Shawn Sullivan, the budget director, acknowledged the cuts may affect services.

“My hope is that agencies can continue to look at how they operate and become more effective and efficient and that’s how they’re going to reduce, but no, I can’t come out and say there won’t be any impact to the people these agencies serve by this reduction,” Sullivan said, adding he is willing to work with agencies to find inefficiencies.

The administration is also scaling back the Kansas Retirement System for State Employees (KPERS) employer contribution rate to 9.5%, which is expected to save about \$40.7 million. The rate had been 12.5%. Among the cuts announced Tuesday: \$3.9 million from the Department for Children and Families, \$599,235 from the Department for Aging and Disability Services, and \$290,582 from the Department of Revenue. Department for Children and Families spokeswoman Theresa Freed said no cuts would be made to programs or services, however.

Higher education and funding for K-12 public schools were spared, according to Sullivan, but cuts will be made to the Department of Education’s operating budget as well as the operating budget for the Board of Regents. Public safety agencies were also spared. The Department of Education’s cut comes in at \$229,872, but the cut won’t affect any flow-through money to school districts. He said the department will likely leave positions vacant. The Kansas Department of Transportation said in a statement that despite the transfer, projects under the T-WORKS program will continue as planned.

The allotment plan does require legislative approval. A bill is expected to be introduced at the start of session outlining the allotment plan. Budget Director Sullivan says he expects the bill to pass.

However, the plan drew criticism from several of those in the Legislature, including Senate President Susan Wagle, R-Wichita. She stated, “I would have preferred to see the burden spread evenly throughout the state. That would certainly be a more fair approach than picking winners or losers and asking the Legislature to fill the gap.”

House Speaker Ray Merrick, R-Stilwell, released a cautious statement, neither praising nor criticizing Brownback’s announcement. “Every organization, public and private, strives to ensure the most streamlined delivery of services. We are studying the Governor’s proposal in an effort to find the balance between protecting the taxpayers and protecting core state services,” Merrick said.

### *School finance lawsuit*

The other missing piece to this budget shortfall puzzle is the school finance lawsuit decision that is expected within the month. A panel led by Shawnee County District Court Judge Franklin Theis is expected to deliver during the final two weeks of December a long-awaited decision as to whether Kansas is adequately financing public schools in compliance with the Kansas Constitution. The panel of three judges initially ruled in 2013 the state’s system was inequitably and inadequately underfunded by about \$450 million annually. Infusion of cash by the Legislature and Governor Brownback resolved equity issues, but the Supreme Court instructed the lower court to revisit the adequacy question. Theis and his colleagues have been studying adequacy based on a set of standards tied to writing and speaking skills, knowledge of economic, political and social systems, job skills training and grounding in the arts.

If the judicial branch determines the current package comports with the so-called Rose standards, holidays leading to January’s start of the 2015 session of the Kansas Legislature will be all the more pleasant for those responsible for state budget decisions. However, a ruling of noncompliance with Rose could add significantly to the state’s profound financial problems.

## SCHOOL FUNDING & STUDENT PERFORMANCE

The Kansas Association of School Boards produced a report to place future movement by state government in context. KASB estimated total federal, state and local funding to Kansas school districts will exceed \$6 billion for the first time this year. While school funding continues to climb, Kansans will contribute a lower percentage of personal income to K-12 public schools than at any time in the past 30 years. Total school spending as a percentage of Kansas personal income stands at 4.48 percent, the least since 1985. Kansas students routinely perform in the top tier of states and at a higher level than many states that spend more money on education.

School spending per student will top \$13,000. Half the increase of 3 percent is earmarked for retirement contributions, building and equipment costs, student meals and other federal programs. The per-pupil investment in state and local operating funding for instruction and for programs supporting teachers and students will be less than the inflation rate for the sixth consecutive year.

