

LEGISLATIVE UPDATE



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BROWNBACK SWORN IN AS GOV



Two major speeches in one week and each with its own unique theme and purpose. Governor Brownback was sworn in as Kansas' 46th governor on Monday, beginning his second term. In the Inaugural Address, which was held in the House chamber due to the wind chills outside, the Governor focused on family values and social issues, while in the State of the State Address, he focused on

his agenda for the 2015 Legislative Session.

Governor Brownback called it a "crisis of the family" as he introduced his concern for family values and social issues. He argued the biggest challenges facing Kansans are cultural and moral. He pointed to the example set by his parents, Bob and Nancy, who he said were part of "the sacrificial generation," and said that the renewal of the nation depended upon strengthening the family structure.

The state's seal, which includes the image of a farmer tilling a field as Native Americans hunt buffalo before a rising sun, provided a guide of how to deal with modern-day challenges, the Governor pointed out. He also praised healthy families as the way to economic growth. He said the lack of healthy families is a big part of poverty in the state and nation; childhood poverty must be substantially reduced – which he said can be done by strengthening healthy marriages and families, as well as with work and education.

The inauguration comes as a federal grand jury investigates Brownback's campaign finances. Carol Williams, the executive director of the Kansas Governmental Ethics Commission, was scheduled to testify about loans made to the campaign. The only loans the campaign received were from Brownback and Lt. Gov. Jeff Colyer. The governor's office has called the investigation without merit.

On the other hand, the Governor's State of the State Address was focused on the Governor's agenda for the 2015 Legislative Session. He promised to continue the march toward zero income taxes, and said states with no income taxes consistently grow faster than those with high income taxes. Brownback also said his two-year budget proposal will balance and leave the state with revenues exceeding expenditures.



Governor delivers the 2015 State of the State Address.

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BROWNBACK SWORN IN AS GOV

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The Governor also outlined the following agenda items:

- **State debt.** A state constitutional amendment to require the state to pay its debt before anything else;
- **School finance.** On education, Kansas should take a “timeout” from its school finance formula and appropriate money directly to school districts; the formula should be repealed while the Legislature crafts a more modern formula;
- **Rural Opportunity Zones expansion.** The expansion of the Rural Opportunity Zones to urban areas of the state — including Kansas City, Wichita and Topeka. Individuals who move into the zones are eligible for income tax waivers and student loan forgiveness;
- **Judicial selection.** Judicial selection needs to be changed through a constitutional amendment that would either allow for the direct election of justices or use the federal model, in which the governor appoints justices who are confirmed by the Senate; and
- **Local elections.** Move local elections to the fall as Secretary of State Kris Kobach has publicly endorsed.

INSURANCE COMMISSIONER: KEN SELZER

On Monday, Ken Selzer began his first term as Kansas Insurance Commissioner. An accountant and industry executive, he has said he wants to create a more robust market and argues that greater competition will address problems with the federal health care overhaul. He is confident that he can attract insurance companies into the state and encourage others already in Kansas to do more business. He'll also build on the Insurance Department's already strong anti-fraud and consumer education divisions.

Selzer says the department will look for ways to push back against the 2010 Affordable Care Act, a law championed by President Barack Obama that overhauled the health care and insurance coverage system. Selzer has promised a “top to bottom” examination of the department.

But repeatedly during media interviews, Selzer has promoted competition as a crucial part of the job.

“We aren't going to wait for them to dial us up,” he said. “We're going to call them up. The end goal here is the consumer — doing what's right for the consumer. You can achieve that by having a more robust industry in Kansas.”

Selzer, 61, will retire as an executive managing director of Aon Benfield, a global company providing coverage for insurance companies against catastrophic claims. He emphasized his background as a certified public accountant in his successful campaign. He lives in Leawood in the Kansas City area but grew up on a family farm outside of Goessel, in central Kansas, along the historic Chisholm Trail.

