

LEGISLATIVE UPDATE



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STATE REVENUES FALL

State revenues fell again in May, following the \$93 million shortfall in April. Kansas' tax-only revenues for May were \$217 million below estimates, largely the effect of Kansas investors taking their capital gains in 2012 before federal tax rates rose. The monthly shortfall is the largest in years, and besides the month's 35% drop below estimates, the May numbers brought the 11-month Fiscal Year to Date down a total of \$309 million from last month's estimates—a 5.9 % drop.

Interim Budget Director Jon Hummell predicted the state will close out the current fiscal year on June 30 (FY 2014) with an ending balance of about \$400 million, and said the ending balance of the fiscal year which starts July 1 (FY 2015) "will be close."



State revenue by the numbers:

May: receipts \$389.3 million, \$217 million or 35.8% less than estimates of \$606 million, and \$194 million or 33.2% below last May's \$583 million.

Fiscal Year to Date: receipts \$4.927 billion, \$310 million or 5.9% below estimates of \$5.236 billion. That's \$685 million or \$12.2% less than last year's \$5.611 billion.

Individual income tax receipts were \$142.6 million in May, \$192.4 million or 57.4% less than the \$355 million estimate. That's \$170 million or 54.4% less than last May income tax receipts of \$313 million.

The shortfall attributed to canny money management by Kansans with sizable investments appears relatively isolated to the investor class. Revenue Secretary Nick Jordan said conventional paycheck income tax withholding appears to be relatively stable. The capital gains avoidance by Kansans in addition to reductions in revenues caused by recent state income tax cuts the past two legislative sessions. Many states have experienced difficulties in forecasting the tax year 2013 revenue drops due to the federal tax policy changes. Just this week the Federation of Tax Administrators reported for January through April 2014, based on data from 35 states, total individual income tax collections, as well as estimated and final payments, all showed revenue drops. Secretary Jordan also stated he does not foresee any more deep monthly shortfalls again this year. He estimates Kansas may slip \$10 million to \$20 million below estimates for June as cash flow gains stability.

In addition, the state saw an 11.1 percent increase in federal adjusted gross income reported on tax year 2012 returns, compared to the prior tax year. Kansas income taxes are determined using the federal adjusted gross income amount as the starting point, subject to certain modifications. The federal adjusted gross income amount is not affected by any Kansas tax policy changes. With the tax year 2013 returns received to date, the total federally adjusted income amount has fallen 22 percent from the 2012 high. Balance due payments (final payments) increased for tax year 2012 by 19.8 percent but fell 47 percent in tax year 2013 compared to 2012. These payments are primarily attributable to capital gains and dividends income.

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2014 PRIMARY ELECTIONS



There are multiple issues that will impact the primary elections this year. From education to the state's economy to federal issues. Education has already appeared to be one of the biggest issues in some of the races—both the legislative races and statewide races—throughout the state. This year's school finance bill and in particular the policy provision regarding teachers has become an issue that attracted some candidates to challenge incumbents. Another issue that has both attracted candidates to races and will bring voters to the polls is that of frustration with federal policies. Voters and candidates oppose President Obama, Affordable Care Act, the IRS scandal, and the fallout from the Veterans Affairs Administration problems. In addition, Kansans are still closely watching the state and national economies. It is important that Kansas is a business-friendly state.

These issues will impact all of the primary and statewide races from the U.S. Senate race to the Governor's Office to the legislative races. Senator Pat Roberts is running against Milton Wolf in the primary. Wolf is running as a Tea Party candidate, pitting two conservatives against each other. However, this race will be interesting to watch as it is also being played out in other states across the country—most notably when U.S. House Majority Leader Eric Cantor lost to his Tea Party challenger in the primary this month. In the Governor's Office race, Governor Brownback is anticipated to win his primary and then face House Minority Leader Paul Davis in the statewide election. Davis is making education one of his primary issues in the campaign while Governor Brownback is running on his record from the past four years.

Thirty-four Kansas House incumbents don't face a re-election challenge from a major party candidate. Plus, Republican Jeremy "Basil" Dannebohm, Ellinwood, will face no major-party challenge for his first-ever seat in the House. Dannebohm succeeds 113th District Rep. Marshall Christmann, R-Lyons, who gave up his House seat to run for the 35th Senate District seat.

Former Rep. Charlotte O'Hara, R-Overland Park, filed to challenge Senate newcomer Molly Baumgardner, R-Louisburg. Baumgardner in April was selected to fill out the remaining two years of the term resigned by Sen. Pat Apple, R-Louisburg, to take a seat on the Kansas Corporation Commission. Baumgardner defeated O'Hara 50 to 35 at a GOP convention in April to win Apple's seat, which requires a full-fledged election for the remaining two years.

