

NEWSLETTERS



KANSAS LEGISLATIVE INSIGHTS NEWSLETTER | FEBRUARY 2, 2024

TAX VETO UPDATE

Last Friday, Gov. Laura Kelly vetoed the tax package based on her opposition to the flat tax. Next week, the House will be the first chamber to vote on overriding her veto. The House is expected to successfully override the veto again. The drama will be in the Senate, where it appears Republicans need to secure one more vote to reach the necessary 27 votes. This week, the Senate Assessment and Taxation Committee held hearings on the governor's tax package. House Republicans are wearing 310K buttons denoting the number of Kansans who would not be paying state income tax under the Republican plan vetoed by the governor.

WORKERS COMPENSATION COMPROMISE

One of the biggest stories of the week is that business and labor reached a compromise on updating the Kansas workers compensation law. The negotiations lasted nearly a year. During a joint meeting of the Senate Commerce and House Commerce, Labor and Economic Development Committees, attorneys for each side explained the details and answered questions. SB 430 raises the caps on compensation claims while limiting administrative costs for employers. This is a summary provided by the Kansas Department of Labor. The statutes have not been updated since 2011.

WEEKLY OVERVIEW

Monday, Sen. Caryn Tyson and seven other Republican senators introduced a resolution blocking the pay raise for legislators recommended by the special pay commission.

Tuesday, the House Appropriations Committee heard discussion on funding for the 2026 World Cup. The Senate Ways and Means Committee was also briefed on the topic.

Wednesday, the Senate failed to muster the necessary votes to pull the resolution stopping the legislative pay increase from committee. The Senate vote was 21-3, which fell three votes short of the 24 votes needed. Sen. Caryn Tyson, R-Parker, led the effort, arguing it was too much and could be used for better purposes. Under the

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recommendations of the independent pay commission, the average compensation will increase from approximately \$29,000 to \$57,000 effective Jan. 1, 2025. If Sen. Tyson's effort would have gotten 24 votes, it would have still needed 27 to procedurally move the resolution to the debate agenda for floor debate. This failed effort means that the pay increase will go into effect Jan. 1, 2025.

Thursday, the House of Representatives overwhelmingly approved removing the 15% statutory cap on alternative investments for the Kansas Public Employees Retirement System (KPERS) 113-3. KPERS staff noted alternative investments are currently hovering around 13% of the system's total investments. Under the provisions of HB 2103, the KPERS board establishes the alternative investment percentage. Alternative investments would include private equity and infrastructure investments.

Thursday committee action saw the House Elections Committee hear HB 2559, prohibiting use of generative artificial intelligence (AI) to create false representation of candidates in election campaign media. It is a bipartisan approach to the issue by House Elections Committee Chair Rep. Pat Proctor, R-Leavenworth, and House Minority Leader Vic Miller, D-Topeka. The measure would require campaigns to disclose when "synthetic media" is used to manipulate images, video, or audio. The bill would specifically ban use of AI to impersonate an election official for the purpose of deceiving someone about how to vote. Two election experts from the Brennan Center for Justice described the challenges and concerns over the quality of deepfakes and synthetic media misleading voters. Among the examples given were fake robocalls using artificial intelligence to replicate President Joe Biden's voice discouraging New Hampshire voters from voting in last month's presidential primary. Last summer, Republican presidential candidate Ron DeSantis' campaign posted fake photos of former president Donald Trump hugging Anthony Fauci.

Friday saw three joint House and Senate committees meet: Joint Committee on Rules and Regulations, Legislative Post Audit, and Bob Bethel Joint Committee on Home and Community Based Services and KanCare Oversight.

NEXT WEEK

The veto override efforts will be center stage next week. There will be hearings on SB 430 with the workers' compensation hearings. The compromise is expected to move quickly through the process.

On Monday, the House and Senate Commerce Committees will again meet jointly to review HB 2570, outlining changes to the unemployment statutes. Next Thursday, the Senate Federal and State Affairs Committee will hear SB 375 on the use of artificial intelligence in election campaigns.

JANUARY REVENUE

The Kansas Department of Revenue reported total state tax revenue for January was 6.5% below the estimates. Total tax collections for the month were \$928 million. Corporate income tax collections were the largest category reflecting decline. January corporate revenue was \$89.8 million, which was \$25.2 million (or 21.9%) below the estimates. Corporate figures are down 45.9% when compared with January of 2023. Individual income tax collections were 3.9% below the estimates. For fiscal year 2024, revenue has failed to exceed the estimates in five of the seven months. Collections were \$64.1 million below estimates last month. Total tax collections also were down 11.3% from January 2023.