The K-12 Student Performance and Efficiency Commission met Monday and approved submitting to the Legislature a bill to examine “excessive unencumbered fund balances” but little else at its next-to-last meeting. The panel created by last session’s school finance bill deadlocked on five other proposed bills for the Legislature, including consolidation of either school districts or their administrative staffs, and a sharp cutback on negotiable contract topics for school districts and their teacher unions. The panel’s chairman Sam Williams, Wichita, said the group will wait until Jan. 6 for its next meeting before deciding what it might do on negotiations topics.

## JOB GROWTH IN KANSAS

The Governor held a meeting of the Governor’s Council of Economic Advisors this month. An economist for the Kansas Department of Labor said Kansas has regained as many private sectors jobs as it lost during the recession, but few are manufacturing jobs. The state has seen significant growth in professional and business services. But it has gained back only 600 of approximately 29,000 manufacturing jobs it lost. The category includes a wide range of jobs: scientists, accountants, attorneys, secretaries and other administrative workers. It also includes temporary employees.

Bob Wheeler, a member of the council and the retired CEO of Pet Nutrition Inc., said he thought it was unlikely that the manufacturing jobs would return. “Manufacturing companies tightened their belt, let a lot of people go, didn’t refill positions ... and haven’t come back to the same level and probably won’t come back to the same level because they’ve become a lot more effective and efficient,” he said.

The state saw a bump in private sector nonfarm employment during the month of October – with more than 7,000 jobs gained – putting it above its pre-recession peak in April 2008 by more than 1,000 jobs. Private sector nonfarm jobs are considered a key indicator of the state’s economic health. The state lost nearly 77,000 private sector nonfarm jobs between April 2008 and February 2010.

Real wages, the money workers are paid adjusted for inflation, have risen in the past year but remain below pre-recession levels. The average weekly wage for a Kansas private sector worker in May 2009 was \$770.73 if adjusted for inflation. In September of this year it was about \$760. Average real wages hit a bottom in September 2011 at \$740.74 per week. Economic indicators suggest the state should continue to see an increase in nonfarm employment over the next six to nine months.

Of the state’s 105 counties, only one had an unemployment rate higher than the national average for October: Wyandotte County, with 6%, compared with the national rate of 5.8%. This figure includes private and public sector jobs. Most of the state is in really good shape, under 3% (unemployment). Places that rely heavily on manufacturing, such as Wichita, “took a big hit” during the recession and are recovering more gradually. Sedgwick County’s unemployment rate was 4.7% in October, slightly higher than the state’s average of 4.4%.

## UNEMPLOYMENT TAX RATES SET TO INCREASE



Many employers will be seeing an increase in their unemployment insurance rates this year. The Legislature approved increases in the wages subject to the tax, as well as making other adjustments to the unemployment insurance formulas.

The changes approved by state lawmakers earlier this year are intended to restore the integrity of the unemployment system in Kansas. It's a system that in 2011 was in the red \$96 million. The Kansas Unemployment Insurance Trust Fund paid \$766 million in unemployment benefits in 2009, \$538 million in 2010 and \$431 million in 2011. The fund has been built up since 2011, and stands at \$237 million. That's down from a high of between \$600 million and \$700 million throughout 2008. Between 2011 and 2012, the

state borrowed \$170.8 million and \$141.7 million from the Federal Unemployment Account to pay unemployment claims.

Employers pay into the unemployment fund through a percentage rate tied to the first \$8,000 of an employee's pay, called the taxable wage base. Next year, the taxable wage base will increase to \$12,000. And in 2016, the wage base will increase to \$14,000. For example, that means an employer that paid \$80 into the fund for one employee at a 1 percent rate this year would be paying \$120 next year.

Employers that have a history of little or no use of the fund should have lower rates next year — in many cases, enough to minimize the effects of the higher taxable wage base. If you have questions about your 2015 rates, contact the Kansas Department of Labor.

### *Reform coming in 2015 session*

Business advocates are working on proposed changes to the UI system. The leading advocate, Phil Hayes with Kansas SHRM, is working with other organizations to propose legislation in the 2015 Session that would ease the increases to positive-balance employers and get the unemployment fund to a higher level. The bill also would propose moving the funding of the unemployment insurance system in Kansas to a fixed-rate system that would provide positive-balance employers with a predictable amount of dollars as they prepare their budgets for the next year.