Olathe Republican Randy Powell filed for the 30th House District seat that Rep. Lance Kinzer, R-Olathe, retired—after Kinzer defeated in 2012 Rep. Ron Worley, R-Olathe, in a reapportionment-blended district. Worley has filed for the seat, creating a GOP primary. Rep. Lance Kinzer, R-Olathe, a 10-session veteran who was chairman of the House Judiciary Committee and a leading voice for the chamber's social conservatives, announced his retirement. Randy Powell, a financial adviser, filed for Kinzer's 30th District seat and is endorsed by Kinzer.

Rep. Kasha Kelley, R-Arkansas City, after a no-challenger 2012 reelection, gets a GOP primary from Andrew Lawson, who is managing editor of the Arkansas City Traveler newspaper.

There are some former House members who have been out of the Legislature in recent years and have filed to return to office: Rep. Ron Worley, R-Lenexa, for District 30; Rep. Becky Hutchins, R-Holton, for District 61; Rep. Steve Lukert, D-Sabetha, for District 62; Rep. Jeff Freeman, R-LeRoy, for District 76; and Rep. Joe Scapa, R-Wichita, for District 88.

Quick look: 2014 Elections

Uncontested: There are 35 House districts in which there is only one major party candidate—23 are Republicans and 12 are Democrats.

Primary election only: 15 such races in the House, all GOP.

General election only: 56 districts in the House.

Both primary and general elections: 19 House districts, of which 14 races have a Republican primary, 4 which have Democratic primaries, and only 1 district which has both Republican and Democratic primaries with the victors going on to the general election.

STATE REVENUES FALL

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Because of scheduled state income tax reductions, Kansas' official forecast called for the treasury to collect about \$300 million less than in the previous fiscal year. But Kansas was \$660 million under the projection through May. Jordan praised Brownback-era reforms that include a nonwage tax exemption for owners of nearly 200,000 businesses that pumped an estimated \$140 million to \$150 million into the Kansas economy. Downward adjustment of individual income tax rates contributed to lowering the state's unemployment rate from 6.8 percent in 2011 to 4.8 percent this year, as well as creation of 56,000 jobs since the governor took office.

The State Finance Council also approved this month issuing a \$675 million certificate of indebtedness—internal borrowing—to meet cash flow needs for the upcoming fiscal year. The borrowed money will meet cash flow demands during November and February—months during which the state doesn't take in a lot of money, but has sizable payments to make, largely to K-12 education. The \$675 million will be borrowed from idle funds in state accounts and must be repaid by June 30, 2015. Prior administrations have used this cash-flow tactic often to fund state government when the state ran without an ending balance for several years.

The official revenue count for FY 2014 will be completed in October once those who asked for an extension file their taxes. In November, the full picture will be known. The Consensus Revenue Estimating Group will reconvene and make any necessary adjustments to the estimates upon which the budget will be based. June's report will be released on June 30.

How this issue will play out in the campaigns and upcoming elections as well as the next legislative session is also the next question. Some have said, including former Budget Director Duane Goossen, that legislators may have to make some tough decisions next session because Kansas won't have the revenue available to meet budget demands following the revenue shortfalls this year. Shifting money from other places like the state highway fund may no longer be a viable solution to hold down state general fund expenses.

MEET THE PRIMARY CANDIDATES

Below is information on the primary candidates for statewide office. Some you may already know and some you may not. For a full listing of candidates running for office, visit www.kssos.org.

Governor/Lt. Governor: Winner of Republican primary will meet Paul Davis/Jill Docking (Democrats) in the November general election.

Sam Brownback/Jeff Colyer (incumbent)

- Governor Brownback and Lt. Governor Colyer were first elected to the Governor's and Lt. Governor's post in 2010. Governor Brownback served in the U.S. House of Representatives from 1995 to 1996 and then the U.S. Senate from 1996 to 2011. Lt. Governor Colyer previously served as a member of the Kansas Senate from 2009 to 2011 and the Kansas House of Representatives from 2007 to 2009. He is also a physician.



Jennifer Winn

Jennifer Winn/Robin R. Lais

- Winn is a small business owner from Wichita. She owns a family landscaping business. Lais is also a Wichita resident and owns an advertising agency, a natural healing store and a Wichita radio station.



Governor Brownback with Senate President Susan Wagle and House Speaker Ray Merrick.