Retiring Commissioner Sandy Praeger has held the office for 12 years.



STATE BUDGET

The biggest issue of the 2015 Legislature is the state budget. It was announced earlier in November by the Consensus Revenue Estimating Group the state will be roughly \$715 million short in state revenue for the rest of FY 2015 (which ends June 30, 2015) and all of FY 2016. This is partly due to a decrease in income-tax receipts. The task ahead for legislators is a big one as they craft a two-year budget for FY 2016 & FY 2017. They must also approve allotments the Governor has made to fund FY 2015.

Governor's allotments for current FY 2015:

On Wednesday, December 10, Governor Brownback announced an allotment plan that would save the state about \$78.5 million and fund transfers to boost the coffers by \$201.5 million. The Budget committees will begin looking at his plan this week.

Budgets for FY 2016 & FY 2017:

Legislators are also focused on crafting budgets for the next two fiscal years and many have said that will focus on spending cuts and finding more efficiency within state government. The budget for FY 2016, which begins July 1, 2015, must close a projected \$436 million gap. Senate Ways and Means Committee is led by Sen. Ty Masterson, who has served as committee chairman for the past two years. Rep. Ron Ryckman, Jr., who is House Majority Whip and will serve as committee chairman for the first time, will now lead House Appropriations Committee. House Speaker Ray Merrick, R-Stillwell, issued a statement saying state government should look for ways to deliver services more efficiently. "I've said in the past that we do not have a revenue problem, we have a spending problem," he said. "I continue to stand by that, although it's difficult to predict where the session is going to take us. Right now, my priority lies with protecting core state services, as well as Kansas taxpayers."

Governor Brownback released his budget proposal on Friday. From the FY 2012 budget to the FY 2015 proposed revised budget, SGF expenditures for K-12 and Medicaid increased by \$492.2 million. All other budget expenditures decreased by \$242.5 million during the same period. The state has a \$436 million shortfall for FY 2016 based on revised revenue estimates.

- **School finance:** The Governor's proposal will be to sunset the school finance formula effective July 1, 2015, work with Legislature to reform school finance and until reform takes law, block grant funding to school districts.
- **Medicaid:** Funding for Medicaid has increased by \$182.0 million from 2012 to 2015. A mix of KanCare policy and contractual changes are being proposed and implemented by KDHE and KDADS that will achieve \$50.0 million in SGF expenditure savings in the proposed FY 2016 and 2017 budgets. There is \$5 million of additional SGF expenditures to be used for waiting list reduction and behavioral health access for transitional and intermediate levels of care. There is also \$7 million of SGF expenditures to the underserved waiting list of the ID/DD program.
- **Savings & efficiencies:** There are over \$350 million of SGF savings in the FY 2015, 2016, 2017 budget from efficiencies. The savings come from expanding the debt set-off program with the feds, refinancing bonds to lower rates, consolidate IT systems for the state, improved utilization of the state employee health plan and utilization of pharmaceutical rebates in KanCare.
- **Reductions to state agencies:** State agencies will also have a 4% SGF expenditure reduction for select agencies for FY 2015, 2016 and 2017. Agencies not affected by this reduction include K-12 education, Medicaid appropriations to KDADS and KDHE, Department of Corrections, State Hospitals and higher education system. Agencies will continue to reorganize and decrease the total number of state employees.
- **Highway Fund transfers:** The State Highway Fund currently transfers \$262.9 million to other state agencies and SGF. Additional transfers of \$150.7 million have been proposed in FY 2015 budget and additional transfers of \$100 million in 2016 & 2017.
- **Budget Stabilization Fund:** The tax proposal also includes the addition of a "Budget Stabilization Fund" that would be set in statute and utilize growth in revenues greater than 102% and less than 103%. This fund would have statutory limitations on withdrawals and would use the 1% funding stream until it is maintained at 5% cap on expenditures.

