

# Bright and Carpenter Consulting, Inc.



825 S. Kansas Avenue, Suite 502C Topeka, KS 66612, [www.brightcarpenter.com](http://www.brightcarpenter.com)

## Kansas Legislative Report March 28 – April 1, 2022

*The Kansas Legislature left for a three-week spring break on Saturday, officially adjourning the regular part of the 2022 Legislative Session just before 2:00 a.m. Lawmakers had a very busy week of conference committees and floor debate but left several larger items for the Veto Session. From education funding to food sales tax to medical marijuana to sports wagering, it's unclear which issues still have a chance when they return and which ones were put on hold intentionally. It's an election year, so careful consideration is given to the votes on which legislators can campaign.*

*The key to first adjournment, however, was passing the main budget bill. When legislators return for the wrap-up session on April 25, they will have received the April Consensus Revenue Estimating Group's new revenue projections and can make any adjustments in the "omnibus" budget at that time.*

*Despite what was left on the Veto Session table, a few big pieces of legislation were approved and are headed to the Governor's desk. Below are a few highlights from last week, as well as where other key bills stand right now.*

### **Food Sales Tax**

From before the Governor's State of the State address in January, cutting the food sales tax has topped her agenda. Republican leadership, however, was never fully on board with her plan to eliminate it completely, wanting to use excess revenues to buy down the state's KPERS debt.

Saved until the last week of the session, the provision was put in a tax [Conference Committee Report \(CCR\) on House Bill 2106](#) after hours of negotiations between House and Senate Tax Committee leaders. The bill would reduce the tax on groceries to 4% on January 1, 2023; 2% on January 1, 2024, then to 0% on January 1, 2025. It does not apply to prepared food at restaurants and does not include a reduction in the general sales tax as considered earlier in the year.

The Legislature adjourned before taking final action on the bill, but it is expected to get approved during the Veto Session.

## **Property, Income, Sales Tax Package**

The Legislature did sign off on a “mega” tax package before adjourning that bundled 25 different property, income, and sales tax bills into [CCR on House Bill 2239](#). It is expected to cost the state \$310 million over three years. Here are a few of the items included:

- Income tax credit for teachers who buy school supplies for their classrooms.
- Income tax credit for donations to community and technical colleges.
- State and local income tax parity for pass-through entities.
- Income tax credit for short line rail investments.
- Income tax credit for aviation and aerospace graduates and their employers.
- Extension of the Rural Opportunity Zone program.
- Sales tax exemption for replacing fencing destroyed in wildfires.
- Sales tax exemption on separately stated delivery charges.
- Sales tax exemption sunset repeal on motor vehicle manufacturer’s rebates.
- Increase in the residential property tax exemption for the 20-mill levy for public schools.
- Property tax rebates for low-income seniors and disabled veterans.
- Local option for property tax abatements for commercial and agricultural buildings severely destroyed in a state-declared natural disaster.
- Property tax proration on personal property sold during the year.

## **Large Ticket Tax Provisions**

The House and Senate Tax Conference Committee agreed to a third tax package, [CCR on House Bill 2597](#) that included a number of larger ticket tax bills considered earlier in the year. The bill is expected to cost the state almost \$600 million over three years and should receive final approval by the Legislature during the Veto Session.

Some provisions included: an annual cost of living adjustment in the standard deduction; gradual income tax exemption eligibility increase on Social Security benefits; income tax deduction on net operating losses carried back or forward; income tax credit on provided childcare services; property tax refund to businesses shut down during the COVID pandemic; and a sales tax exemption on commercial utilities.

## **COVID Liability Expansion**

After several days and rounds of conference committee negotiations, the Legislature sent Governor Kelly [Senate Bill 286](#) that extends civil liability protections for healthcare providers and businesses that expired on March 31, 2022.

New, controversial provisions were added by request of the medical community. The bill increases penalties for violence against healthcare providers and creates a new crime of interference with the conduct of a hospital. It also adds new immunity provisions that exclude healthcare providers who deny treatment to patients who aren’t vaccinated for COVID-19.