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MEET THE PRIMARY CANDIDATES

Secretary of State: Winner of Republican primary will meet former State Senator Jean Schodorf (now a Democrat) in the November general election. Secretary Kris Kobach is the incumbent.

Scott Morgan

- Considered a moderate Republican, Morgan has worked for Sens. Bob Dole and Nancy Landon Kassebaum. He is an attorney, having served as chief of staff and chief counsel to former Governor Mike Hayden, and a former owner of a publishing company, which he sold in 2007. He previously ran for Congress in 1990. He lives in Lawrence.



Kris Kobach (incumbent)

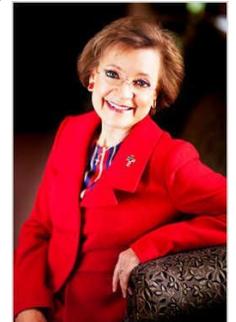
- Kobach was elected to this post in 2010. Prior to his election, he was a Professor of Constitutional Law at the University of Missouri—Kansas City from 1996 to 2011. He is a nationally-recognized litigator who represents U.S. citizens, cities and states in cases involving illegal immigration across the country. He introduced the Secure and Fair Elections (SAFE) Act in the Kansas Legislature which was signed into law in April, 2011, and requires identification for voters. He resides in Piper.



Insurance Commissioner: Winner of Republican primary will meet Dennis Anderson (Democrat) in the November general election. Current Insurance Commissioner Sandy Praeger is retiring when her term expires in January, 2015.

Beverly Gossage

- Gossages lives in Lawrence. She is a health insurance consultant and owner of HSA Benefits Consulting.



Beverly Gossage

David J. Powell

- Powell began his career in the insurance industry in 1998 with the creation of his company, David J. Powell & Association, LLC. He works with agents throughout Kansas as a brokerage outlet for health, life, disability, ancillary products and senior products. He lives in El Dorado and previously ran for this post in 2002 and 2010.



David Powell

Ken Selzer

- Selzer is a Certified Public Accountant and an Executive Managing Director for Aon Benfield. He has extensive experience in the reinsurance and reinsurance brokerage industries. He lives in Leawood.



Ken Selzer

Clark Shultz

- Shultz is president of a Wichita title insurance company. He has served as a member of the Kansas Senate and resides in McPherson. He replaced Jay Emler who resigned mid-term. He was first elected to the House in 1997 and chaired the House Insurance Committee for nine years. He also led the House Rules and Journal Committee. Shultz resigned from his Senate seat to run for Commissioner.



Clark Shultz

John M. Toplikar

- Toplikar is a Johnson County Commissioner and former Kansas representative. He lives in Olathe. He is a residential carpenter. He was elected as a Johnson County Commissioner in 2013 and his term ends in January 2017.



John M. Toplikar

SCHOOL FINANCE: NEW CONTROVERSIES

A panel of Kansas judges ruled this month that a new education funding law complies with a state Supreme Court mandate to boost aid to poor public schools, but they didn't narrow the scope of a lawsuit over whether the state is providing enough aid overall. A separate question of whether the state is providing constitutionally sufficient overall funds for K-12 is still being litigated. The three-judge panel in Shawnee County District Court declined the state's request to dismiss claims questioning the fairness of the state's school funding formula in a lawsuit filed in 2010 by parents and school districts. But the judges also rejected arguments from attorneys for the aggrieved school districts that uncertainty about state finances or future legislative actions raises questions about whether Kansas actually met the earlier Supreme Court mandate.

The GOP-dominated Legislature approved the new education law in April, increasing aid to poor school districts by \$129 million during the next school year. Both sides in the lawsuit agreed that the additional aid to poor districts met the Supreme Court's mandate. But Alan Rupe — representing the Dodge City, Hutchinson, Kansas City, Kan., and Wichita school districts — argued legislators have a history of failing to meet promises to public schools and noted that backtracking on funding commitments, which were made to resolve an earlier school finance lawsuit, led to the current litigation.

In addition to the additional spending, the Legislature also attached policy provisions to the bill. Some policy changes such as authorizing alternative teacher licensure, increasing the number of innovative districts and a requirement to study virtual schools and programs have been perceived as positive. However others, including one which ends guaranteed teacher tenure and another granting tax credits to corporations bankrolling private-school scholarships for at-risk children, have been more controversial.

The Kansas National Education Association (KNEA) is promising to file a separate lawsuit challenging conservatives' policies in the new law. District Judge Franklin Theis said that even if someone challenged policies included in the law, the new funding would stand. Theis said the panel will next consider whether the state is spending enough on schools to meet its duty under the Kansas Constitution to provide an adequate education for every child.