UI REFORMS FOCUS ON FAIRNESS & PARITY

Special column by Phil Hayes, President of SHRM

Reforming the unemployment insurance (“UI”) system in Kansas is a major employment issue facing the 2015 Legislature. The Senate and House have passed legislation in recent years addressing multiple issues to including adjudication and eligibility issues, but have not passed a fair and predictable financing solution allows businesses to plan for state unemployment tax contributions.



Business leaders have clamored for an overhaul of Kansas’ antiquated UI for some time. In recent years, the KS Legislature responded by passing a bill that increases the taxable wage base from \$8,000 to \$12,000 in 2015 followed by an additional increase to \$14,000 in 2016. Unfortunately, with the taxable wage base increase, the legislature failed to address the unpredictable rate table leaving businesses minimal time to address 400%+ changes in an earned contribution tax rate. The current arrayed system has penalized so-called “stable” employers, those who do not have high employee turnover based on the limitations of the arrayed system.

Under the reform initiatives, “stable” employers would pay lower rates, and the worst-rated companies would pay higher rates. Starting in 2016, annual payments would range between \$0.00 and \$1,288 for the most and least stable employers, respectively. Additionally, the bill would freeze maximum weekly UI benefit amount at the current rate of \$474.00 per week, which is currently the 9th highest benefit amount in the U.S.

TAX CHANGES COMING?

Because the revenue forecasts have not been favorable for the rest of FY 2015 and FY 2016, beginning July 1, 2015, something is needed to plug the revenue hole. Governor Brownback has introduced his own tax package.

The proposed tax bill will include:

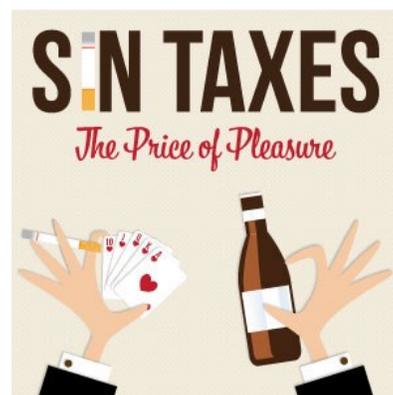
- Drop the lowest bracket of tax rates from 2.7% to 2.66% in January 2016. The upper bracket stands at 4.6%.
- The plan will block reductions in state income taxes scheduled for 2017 and 2018 unless growth in state tax receipts exceeds 103% of the previous fiscal year’s receipts.
- The phase-down of the itemized tax deductions in Kansas set for 2017 was proposed to take effect immediately, which would inject \$50 million into the FY 2016 budget.
- A tax amnesty program will be enacted for individuals or businesses, an estimate of \$30 million for the state.

Governor Brownback will also propose a bill to increase “sin taxes” in the state. The proposal includes:

- An increase in a pack of cigarettes from the current 79 cents to \$2.29. The tax on tobacco products would increase from 10% to 25% of the wholesale price.
- A liquor tax increase from the current 8% to 12%.

Other tax proposals that could be brought up during the 2015 session:

- End some existing sales and income tax exemptions, like agribusiness sales tax exemptions.
- Raise sales taxes.
- Change the cap on additional tax revenue. Part of the tax law says if tax revenue increases by more than 2%, tax rates will drop further. Sen. Jim Denning, R-Overland Park, has suggested the cap be raised and additional revenue should go to tax relief only if it reaches 4 percent.



SCHOOL FINANCE

One of the many issues to be taken up this year is school finance and the funding formula. On December 30, 2014, a court ruling in Shawnee County District Court found current funding for public schools is unconstitutional. While the judges did not order lawmakers to increase funding by a specific amount, they suggested that under the current formula, it could require raising the base aid formula to \$4,654 per pupil. The current funding level is \$3,852 per pupil. The Kansas Department of Education estimates this would be a cost of at least \$548 million a year. However, the three-judge panel left open the possibility for other options and said the adequacy of whatever plan lawmakers come up with will be judged by its results.