Some speculate that Governor Kelly may veto SB 286 because of the expanded medical immunity provisions, which would jeopardize the continuation of their current

civil liability protections. Both the House and Senate did not pass the bill with enough votes to override a potential veto.

### **Sports Wagering**

Last week, the House barely approved a bill that would make Kansas the 34<sup>th</sup> state to legalize sports betting. After years of trying to get a bill passed, stakeholders are optimistic that they've finally found an agreement this session. The Senate is expected to consider [CCR on Senate Bill 84](#) when they return to Topeka. If approved, the bill would head to the Governor's desk.

SB 84 would authorize sports wagering at the four state-owned casinos but also allow historical horse racing at Wichita's Greyhound Park if it were to reopen. Unlike traditional slot machines, people could bet on randomly generated past horse races. It's believed that this would eliminate the threat of expanded gaming litigation by the casinos.

The narrow House vote resulted from a new provision added last week that would use 80% of revenues from sports betting to pay for a new sports facility for the Kansas City Chiefs, after they reported a potential move from Missouri to Kansas. Of course, many legislators also continue to oppose what they believe could contribute to gambling addiction.

### **Medicaid Freeze**

A proviso was added to [CCR on House Bill 2387](#) last Thursday that prohibits any changes to the Medicaid program until February 1, 2023. A similar proviso was added and then removed from the state budget earlier in the week.

State health officials are planning to start the Medicaid rebidding process with Managed Care Organizations (MCOs) and seeking requests for proposals this fall. This bill would prohibit such action and maintain the current system for another year. The intent of the bill is that should Kansas elect a different Governor in November, the new administration would have time to grasp the KanCare program and have input on the new RFPs.

The Senate approved the bill before they adjourned, but the House shutdown before considering, but are expected to take it up during the wrap-up session.

### **Budget Review**

Lawmakers passed the main budget bill, [Senate Bill 296](#), before first adjournment. Some top items that made the cut in the final bill include funding for rural housing initiatives, job creation programs, increased funding for cancer screenings, the community mental health system, and programs for the disabled and elderly. It also provides grants for community and technical colleges, economic development programs through the University of Kansas, agricultural development programs through Kansas State University, matching funds to help local and volunteer fire fighters, and funding to demolish old and unused prison camps.

When lawmakers come back at the end of April, the final round of budget work, Omnibus, will begin. Legislators will have more financial data to work with after the April 15<sup>th</sup> tax revenues come in and possibly new economic forecasts for the state.

Many budget items were put on hold for the “Omnibus” budget:

- A new lab in Topeka for the Kansas Department of Health and Environment, a \$65 million item. Still to be determined is whether federal funds can be used and if the lab would be part of any renovation of the Docking State Office Building (another expensive item).
- The Adjutant General is requesting funding for a new armory in Hays, an \$18 million item, and renovating the State Defense Building in Topeka, a \$20 million item.
- Increasing the budget for the Board of Indigents Defense Services (public defenders in court), a \$9.4 million item.
- Funding for a 988-suicide prevention statewide hotline. Still to be determined is if it should be a fee on phone bills or State General Fund expenditure.
- Regional mental health bed funding. Still to be determined is if the state should build a couple of new, bigger mental health facilities or more small facilities across the state.

The \$6.4 billion K-12 school finance package, [Senate Sub for HB 2567](#), remains on hold until the Veto Session. The education budget is the responsibility of the House and Senate Education Committees, K-12 funding is the majority of the state’s budget and always taken into consideration by appropriators.

Some of the most controversial K-12 funding items are a supplemental math program and allowing students to enroll in another school district outside of their home district, which would change the enrollment count and what the home district gets in the school finance formula. There’s also some consideration of allowing out of state students to enroll in Kansas schools along the border, which would make the formula even more complicated.

It is always important to note that Governor Kelly can line item veto any item from Senate Bill 296, the main budget bill she’s already received, and if she does those items may find themselves being proposed again in the Omnibus budget bill or be swapped for other expenditures.