However, teachers have stated they will make school finance and HB 2506 a main 2014 campaign issue. KNEA has said they are mobilizing their members to do everything they can to affect the outcome of individual House races as well as statewide races because of the controversial provision eliminating state-mandated teacher tenure. Retired and current teachers have picketed events throughout the state where the Governor has attended, demonstrating their disappointment in his support and signing of the bill. In response, the Governor's campaign and the Republican House Campaign Committee have been framing the education issue and placing advertisements focusing on funding rather than policy choices. The advertisements and mail pieces highlight K-12's role as the largest portion of the state budget and highlight an editorial by Steve Rose in the *Kansas City Star* that says teachers' fears over the tenure provision are overblown.

Bob Beatty, a professor of political science at Washburn University, told the *Topeka Capital-Journal* this year's races will turn on whether Kansans want to continue the conservative direction the state has gone since Brownback's election in 2010, or put on the brakes. The teachers' influence, he said, will play a role. Beatty said the tenure issue "may have some people angry" within the education community, but for educators to leverage that into votes they must "argue it's not just the issue, it's how they did it." (Legislators attached the tenure provision to the spending bill, which did not have a public hearing during the 2014 Legislative Session.)

And to add to the education debate, advocates who want Common Core repealed have not given up. Oklahoma recently repealed its use, which has given a boost to the Kansas effort. Several advocates have vowed to make the repeal of Common Core an issue for the 2014 elections. So, it is evident that the many debates involving education will play a role in the 2014 elections. We are just not sure how deep they will impact the outcomes.

NEW SIGNS FOR HANDGUNS

The Attorney General released this month proposed signage that might be used to allow or restrict the legal carrying of firearms—open, concealed or both—into private or public buildings. The proposed signage comes about in advance of a law passed by the Kansas Legislature that takes effect July 1.

Attorney General Derek Schmidt said building owners who don't wish to restrict open or concealed carry shouldn't post any signage. His office recommended "no guns" signage for private buildings wanting to restrict both open and concealed carry, as well as for municipal buildings exempt from the provisions of the new law wishing to restrict both. Recommended signage also was issued for building owners wishing to ban concealed but allow open carry, and for buildings allowing concealed carry but restricting open carry.

Schmidt said the signs were developed after gathering input from different interest groups. He said the proposed signs were designed to "make clear to gun owners what is and isn't allowed in individual buildings. The stakeholders asked for the signs to be as simple and clear as possible, and also wanted to minimize the need for buildings already posted with a no-guns sign to change their existing signage."

Schmidt noted the proposed signs don't yet have the force of law. The proposed signs and temporary regulations have been submitted to the State Rules and Regulations Board for approval. If approved, these regulations would take effect July 1. The proposed signs and regulations are available on the attorney general's website at www.ag.ks.gov.

Under a bill adopted by the Kansas Legislature and signed by Gov. Sam Brownback, cities and counties will be prohibited from regulating open carry after July 1. A patchwork of local regulations will be replaced by standards making open carrying of firearms legal statewide. Complexity is added to the signage debate because Kansas businesses, churches and others will have the option of posting signs designed to block or accept concealed, as well as unconcealed, guns at those locations. The new law adopted with bipartisan support in the Senate and House also prohibits a person from carrying a gun while intoxicated. In addition, the measure prohibits municipal employers from gathering information on whether employees have permits to conceal and carry.

Guns in the Statehouse

Through inaction, the Legislative Coordinating Council this month authorized concealed-carry of guns in the Statehouse by concealed-carry permit holders July 1. The LCC will hold a meeting in mid-July to hear from Capitol Police and the Highway Patrol about security in the Statehouse. The two-year-old state law requires that concealed-carry be permitted in the Statehouse unless the LCC determines by July 1, 2014, that security is inadequate to prevent any guns in the Statehouse. It appears that Statehouse visitors who pass through the security gates and whose guns trip metal detectors will then have to produce concealed-carry permits to enter the building. The Revisor's Office said once concealed-carry is permitted, as it will be on July 1, there may be no way to rescind that permission. Members of the LCC said it might take passage of a new law to restrict permitted concealed-carry.



New proposed sign for businesses

2014 Primary Election Calendar

July 1—Voters affiliated with recognized political party (Democratic, Libertarian, Republican) prohibited from switching parties until September 1, 2014

July 15 —Last day to register to vote for August Primary

July 16—Advance ballots mailed for August Primary

July 23—Advance voting for August Primary begins

August 5—August Primary Election. Polls open from 6:00 a.m. to 7:00 p.m.

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