This court ruling opens the door for an overhaul of the state's school finance formula. Governor Brownback called for a sunset of the current formula on July 1, 2015 in his budget. He then proposed block grant funding to school districts until the Legislature and his administration can reform school finance.

In addition, the K-12 Student Performance and Efficiency Commission, a state panel tasked with identifying potential savings in school spending, recommended school districts have annual financial audits. The bill, which was introduced this week, will require annual financial audits and the Legislature must fund the audits. The commission also recommended creating two more study commissions: one to study the Rose standards, a set of education goals that the Kansas Supreme Court adopted last year as the barometer by which to judge whether school funding is adequate, and a task force to meet every three years to establish best practice guidelines on spending for school districts. The commission tabled a bill that would alter the professional negotiations act so that vacation time, overtime pay, grievance procedures and other items were no longer state-mandated aspects of teacher contract negotiations. The bill would have allowed districts and teacher unions to negotiate those items only if they mutually agreed to do so, leaving salary and wages as the only items districts would be required to negotiate.

A bill is also expected to be introduced on teacher negotiations. This bill is a compromise between the Kansas Association of School Boards, the United School Administrators of Kansas and the Kansas National Education Association, the state's largest teachers union.

Funding breakdown for school finance

School finance and whether it is funded adequately has always been an issue for the Legislature. In 2005 a special session was held after the Kansas Supreme Court ordered an increase in school funding and a multi-year plan. A multi-year plan to increase education funding by about \$1 billion as in place from 2005 to 2008. At that point, the Base State Aid hit an all-time high of \$4,400. But that all changed when in 2008 the financial crisis struck, triggering a global recession. Sweeping cuts to education soon followed, slashing base aid by hundreds of dollars per student. Today Kansas schools employ about 680 fewer teachers and librarians than before the recession, of about 35,500 total, according to annual tallies from the state education department. The heated political question has been whether schools and children have suffered because of it.

Conservatives point to school districts' reserve funds and year-end balances, suggesting they should spend down the millions of dollars they stash before requesting more state funding. They point to increasing retirement costs, increasing bond aid costs, and money spent outside the classroom — such as administrative costs — as signs that the K-12 system is asking too much.

In addition, the Legislature has relied on local option budgets to increase school funding. The base state aid cuts have forced a greater reliance among some districts on LOB. "The LOB portion of the Kansas school finance formula is not so sufficiently designed today, nor was it structurally originally intended, to stand as a failsafe funding mechanism that would assure each and every Kansas K-12 student the education our Kansas constitution commands and is designed to ensure," the judges said.

How will school finance change? Look for a large discussion on how schools should be funded.

2015 KANSAS LEGISLATIVE SESSION: ISSUES

KanCare 2.0

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.

Workers compensation

The 2011 workers compensation reform brought many changes to the workers compensation system including now using the 6th Edition of the American Medical Association Guides to the Evaluation of Permanent Impairment. Kansas was using the 4th Edition. It has brought significant savings in workers compensation costs to employers. Some claim it has significantly reduced the amount of benefits a claimant can receive for permanent bodily impairment and will likely result in employees receiving little to no compensation for workplace injuries. As a result, the Workers Compensation Act could be found to no longer constitute an “adequate substitute remedy” and risks the possibility of exposing employers to tort liability. Now it is being pursued by several groups to return to the 4th Edition.

Transportation

Despite the state’s budget shortfall and some legislators looking to the highway fund as a place to find extra dollars, Transportation Secretary Mike King says projects scheduled for 2015 and 2016 will continue as planned. The projects slated to begin in 2017, however, are now put into question based on funding. Secretary King has said the administration is committed to funding transportation at the appropriate levels.

Patent Trolling

A bill was introduced last year by the Kansas Bankers Association to assist businesses in determining whether a demand letter claiming that a patent was being used without permission was fraudulent. Sixteen states have enacted legislation with the goal of deterring fraudulent patent infringement claims.