As it is, positive balance employers don't know what they will be paying into the fund from year to year because their rates under the current system change annually. There are some positive balance employers that are paying as much as 5.4% while others may be paying 1-2%. Hayes would like to see a fixed rate for all categories, especially positive balance employers, which he says are "carrying the water" for those employers that consistently take more from the fund in claims than they pay in. Negative balance employers, those who take more from the system than they pay in, experience a predictable rate because their rates are statutorily capped, which allows for them to plan

## JENKINS MEMBER OF GOP LEADERSHIP

U.S. Rep. Lynn Jenkins was reelected to the fifth-highest U.S. House Republican leadership post—Republican Conference vice-chair. She has been the highest-ranking House member from Kansas in the GOP hierarchy in the chamber. She held the same post last session.



## RELIGIOUS LIBERTIES

The issue, in some form, will very likely be making another appearance during the 2015 session. Last session, a controversial bill allowing public and private employees to refuse to serve same-sex couples based on religious beliefs about marriage passed easily in the House but was halted by Senate leaders after lawmakers were flooded with angry phone calls and e-mails. Some supporters of the bill are eager to revisit the issue now that a federal court has struck down the state's constitutional ban on same-sex marriage and same-sex couples have begun to wed across the state. It's unclear how similar this session's bill would be to the original one and who would introduce it.

Proponents say the bill is needed to protect the rights of religious Kansans who object to same-sex marriage. Gay-rights activists, meanwhile, have called for the state to offer legal protections for sexual orientation, similar to the ones already in place for race and religion.

It is also anticipated that the Kansas Equality Coalition will push to have sexual orientation and gender identity added to the state's anti-discrimination statute in the upcoming session. State law forbids discrimination based on race, gender, religion, age and disability, but not sexual orientation. Rep. Louis Ruiz, D-Kansas City, introduced an anti-discrimination bill last session, but it never received a hearing. Republican leaders said it was too late in the session. Witt said the bill would be introduced earlier this time around.

Michael Schuttloffel, executive director of the Kansas Catholic Conference, said adding sexual orientation to the state's anti-discrimination law would make religious Kansans vulnerable to lawsuits. Schuttloffel's organization would object to someone being denied service at a restaurant for being gay, but thinks owners of wedding-related businesses, such as flower shops, should have the right to refuse to serve same-sex weddings. He said that is why the state needs to enact a bill that deals specifically with marriage.

"We want to protect their religious beliefs from government run amok," Schuttloffel said. "This was a First Amendment bill where we're just saying that the government can't punish people for their beliefs and living out their religious beliefs. That's America 101. That's a core American principle."

Senate Vice President Jeff King, R-Independence, said that Kansas already has a general protection for religious freedom that is one of the strongest in the country. The law, passed in 2013, requires the government to demonstrate a compelling public interest before it can intervene in cases involving religion. "When you have such strong protections for religious liberty, which I'm glad we have, there's not a lot left legally that we need to do to protect religious freedom that we haven't already done," he said.

What will the bill include?

- Public employees? Last session, Senate President Wagle was concerned with the inclusion in the bill of public employees like firefighters, police officers and other first responders. Schuttloffel said the Kansas Catholic Conference would be fine with jettisoning the portion concerning public employees, contending that federal law already enshrines religious protections for public workers. However, other legislators contend the bill should extend to public employees, such as county clerks and judges.
- Protecting the First Amendment? Rep. Steve Brunk, R-Wichita, a strong opponent of same-sex marriage, said he expects the issue to be addressed during the session. But he said he is unsure what a possible bill would be like and which chamber it would be introduced in. "Certainly there's been conversations. The topic is not going away with the actions that the courts have taken," Brunk said. "This is an unprecedented situation we're in. ... Clearly there's going to be some discussion about protecting the First Amendment," he added.
- Governor's approval? Gov. Sam Brownback has been noncommittal about the issue. He has repeatedly asserted his support of religious freedom in a general sense but has not said whether he would sign a bill. While seeking re-election, he repeatedly railed against the federal ruling and his administration has instructed state agencies not to recognize same-sex marriages while the state appeals the decision.

