

Bright and Carpenter Consulting, Inc.



825 S. Kansas Avenue, Suite 502C Topeka, KS 66612, www.brightcarpenter.com

Veto Session Wrap-up April 29, 2022

The Kansas Legislature returned to Topeka on Monday, April 25 after a three-week spring break. After a rule was suspended allowing the Legislature to work past midnight, the four-day start of the Veto Session concluded around 2:00 a.m. Friday morning.

Lawmakers had four major pieces of business to wrap-up: veto overrides, food sales tax, education, and budget. Medical marijuana was thought to also be a priority for the wrap-up session, but no action was taken, and the bill remains in conference committee.

Lawmakers aren't finished for the year, however. They only adjourned until May 23 in anticipation of the Kansas Supreme Court ruling in the coming weeks that the new congressional redistricting map is unconstitutional. Legislators will return to Topeka to redraw the map, address any veto overrides of bills passed during the Veto Session, and potentially tie up other loose ends for the year. It's after this second wrap-up session when they will schedule the final adjournment, Sine Die, of the 2022 Kansas Legislative Session.

Veto Overrides

Of the seven bills that Governor Kelly vetoed, only one was successfully overridden by the Legislature last week. [House Bill 2448](#) requires able-bodied adults without dependents who receive food assistance to work more than 30 hours a week or participate in an employment training program that is currently voluntary. The House overrode the Governor's veto by a vote of [86-36](#), and the Senate [29-11](#).

Two of the vetoed bills – the most controversial and only other bills that both chambers attempted to override – passed the Senate but did not receive the constitutionally required two-thirds majority vote needed in the House resulting in both vetoes being sustained:

- [Senate Bill 160](#) required that students participating in interscholastic, intercollegiate, intramural, or club athletic sports sponsored by public educational institutions be based on one's biological sex. While the Senate passed the override by a vote of [28-10](#), it failed in the House by three votes on a vote [81-41](#).

- [Senate Bill 58](#) lists 12 rights reserved by the State for parents of children in K-12 education dealing with the right to direct the education, care, upbringing, and moral or religious training of the child. While the Senate passed the override by a vote of [27-12](#), it failed in the House by 12 votes on a vote of [72-50](#).

Two other vetoed bills were successfully overridden in the Senate- [Senate Bill 199](#) Short Term Health Insurance Policies and [Senate Bill 493](#) Plastic Bag Ban Pre-emption, but the House didn't take them up. There were also two vetoes neither chamber attempted to override-[Senate Bill 161](#), personal package delivery services and [Senate Bill 286](#), COVID-19 business and health care immunity.

Food Sales Tax

The “Ax the Food Tax” bill became one of the central issues this year, starting as gubernatorial campaign material even before the session started. Governor Kelly consistently pushed for a full elimination but was met with opposition by Republican leadership that wanted a more cautious phase-out approach, anticipating a recession in the coming months.

During the final day of the Veto Session, the Legislature ended up passing [House Bill 2106](#) which reduce the sales tax on food from 6.5% to 4% beginning on January 1, 2023, down to 2% the following year, then eliminate the tax to 0% on January 1, 2025. Governor Kelly announced last week she will sign the bill, but called on the Legislature to move the implantation date up to this July 1 of this year.

K-12 Education

This year's education finance bill was saved for Veto Session and combined both funding and policy for K-12 schools. This prevents Governor Kelly from line-item vetoing either specific budget items or policy provisions she might not support.

[House Bill 2567](#) appropriates \$6.4 billion for schools, which meets requirements by the courts for adequate and equal school funding. The policy piece tied to the bill that was most controversial earlier in the session allows for open enrollment for students wanting to attend a public school outside of their home district. A few other key provisions included in the mega education bill include:

- Additional fields of study within the Promise Scholarship Act including information technology, physical and mental healthcare, early childhood education, or advanced manufacturing and building trades. The Promise Act, passed last year, provides for tuition forgiveness for students completing an approved program and remaining in Kansas to work in the field of study for two-years post-graduation.
- Amends the Virtual School Act to prohibit any virtual school from offering or providing financial incentives to students. It also provides funding for students that have dropped out of high school and are over the age of 19.

Budget

The budget process for the 2022 session has come to an end with the passage of the Omnibus budget.

Paying off bonded indebtedness was an issue budget negotiators were focused on. The budget bill pays off two large bonds the State currently holds, saving several million dollars in interest payments. These savings will go to the State's budget reserve or rainy day fund. There's been growing concern about the future financial outlook of the State with inflation on the rise.

Regional mental health facilities also were addressed. Funding was set to start the process of developing a plan for additional mental beds in south central Kansas. Additional funding for nursing contracts at one of our state hospitals was also approved, as well as more funding for care staff at nursing homes in Kansas.

The Regents Universities, community colleges, and tech colleges will receive an increase in funding as well. Much of the increase was for economic development projects tied to these schools, including a new and expansive initiative to work with the aircraft manufacturers to update the technology in existing jetliners.

In addition, state funds were established for revenue from sports betting legislation that also passed. Housing initiatives were funded, as were needed repairs to buildings at the Kansas State Fairgrounds.

Budget committee members are tracking the economic indicators for Kansas; employment rates, commodity prices, inflation rates to name a few. There will be joint budget committee meetings periodically through the end of the year so legislators will get current data to review their spending in these budget bills.

Below are a few of the key conference committee reports that passed during the Veto Session and are heading to the Governor's desk next week:

Senate Bill 34 – Mask Mandates

The bill amends the Kansas Emergency Management Act (KEMA) to prohibit any public or state official from mandating face masks in response to a contagious or infectious disease, requiring COVID-19 vaccine passports, or requiring tests or vaccinations of students that have not been fully approved by the U.S. Federal Drug Administration.

House Bill 2237 – Rural Housing

Considered the most significant housing investment in state history, the bill approves roughly \$120 million in tax credits to increase housing in rural Kansas and \$65 million earmarked in the budget for the construction of the new homes. It's believed that lack of affordable housing, particularly in rural areas of the state, has been the number one hurdle in attracting both employers and work force to rural Kansas communities.

Senate Bill 313 – Autonomous Vehicles

The bill provides for the use and regulation of autonomous motor vehicles and establishes the autonomous vehicle advisory committee. It requires that human drivers provide passenger transportation for the first 12 months from the date an entity provides autonomous vehicles into service in Kansas.

Senate Bill 84 – Sports Betting

The bill authorizes sports wagering at the four state-owned casinos and allows a revote in Sedgwick County to offer historical horse racing at Wichita's now-closed Greyhound Park. Unlike traditional slot machines, people could bet on randomly generated past horse races. It's still unclear, however, whether this would be considered expanded gaming and may be litigated by the casinos. The bill also directs 80% of the state revenue from sports betting toward a new sports facility that most assume is to recruit the Kansas City Chiefs to move from Missouri to Kansas.

House Bill 2387 – Medicaid Contracts

The bill would prohibit any state agency from issuing a request for proposal or entering new contracts with any managed care organizations to administer and provide benefits under Medicaid before January 31, 2023. The intention of the bill is that should Kansas elect a different Governor in November, the next administration would have time to grasp the complexities of and have input on the KanCare program. Because the administration planned on issuing the RFP this fall, some believe that Governor Kelly will veto the bill.