BILL INTRODUCTIONS

COURTS, LAWS, AND REGULATIONS

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SB 394: CONSUMER PROTECTION. The bill, introduced by the Senate Committee on Judiciary, relates to internet content that is harmful to minors, and would require age verification for access to such content and provide for civil penalties for damages, attorney fees, and costs. This bill has been referred to the Senate Committee on Judiciary chaired by Sen. Kellie Warren.

SB 395: HIGHER EDUCATION. This bill, introduced by the Senate Committee on Ways and Means concerns the University of Kansas Hospital Authority and would require prior legislative approval (or Legislative Coordinating Council approval when the legislature is not in session) when purchasing, leasing, trading, exchanging, or otherwise acquiring, constructing, repairing, remodeling, or removing any real property or facility outside of the state. This bill has been referred to the Senate Committee on Ways and Means chaired by Sen. Rick Billinger.

SB 406: FINANCIAL INSTITUTIONS. This bill, introduced by the Senate Committee on Financial Institutions and Insurance, concerns financial institutions, and creates the Kansas Money Transmissions Act relating to the electronic transmission of money. This bill has been referred to the Senate Committee on Financial Institutions and Insurance, chaired by Sen. Jeff Longbine. This bill has been scheduled for a hearing on Wednesday, Feb. 7.

SB 409: DISCRIMINATION. This bill, introduced by the Senate Committee on Federal and State Affairs, relates to the Kansas Act Against Discrimination and would prohibit county or city legislation that would modify the established classes of individuals protected from discrimination under the Act. This bill has been referred to the Senate Committee on Federal and State Affairs chaired by Sen. Mike Thompson.

SB 418: COURTS. This bill, introduced by the Senate Committee on Judiciary, would require the Appellate Court Clerk to publish monthly a list of cases in which the Supreme Court and the Court of Appeals has not filed a decision within six months of submission, and a list of cases in which a petition for review has not been granted or denied within six months of submission. This bill has been referred to the Senate Committee on Judiciary chaired by Sen. Kellie Warren.

SCR 1615: LEGISLATIVE COMPENSATION. This continuing resolution, introduced by Sen. Caryn Tyson and others, rejects the rates of compensation and salary for members of the legislature set by the Legislative Compensation Commission. This continuing resolution has been referred to the Senate Committee on Ways and Means chaired by Sen. Rick Billinger. This continuing resolution has been scheduled for a hearing on Tuesday, Feb. 6.

SCR 1616: JUDICIAL. This continuing resolution, introduced by Sen. Dennis Pyle (I-Hiawatha), would amend Article 3, Section 5 of the Kansas Constitution, would allow the governor, subject to Senate confirmation, to appoint Supreme Court justices, and would change the membership of the Nomination Commission. This continuing resolution has been referred to the Senate Committee on Judiciary chaired by Sen. Kellie Warren.

HB 2592: CONSUMER PROTECTION. This bill, introduced by the House Committee on the Judiciary, relates to internet content that is harmful to minors and would require age verification for access to such content and establish a civil cause of action for damages, attorney fees and costs, and provide for civil penalties for violations of the Act. This bill has been referred to the House Committee on the Judiciary chaired by Rep. Susan Humphries. This bill has been scheduled for a hearing on Wednesday, Feb. 7.

HB 2617: ELECTIONS. This bill, introduced by the House Committee on Elections, relates to members of the legislature, and would prohibit legislators from voting on matters in which the member has a special interest. This bill has been referred to the House Committee on Elections chaired by Rep. Pat Proctor.

HCR 5024: ELECTIONS. This continuing resolution, introduced by Rep. Mike Dodson (R-Manhattan), would amend Article 14 of the Kansas Constitution to create a new Section 3, which would reserve to the people the power to propose and enact or to reject amendments to the constitution by initiative independent of the legislature.

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This bill has been referred to the Committee on Elections chaired by Rep. Pat Proctor.

TAXATION

SB 421: TAXATION. This bill, introduced by Sen. Chase Blasi (R-Wichita) and others, provides for a sales tax exemption for Exploration Place, Inc. This bill has been referred to the Senate Committee on Assessment and Taxation chaired by Sen. Caryn Tyson. This bill has been scheduled for a hearing on Thursday, Feb. 8.

SB 429: TAXATION. This bill, introduced by the Senate Committee on Assessment and Taxation, reduces the state rate of tax on food and food ingredients. This bill has been referred to the Senate Committee on Assessment and Taxation chaired by Sen. Caryn Tyson.