## HOUSE LEADERSHIP

Elections for House leadership were held on December 1. This included leadership for both the House Republicans and House Democrats. The Senate did not change its leadership as it was not an election year.



House Speaker:  
Ray Merrick, R-  
Stilwell



Speaker Pro Tem:  
Peggy Mast, R-  
Emporia



Majority Leader:  
Jene Vickrey, R-  
Louisburg



Assistant Majority  
Leader:  
Mario Goico, R-  
Wichita



Majority Whip:  
Ron Ryckman,  
Jr., R-Olathe



Majority Caucus  
Chair:  
Travis Couture-  
Lovelady, R-Palco



Minority Leader:  
Tom Burroughs,  
D-Kansas City



Assistant Minori-  
ty Leader:  
Louis Ruiz, D-  
Kansas City



Minority Whip:  
Ed Trimmer, D-  
Winfield



Minority Caucus  
Chair:  
Barbara Ballard,  
D-Lawrence



Minority Agenda  
Chair:  
Brandon Whip-  
ple, D-Wichita



Minority Policy  
Chair:  
John Wilson, D-  
Lawrence

## STAFF CHANGES FOR HOUSE MINORITY LEADER

House Minority Leader-elect Rep. Tom Burroughs, D-Kansas City, has named a new staff for the House Democratic leadership office, including Abbie Hodgson, Lawrence, as Chief of Staff. Hodgson was a Democratic candidate in the 46th House District seat retired by Minority Leader Paul Davis, D-Lawrence. She worked in both the Sebelius and Parkinson administrations, and for many Democratic candidates for state, local and national offices. Burroughs also hired Shelbie Konkell, who was deputy finance director of Davis's gubernatorial campaign, as Caucus and Communications Coordinator, and Jake Miller, Kansas City, as Policy and Constituent Services Coordinator. Miller was the Davis campaign's field director for Atchison, Jefferson, Leavenworth and Miami counties.

Burroughs' new hires replace Davis's chief of staff Phil Stevenson, Communications Director Haley Pollock and Special Projects Director Allison Marker.

## COMMITTEE ASSIGNMENTS

With the pick up of several seats for the Republicans in the House and loss of Democrats in the House, Republicans add one member to each committee while the Democrats lose a member.

Speaker Merrick announced the appointment of Rep. Ron Ryckman, Jr., R-Olathe as chairman of the House Appropriations Committee. Rep. Marvin Kleeb, R-Overland Park, was named Tax Committee chair; Rep. John Barker, R-Abilene as Judiciary chair; and Rep. Ron Highland, R-Wamego, as Education chair.

Rep. Ryckman takes over from Rep. Gene Suellentrop, R-Wichita, who served the last month of the 2014 session after then-Chair Rep. Marc Rhoades, R-Newton, stepped down from the post. Rep. Kleeb and Rep. Barker replace chairs who retired, Rep. Richard Carlson, R-St. Marys, and Rep. Lance Kinzer, R-Olathe, respectively. Rep. Highland replaces Rep. Kasha Kelley, R-Arkansas City, as Education chair.

## KDOT & STATE BUDGET

Economic Lifelines held a meeting earlier this month with Secretary of Transportation Mike King. We wanted to share with you a few highlights from the meeting.

As mentioned in the budget and allotments article on page 1, all state agencies have had to cut their expenses. KDOT reduced its operating budget by \$7.8 million, or 3%. They have reserves to offset that reduction, and thus, no change in operations. The Governor did transfer \$95 million from the state highway fund to the State General Fund to fund the shortfall for FY 2015. There will be no impact on planned or future projects.