Same-sex marriage & religious liberties

Decisions by the federal courts and the Kansas Supreme Court have cleared the way for same-sex marriages in some but not all of Kansas’ 105 counties. That’s prompted some interest in reviving a proposal aimed at protecting churches, businesses and individuals from having to provide services or accommodations. However, legislators are still wary after last year’s bill which gained negative national publicity and was blocked in the Senate.

Environmental issues

The Governor is moving forward with a 50-year water plan, and its more ambitious proposals include dredging state lakes to preserve their storage capacities and considering an aqueduct to western Kansas from the Missouri River in eastern Kansas. Governor Brownback has also said he’s open to phasing out a state law that required wind and other renewable resources to account for 20% of utilities’ peak capacity to generate electricity by 2020.

Minimum wage

A bill that would raise the state’s minimum wage by \$3 by 2017 is expected to be introduced. The new minimum wage would be \$8.25 an hour on July 1, and the wage would then go up \$1 a year during the next two years. The state last raised its minimum wage in 2009.

State OSHA

The Kansas Department of Labor, in response to HB 2616 in 2014, reported back to the Legislature this year regarding whether Kansas should develop and operate a Kansas job safety and health program “State plan,” which will be subject to approval and monitoring by OSHA. The Secretary of KDOL is recommending to not proceed with a State plan at this time based on the expansion of State government and vast amount of resources that would be required to plan, implement and administer a Kansas State plan.

STAFF CHANGES

There has been some shuffling in the Governor's staff. Landon Fulmer, who has served recently as the Governor's Chief of Staff, resigned and became vice president for state affairs at the Alliance of Automobile Manufacturers in Washington. Fulmer had been with Brownback since 2003, when the governor was serving in the U.S. Senate.



Jon Hummell

Jon Hummell, the governor's policy director and former interim budget director, will replace Fulmer. Hummell will be the governor's third chief of staff since he was elected. Hummell will continue as policy director until a replacement is chosen.



Chuck Knapp

Meanwhile, former Kansas Department of Administration official Chuck Knapp has been named chief of staff for Lt. Gov. Jeff Colyer. Knapp will double as deputy operations secretary and spokesman for the Department of Administration while working as Colyer's chief of staff.

KANSAS CHAMBER'S GOALS



If you haven't downloaded the Kansas Chamber app, you should. It's helpful and provides a guide to the Legislature.

The Kansas Chamber of Commerce has announced it will focus on opposing tax increases. The most important issue identified in their annual survey of Kansas business owners was lowering taxes on businesses, followed by health care costs and government regulations/mandates. Taxation remains the top reason a company would consider leaving the state.

Fifty-six percent of respondents said they pay too much in taxes, with 36% saying they pay about the right amount and 6% saying they don't pay enough. In the survey, 69% of respondents oppose creating a sales tax on services, compared with 25% in favor, and 73% oppose an increase in state sales tax with 25% favoring it. Eighty-four percent oppose an increase in income taxes and 92% oppose a property tax increase.

As for state spending cuts, 28% of respondents said taxes should never be raised and 50% think at least up to 10% of spending should be cut before taxes are considered. Sixty-one percent of respondents believe lowering taxes would help the Kansas economy with 29% disagreeing.

As for education, the majority of respondents favor putting more money into the classroom and using less for administration. On immigration, a slight majority of respondents see it as a national rather than state issue.

Legislative Deadlines

February 11—Last day for individuals to introduce bills in originating chamber.

February 13—Last day for committees, except for those exempt committees, to introduce bills in originating chamber.

February 27—Turnaround Day: Last day to consider bills in House of origin, except for exempt committees.

March 25—Last day to consider bills not in House of origin, except for exempt committees.

April 3—Drop Dead Day & First Adjournment: No bills considered after this date except bills vetoed by Governor, omnibus appropriations act and omnibus reconciliations spending limit bill.

April 27—Veto session begins.

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