

Kansas Legislature back after short turnaround break

The 2024 Kansas Legislature reached its “turnaround” point on Feb. 23 and, after a short break, was back at it on Feb. 28. Turnaround is basically the halfway point in the annual legislative session and no new bills may be introduced this session unless done so by a few deadline-exempt committees. Bills already introduced by or referred to exempt committees remain alive regardless of where they are in the process, but all other bills are now dead unless they have been passed in their house of origin or language in such bills is amended into germane deadline exempt bills. Following are brief summaries of bills of industry interest this session for your review.

Sales tax on labor services in commercial remodel construction

Legislation of primary interest is [House Bill 2585](#) which received a Feb. 7 hearing in the deadline-exempt Taxation Committee and remains in that committee, along with a number of sales tax exemption bills, at this time. HB 2585 would exempt “labor services” (i.e., gross sales, fewer subcontractors, less taxed job materials) involved in commercial remodeling construction from sales tax. The Builders, a chapter of the AGC’s general contractor member Gus Meyer, president of Kansas City-based Rau Construction Company, was on hand to provide persuasive testimony regarding the chilling effect that the cost of the labor services tax has on commercial remodeling construction in Kansas, as well as the troublesome issues involved in distinguishing remodel construction from “original” construction on various projects and accurately collecting and remitting the tax on such projects. The association staff advised the committee that elimination of this tax on commercial remodeling construction is long overdue, that none of Kansas’ neighboring states impose such a tax and that only a handful of states in the entire nation do so. The competitive disadvantage caused by the tax and its chilling effect on commercial remodeling construction in the Kansas City area was further emphasized, as well as the positive effects that elimination of the tax would have in helping to preserve and improve older commercial structures throughout the state. It was noted that construction activity has a direct economic impact on over forty related industries and indirectly impacts many more. With newly renovated buildings come new and expanded businesses, additional employees, and new residents to the state and that would result in additional tax revenues of various kinds to the state and local governments.

While the committee appeared supportive of the bill, the prospects for eliminating the tax are very guarded at this point due to the daunting [fiscal note](#) that the department of revenue has put on the bill (\$70,700,000 for FY 2025, \$79,200,000 for 2026 (a 12% increase), \$81,300,000 for FY 2027 (a 2.65% increase), \$83,400,000 (a 2.58% increase) and \$85,600,000 (a 2.64% increase). Assuming a 50/50 labor services/materials split on an average remodel project and the current

6.5% state sales tax rate, that means that the KDOR projects \$2,175,384,616 in commercial remodeling construction alone in FY 2025. Is that a realistic number? Our and other proponents' task will be to overcome the department's questionable fiscal note and to emphasize that providing a sales tax exemption for labor services involved in commercial remodeling projects would have a very positive economic development effect and result in significant new tax revenues to the state and local political subdivisions. The department's fiscal note does not take that into consideration at all. Please contact members of the [House Taxation Committee](#) and weigh in on this important issue.

Other tax exemption bills in house tax committee

As mentioned above, House Bill 2585 is not the only bill providing for sales tax exemptions in the House Committee on Taxation. Other bills include, but are not limited to, [House Bill 2662](#) which was heard on Feb. 12 and would provide for a sales tax exemption for purchases of construction materials by a contractor for the Kansas fairgrounds foundation; [House Bill 2794](#) which was heard on Feb. 20 and would provide an exemption for pet shelters and rescue network managers; [House Bill 2773](#) which would provide a sales tax exemption for certain purchases by the Boys and Girls Club of Topeka; and [Substitute for Senate Bill 60](#) which was recommended "do pass" on Jan. 25 and would provide exemptions for custom meat processing services, purchases for the construction or repair of buildings used for human habitation by the Kansas state school for the blind and the Kansas state school for the deaf, certain purchases and sales by the Johnson county Christmas bureau association, and certain purchases by Doorstep, Inc. There is always a lot of competition for sales tax exemptions, especially when the state is carrying a large budget surplus as it currently is.

Sales tax exemptions for large data center

[Substitute for House Bill 2450](#), a "carryover bill" introduced by the deadline-exempt Taxation Committee last session, was referred to the Committee on Commerce, Labor and Economic Development and heard on March 14, 2023, and was recommended "do pass" by the committee on Feb. 14 of this year. This measure relates to economic development and would provide exemptions for: sales of property or services purchased for the purpose of constructing, reconstructing, enlarging, or remodeling a qualified data center, including the use of project exemption certificates; sales and installation of data center machinery and equipment; sales of eligible data center costs, which would include costs of land, buildings, site improvements, modular data centers, computer data center equipment acquisition and permitting, lease payments, site characterization and assessment, and engineering and design used directly and exclusively for a qualified data center; sales of electricity used by the qualified data center; and sales of labor services to install and maintain data center equipment.