HB 2573: TAXATION. This bill, introduced by Rep. Pat Proctor (R-Leavenworth), requires certain libraries that have budgets approved by taxing subdivision to be subject to the revenue neutral rate independent of the taxing subdivision. This bill has been referred to the House Committee on Taxation chaired by Rep. Adam Smith.

HB 2584: TAXATION. This bill, introduced by the House Committee on Taxation, relates to sales and compensating use tax and would provide for the taxation of digital property and subscription services and would decrease the rates of such taxes in certain circumstances. This bill has been referred to the House Committee on Taxation chaired by Rep. Adam Smith. A hearing on this bill has been scheduled for Tuesday, Feb. 6.

HB 2585: TAXATION. This bill, introduced by the House Committee on Taxation, relates to sales taxation and would exclude from taxation the service of installing or applying the tangible personal property for the reconstruction, restoration, remodeling, renovation, repair or replacement of a building or facility. This bill has been referred to the House Committee on Taxation chaired by Rep. Adam Smith. A hearing on this bill has been scheduled for Wednesday, Feb. 7.

HB 2586: TAXATION. This bill, introduced by the House Committee on Taxation, concerns multiple aspects of the tax code as follows: (a) property tax – would increase the extent of the exemption for residential property from statewide school levy; (b) privilege tax – would decrease the normal tax rates on banks, trust companies, and savings and loan associations; (c) income tax – would increase the tax credit amount for household and dependent care expenses, would eliminate the income limit to qualify for the subtraction modification for Social Security income, and would increase the Kansas standard deduction; and (d) sales and compensating use tax – would provide for a sales tax exemption for school supplies, computers, and clothing during an annual sales tax holiday; would create a sales tax exemption for children's diapers and feminine hygiene products, and would reduce the state rate of tax on sales of food and food ingredients. This bill has been referred to the House Committee on Taxation chaired by Rep. Adam Smith.

HB 2635: TAXATION. This bill, introduced by the House Committee on Taxation, relates to property taxation and would establish a tax exemption for homestead property of certain disabled veterans. This bill has been referred to the House Committee on Taxation chaired by Rep. Adam Smith.

HB 2636: TAXATION. This bill, introduced by the House Committee on Taxation, relates to Homestead Property Tax Refund Act and would include homestead renters as eligible to participate in certain homestead property tax refund claims. This bill has been referred to the House Committee on Taxation chaired by Rep. Adam Smith.

HCR 5022: TAXATION. This continuing resolution, introduced by Rep. Brett Fairchild (R-St. John) and others, would amend Article 11, section 1 of the Kansas Constitution, requiring that all-terrain vehicles be included along with recreational vehicles and watercraft in the classification of property that must be taxed uniformly and on an equal basis of valuation or which may be exempt from such property taxation and taxed on another basis in lieu

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thereof. The continuing resolution has been referred to the House Committee on Taxation chaired by Rep. Adam Smith. The continuing resolution will be heard on Thursday, Feb. 8.

UTILITIES

SB 422: PUBLIC UTILITIES. This bill, introduced by the Senate Committee on Utilities, concerns electric public utilities and net metering, would increase the system-wide capacity limit for facilities subject to net metering and would require such facilities to be appropriately sized based on the customer's expected load. The bill also establishes requirements for exporting power to a utility from a facility subject to net metering. This bill relates to HB 2588. This bill has been referred to the Senate Committee on Utilities chaired by Sen. Michael Fagg.

HB 2588: PUBLIC UTILITIES. This bill, introduced by the House Committee on Energy, Utilities and Telecommunications, relates to electric public utilities, and concerns net metering, and would increase the system-wide capacity limit for facilities subject to net metering, would require such facilities to be appropriately sized based on the customer's expected load, and establish requirements for exporting power to a utility from a facility subject to net metering. This bill has been referred to the House Committee on Energy, Utilities and Telecommunications chaired by Rep. Leo Delperdang.

HB 2589: PUBLIC UTILITIES. This bill, introduced by House Committee on Energy, Utilities and Telecommunications, relates to utility pole-mounted law enforcement equipment, and would authorize public utilities to enter into pole attachment agreements to allow for the attachment and operation of law enforcement equipment on utility poles located in the public right-of-way, and exempting public utilities from civil liability relating thereto. This bill has been referred to the House Committee on Energy, Utilities and Telecommunications chaired by Rep. Leo Delperdang. A hearing on this bill has been scheduled for Thursday, Feb. 8.