The T-Works program is a 10-year, \$8 billion program. However, the revenue anticipated to come into the program during that 10-year span is roughly \$13 billion. Secretary King just re-bonded some bonds and saved \$40 million. In addition, expenses have been lower than expected and revenue in excess of what was anticipated. There is still more than \$100 million that can be transferred from the T-Works program to the State General Fund before it impacts any projects. KDOT also budgeted for federal reimbursement to be decrease, but that has not yet happened. Other cost savings have been seen in lower asphalt costs; Crude oil costs have been lower. All in all, expenses have been under projections and revenues have exceeded projection. There is excess dollars in the program, and projects should not be impacted.

Federal money, motor carrier fees and fuel taxes must stay with KDOT but \$400 million comes into KDOT each year through a sales tax transfer. Those funds can be transferred back to the State General Fund if needed. KDOT will look at everything in the next budget cycle, and Secretary King said he wouldn't be surprised if additional dollars are taken.

## 2011 WC REFORMS BRING SAVINGS IN 2015

In 2011, the Kansas Legislature passed the most comprehensive Work Comp reform since the 1980's. In 2015, Kansas businesses will benefit from the reforms by saving an estimated \$49 million on the cost of their work comp policies. You will recall the legislation was a compromise between business and labor on the bill and the passed both chambers unanimously. Reforms addressed several business concerns including:

- Fixing employer issues that went unaddressed during the last 8 years, including several confusing court cases
- Increased caps for injured workers
- Addresses employers concerns about pre-existing conditions

So if you happen to see a Kansas Legislator please take the time to thank them for the good work they accomplished in Kansas Workers Compensation.

## OTHER ISSUES FOR 2015 SESSION

Balancing the state budget for the current FY 2015 and future FY 2016 and FY 2017 will be the most critical issue for the 2015 Session. Legislators have to cut hundreds of millions of dollars. What will the budget cuts do to transportation and the highway plan? How will KPERS be impacted? Many legislators were disappointed the Governor included KPERS funding in the list of cuts.

The budget shortfall could open discussions on tax reforms. Do we increase the sales tax? Do we give corporations income tax cuts? Do we increase property taxes? Will legislators choose to delay the next stage of the income tax rate cuts? Do we reset the tax rates and return to rates prior to 2012? All of these issues will be on the table.

As mentioned previously, will lawmakers have to increase school funding? If so, that could have a devastating impact on the state budget.

Health care groups, including the Kansas Hospital Association and the Kansas Health Care Consumer Coalition, will continue to push for KanCare 2.0, which would expand Medicaid in Kansas. KanCare 2.0 is anticipated to create 3,000 jobs in the state.

The issue of workers compensation will again be discussed. At issue is which edition of the medical guidelines Kansas will follow—current edition or revert back to the 4<sup>th</sup> edition?

KDOL is expected to report back in January on a feasibility study of a state OSHA program. There has been some pushback by other industries to not open a state OSHA program.

## FORMER LEGISLATORS STILL IN STATEHOUSE

Two former legislators have new jobs in the Statehouse. The retiring Taxation Committee chairman, Rep. Richard Carlson, has taken a job with the state Department of Revenue as the agency's legislative liaison. He was first elected to the House in 2004 but opted not to seek re-election this year. His current, two-year term expires Jan. 12. His expertise will be helpful for the agency in dealing with legislators and tax policy. As Taxation Committee chairman, Carlson helped push personal income tax reductions through the Legislature in 2012 and 2013. GOP Gov. Sam Brownback advocated the reductions as a way to stimulate the economy.



Incoming Insurance Commissioner Ken Selzer has hired former State Senator Clark Shultz as his legislative liaison/government affairs coordinator. Shultz served for many years as the Chair of the House Insurance Committee before moving to the Senate. He ran for Insurance Commissioner in the Republican primary this year.

### Prefiled Bills

Legislators have begun to pre-file bills for the 2015 Legislative Session. To view the description of each of those pre-filed bills, click here for [2015 House Prefiled Bills](#) and [2015 Senate Prefiled Bills](#).

### Inauguration

The second-term inauguration for Governor Brownback and Lt. Governor Colyer includes a day of community service, the January 10 Inaugural Ball at Landon Arena in Topeka, and the inauguration ceremony on January 12.

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