### **Other Bills**

*Here is a recap on other pieces of legislation the Legislature passed and sent to the Governor before first adjournment:*

**Sanctuary Cities:** [House Bill 2717](#) will prohibit municipalities from restricting law enforcement cooperation with federal authorities to collect and exchange information about immigration status. It will also prohibit the use of municipal identification cards from being used to satisfy state proof of identity requirements, including for voter identification.

**Regulation Review:** [House Bill 2087](#) will lower the dollar amount threshold before an economic impact statement is required on a proposed rule or regulation, require agency and legislative review of all regulations every five years, and allow for an expedited process to repeal certain rules and regulations.

**Deceptive Advertising:** [Senate Bill 150](#) will prohibit certain deceptive lawsuit advertising practices and restrict the use or disclosure of protected health information to solicit individuals for legal services.

**Plastic Bag Preemption:** [Senate Bill 493](#) will prohibit cities and counties from regulating plastic bags, containers and straws used for merchandise, food, or beverages.

**Package Delivery:** [Senate Bill 161](#) will allow Amazon and FedEx to use their personal package delivery devices on sidewalks and crosswalks, exempt these robots from motor vehicle regulation, and limit additional municipal regulation.

**Work Based Learning & Student Liability:** [House Sub for SB 91](#) provides liability protection for businesses, municipalities and educational institutions that participate in high school work-based learning programs and providing schools are responsible for injuries to students participating in such programs.

**Unemployment Insurance & TARGETED Employment:** [House Bill 2703](#) will establish a tax credit for businesses that employ individuals with developmental disabilities and contains technical clean-up provisions to last year's mega Unemployment Insurance reform bill.

**Fairness in Women's Sports:** [Senate Bill 160](#) enacts the fairness in women's sports act to require that student athletic teams only include members who are of the same biological sex unless designated as coed. A similar bill passed last session and was vetoed by the Governor.

**Parents Bill of Rights:** [Senate Bill 58](#) establishes the Parents Bill of Rights that states all parents have a right to direct the upbringing, education, care and mental health of their child.

**Short-term Health Plans:** [Senate Bill 199](#) will allow renewals of short-term, limited-duration health plans to go from two to three years.

**Dental Benefits:** [House Bill 2386](#) will establish requirements for the payment and reimbursement of dental services by a dental benefit plan.

**Pharmacy Benefit Managers:** [Senate Bill 28](#) will require pharmacy benefit managers (PBMs) to become licensed with the state.

### **Additional Veto Session Items**

The Veto Session will begin on April 25<sup>th</sup> and there are several bills that may still be acted upon. Leadership has indicated the Veto Session will be short, only 2-3 days, which will not leave a lot of time for big issues to be worked. In addition to those bills

above, the following items may also be on the table for consideration during Veto Session:

**STAR Bonds Proviso:** With the potential passage of a reduction in the sales tax on food, a proviso is being considered to make current STAR Bonds districts whole.

**Medical Marijuana:** Discussions will continue regarding the medical use of marijuana. Hearing have been held on [Senate Bill 560](#), but the issues has not advanced out of the Senate Committee. The issue is conferenceable because the House did pass a bill during the 2021 Legislative Session.

**Promise Act:** Promise Act provisions have been added to the Conference Committee Report on [CCR on House Bill 2567](#). The bill clarifies the responsibility of the Board of Regents and adds additional programs and fields of study.

**Autonomous Vehicles:** [Senate Bill 546](#) regulates the use of autonomous vehicles in Kansas. The Senate has passed the measure so the issue is conferenceable but the House has not. The House Transportation Committee may take action on the bill during Veto Session.

**Business Compensation:** [House Bill 2416](#) allows business to seek compensation because of gov't action during the COVID pandemic on a prospective basis. The remains in conference and can be acted upon during veto session. The Storefront Property Tax Refund provisions were added to the Tax Conference Committee Report [CCR on House Bill 2597](#).