Other economic development proposals have died

Several economic development proposals not tied to deadline-exempt committees have died because they were not passed in their house of origin by the Feb. 23 turnaround deadline. [Senate Bill 329](#) related to the Kansas angel investor tax credit act and would have discontinued the issuance of new tax credits after 2024. [House Bill 2647](#) concerned rural communities in Kansas and would have created the Kansas rural downtown revitalization act; established a rural downtown revitalization fund and made transfers to such fund; prescribed guidelines for the expenditure of moneys credited thereto and the duties of the department of commerce and the director of Kansas main street; and required annual reports to certain committees of the legislature. [House Bill 2744](#) would have enacted the transformation of passenger and freight vehicle industry act; related to tax and other incentives for projects in specified industries or for a national corporate headquarters with specified job requirements of at least 250 new employees and specified capital investment requirements; provided for a refundable income, privilege and premium tax credit for a portion of any specified capital investment requirement; provided for retention of certain payroll withholding taxes; provided a sales tax exemption for project construction; and established the transformation of passenger and freight vehicle industry act new employee training and education fund. [House Bill 2775](#) related to fees assessed by the department of commerce for applications by businesses for certain economic development incentive programs and provided for a fee based on a certain percentage of the total incentive package within a specified range instead of a flat fee. [House Bill 2734](#) would have imposed a five-year expiration on improvement districts and community improvement districts if no improvements were carried out within the five-year period. [Senate Bill 497](#) was introduced by the deadline-exempt Committee of Federal and State Affairs and referred to the Committee on Agriculture and Natural Resources. That bill would establish the Pike reservoir project district act; provide for the construction of a dam and a lake in Bourbon county, and for residential and commercial property development and water resource development; authorize the establishment of a governing board for the project and the establishment of real property tax and sales tax increment financing districts for the purpose of financing the project costs; create the Pike reservoir district sales tax fund and the Pike reservoir district sales tax refund fund; authorize the creation of a special district fund for the purpose of paying project costs; and authorize the issuance of special obligation bonds and pay-as-you-go financing to pay project costs. No action has been taken on the bill however.

Workers' compensation changes

[Senate Bill 430](#) was passed (40-0) by the Kansas Senate and referred over to the House Committee on Commerce, Labor and Economic Development on Feb. 21. That committee issued a committee report recommending that the bill be passed and placed on the House Consent

Calendar on Feb. 29. This workers compensation measure represents a negotiated compromise between business and labor as evidenced by its support by the Kansas Chamber of Commerce, the Kansas AFL-CIO, the Kansas Department of Labor, the National Federation of Independent Businesses, the Kansas Self-Insurers Association, Kansas Trial Lawyers Association and others. Conferees requested the bill not be amended due to its negotiated nature and it has not been. Among many other things, SB 430 would provide coverage for members of the Kansas national guard under the workers compensation act; limit reductions to benefits based on retirement benefits; require a judicial determination of dependency for immediate payment of a death benefit; increase the maximum amount of death benefits; extend the time period for payments to dependent children when in schools; provide for a yearly adjustment to the maximum death benefit to commence in 2027; increase the minimum weekly payment for permanent total disability; increase the maximum employer liability for unauthorized medical care; increase the evidentiary standard for future medical treatment after maximum medical improvement in certain circumstances; increase employer liability for expenses of claimants for required examinations; and extend deadlines for an employee to give notice of injury to an employer. Detailed information regarding these and other workers compensation law changes contained in the bill can be found in the SB 430 [Supplemental Note](#) and [Fiscal Note](#).

Unemployment compensation changes

[Substitute for House Bill 2570](#) was passed (120-0) by the House on Feb. 22 and was received and introduced in the Senate on Feb. 28. It was then referred to the Senate Commerce Committee and is scheduled for hearing on March 7. Sub for HB 2570 would make various amendments to law related to unemployment compensation and, among other things, would: include revisions to the unemployment compensation taxable wage base and tax rates; provide for a one-time write-off of negative unemployment compensation account balances; provide for the suspension of state unemployment benefits when individuals are receiving certain federal unemployment benefits; provide for minimum qualifications for members of the Employment Security Board of Review; provide for temporary unemployment and extensions thereto; abolish the Employment Security Interest Assessment Fund; revise annual Department of Labor reporting requirements; and make other technical changes to the unemployment compensation system. Detailed information regarding the proposed changes to employment security law contained in the bill may be found in the [Supplemental Note](#) to Substitute for HB 2570.