HB 2590: PUBLIC UTILITIES. This bill, introduced by House Committee on Energy, Utilities and Telecommunications, relates to pipeline safety, and would update the maximum penalties that may be imposed by the Kansas Corporation Commission to comply with the requirement of the federal pipeline and hazardous safety administration. This bill has been referred to the House Committee on Energy, Utilities and Telecommunications chaired by Rep. Delperdang. A hearing on this bill has been scheduled for a hearing on Thursday, Feb. 8.

HB 2591: PUBLIC UTILITIES. This bill, introduced by House Committee on Energy, Utilities and Telecommunications, concerns the operations of the Kansas Corporation Commission, and would exempt the Commission from the Open Meetings Act with respect to matters relating to docketed proceedings, but would prohibit *ex parte* communications in all docketed Commission proceedings. This bill has been referred to the House Committee on Energy, Utilities and Telecommunications chaired by Rep. Delperdang.

HB 2620: PUBLIC UTILITIES. This bill, introduced by House Committee on Energy, Utilities and Telecommunications, relates to the Kansas Corporation Commission, and would extend the timelines for the Commission to make a determination regarding rate-making treatment for electric generating or transmission facilities and would establish a rebuttable presumption that a fossil fuel-fired electric generating unit shall not be retired. The bill would also prohibit the Commission from authorizing the retirement of such electric generating unit unless the utility overcomes such presumption with sufficient evidence and would require the Commission to report on request to retire such units. This bill has been referred to the House Committee on Energy, Utilities and Telecommunications chaired by Rep. Leo Delperdang.

HB 2621: PUBLIC UTILITIES. This bill, introduced by the House Committee on Energy, Utilities and Telecommunications, would prohibit public utilities from exercising eminent domain for the siting or placement of solar facilities. This bill has been referred to the House Committee on Energy, Utilities and Telecommunications chaired by Rep. Leo Delperdang.

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HB 2634: WATER. This bill, introduced by the House Committee on Water, relates to groundwater management districts, and would provide an additional corrective control provision for the chief engineer to consider when issuing orders of designations for local enhanced management areas and intensive groundwater use control areas. This bill has been referred to the House Committee on Water chaired by Rep. Jim Minnix. This bill has been scheduled for a hearing on Tuesday, Feb. 6.

HEALTHCARE AND INSURANCE

SB 390: HEALTHCARE. This bill, introduced by the Senate Committee on Public Health and Welfare, enacts the Conscientious Right to Refuse Act and would prohibit discrimination against individuals who refuse certain medical interventions and care and would create a civil cause of action against entities who discriminate based upon such medical care refusal. The bill would also revoke the authority of the Secretary of Health and Environment to order individuals to isolate or quarantine and impose penalties for violations of such order. This bill has been referred to the Senate Committee on Public Health and Welfare chaired by Sen. Beverly Gossage.

SB 391: HEALTHCARE. This bill, introduced by the Senate Committee on Public Health and Welfare, relates to infectious or contagious diseases, would change the authority of the Secretary of Health and Environment and local health officers, and would name the revisions to the statute as the Constitutional Right to Health Freedom Act, and would revoke the authority of the Secretary of Health and Environment to order isolation and quarantine. This bill has been referred to the Senate Committee on Public Health and Welfare chaired by Sen. Beverly Gossage.

HB 2578: HEALTHCARE. This bill, introduced by the House Committee on Health and Human Services, relates to certified community behavior health clinics, and would provide for renewal certification of programs and treatments that have been previously certified or accredited. This bill has been referred to the House Committee on Health and Human Services chaired by Brenda Landwehr. The Committee recommended passage of the bill on Thursday, Feb. 1.

HB 2637: HEALTHCARE AND HOSPITALS. This bill, introduced by the House Committee on Health and Human Services, relates to rural emergency hospital licensure, and would expand the eligibility to facilities that met the criteria for the time period between January 2015 and December 2020. This bill has been referred to the House Committee on Health and Human Services chaired by Brenda Landwehr. This bill has been scheduled for a hearing on Tuesday, Feb. 6.

Kansas Legislative Insights is a publication developed by the Governmental Affairs & Public Policy Law practice group of Foulston Siefkin LLP. It is designed to inform business executives, human resources and governmental relations professionals, and general counsel about current developments occurring in current Kansas legislation. Published regularly during the Kansas legislative session and periodically when the Legislature is not in session, it focuses on issues involving healthcare, insurance, public finance, taxation, financial institutions, business & economic development, energy, real estate & construction, environmental, agribusiness, employment, and workers compensation. Bill summaries are by necessity brief, however, for additional information on any issue before the Kansas Legislature, contact Foulston Siefkin's Governmental Affairs & Public Policy Law practice group leader, C. Edward Watson, II, at 316.291.9589 or cewatson@foulston.com. Learn more about the authors below:

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