Training related bills

[Senate Bill 378](#) would enact the Kansas Trade Service Scholarship Act and create the Kansas Trade Service Scholarship Program to be administered by the Kansas Board of Regents. Among other things, the bill would require the Board to identify eligible trade programs, including

construction trade programs, offered by each eligible postsecondary educational institution. For FY 2025, the bill would appropriate \$10.0 million from the State General Fund for the Kansas Trade Service Scholarship fund and \$10.01 million from the State General Fund for trade program capital improvement grants. The \$10.0 million for the scholarships would be used to implement the provisions of the bill. The \$10.01 million for the grants would be to provide grants to each community college and to technical colleges throughout the state. Each college would receive a grant of \$385,000 for capital improvements of trade program buildings and facilities and for repairs and purchases of trade program educational equipment and fixtures. SB 378 remains in the deadline-exempt Senate Ways and Means Committee at this time.

Both [Senate Bill 451](#) and [Senate Bill 529](#) would create the Dwayne Peaslee Technical Training Center District Act. These bills remain alive in deadline-exempt committees and would allow the Douglas County Commission to place a question on the ballot that creates the Dwayne Peaslee Technical Training Center District and imposes a property tax levy not to exceed 0.5 mills on all taxable tangible property located in the district to fund the budget of the training center. The tax levy would not be considered a tax levy of Douglas County or the City of Lawrence. If the ballot question is approved by the voters, then the existing board of directors of the Dwayne Peaslee Technical Training Center would be dissolved. All contracts previously entered into by the training center would be binding on the new district, and all outstanding bonds, debts, and other obligations of the center would become an obligation of the new district. Based on Douglas County's 2023 taxable value, the property tax levy of 0.5 mills would generate approximately \$984,500. SB 451 remains in the Senate Assessment and Taxation Committee and SB 529 remains in the Senate Ways and Means Committee.

Other bills of interest

Reciprocal occupational licensing

[House Bill 2745](#), as amended, would limit the application of the statute providing for reciprocal occupational licensing for military service members and military spouses to those residing in Kansas or planning to reside in Kansas due to the assigned military station of the individual or their spouse, and would provide that such applicants would be exempt from all fees for applications for any such credential assessed by the licensing body, including criminal background report fees, whether assessed by the licensing body or another agency, including initial applications and any fees associated with renewal of any credential. HB 2745 was passed as amended (119-0) by the House on Feb. 22 and remains a live bill.

Another sales tax exemption

[House Substitute for Senate Bill 127](#), a carryover bill from last session, would replace the 15% penalty for employers not timely remitting withholding taxes with a graduated penalty system and would create a sales tax exemption for the purchase of equipment, machinery, or other infrastructure purchased for use in the provision of internet access service, telecommunications service, or video service and for repair, maintenance, and installation services purchased by providers in the provision of such internet access service, telecommunications service, or video service. SB 127 was passed (35-1) by the Senate March 15 last year and referred to the House Taxation Committee. That committee issued a committee report recommending the substitute bill be passed on Feb. 12 of this year. The bill remains in committee at this time.

Small Business Enterprise Development Act

[Senate Bill 464](#) would have created the Kansas minority, woman, disadvantaged and service-disabled veteran small business enterprise development act; provided for development of such business enterprises through a program to facilitate and increase participation by such business enterprises in providing goods and services to state agencies and postsecondary educational institutions; established the office of minority and women business development within the department of commerce to develop such program and assist state agencies and postsecondary educational institutions to establish plans and goals for such participation; provided for an advisory committee on certified small business enterprises; authorized the adoption of rules and regulations; and provided for penalties for violations of the provisions of the act or rules and regulations adopted pursuant to the act. SB 464 has died in the Senate Commerce Committee having failed to meet the Feb. 23 turnaround deadline for passage of bills in their house of origin.

Eminent domain bills fail

[Senate Bill 441](#) would have enacted the fairness in condemnation act and required the plaintiff condemning authority to provide the property owner notice and opportunity for negotiation and provided for court review of compliance with the act. SB 441 failed to meet the turnaround deadline and died in the Senate Commerce Committee. Another eminent domain bill, [Senate Bill 443](#), would have increased the statutory compensation for private property taken by eminent domain for electric transmission lines. If the entire tract of land was taken, the compensation would be the fair market value of the property, multiplied by 150%. If only a part of a tract of land was taken, the compensation would be the greater of: (1) the difference between the fair market value of the entire property before the taking and the value of the portion remaining after the taking, multiplied by 150%, or (2) the fair market value of the property taken, multiplied by 150%. SB 443 died in the Senate Committee on Utilities having also failed to meet the turnaround deadline.

As always, if you have questions about any of the pieces of legislation above or would like us to look into a bill or issue not listed, please contact Allen Dillingham, Government Relations Director for The Builders, a chapter of the AGC, at 816.595.4121 or adillingham@thebuildersagc.com. We also encourage you to contact your elected representatives on these pieces of legislation and other issues important to you and your business.