

# Bright and Carpenter Consulting, Inc.



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

## Weekly Legislative Report Veto Session Preview

Kansas lawmakers wrapped up the first part of the 2021 Legislative Session on April 9 and will return to Topeka on Monday, May 3 after a three-week spring break. The scheduled two-week veto session will give lawmakers time to attempt any veto overrides (which require 27 Senate votes and 84 House votes), pass an education and omnibus budget, and wrap up any outstanding conference committee reports.

First item of business? Probably tax cuts.

Governor Kelly vetoed [Senate Bill 50](#) during the break. The bill decouples Kansas from several provisions in the federal Tax Cuts and Jobs Act of 2017, most notably prohibiting the state from taxing certain foreign income made by multinational corporations headquartered in Kansas. The bill also increases the standard deduction for all Kansas income taxpayers and allows itemization on state returns regardless of federal filing status.

The Governor vetoed a similar bill twice in 2019. However, the difference in SB 50 is a requirement for internet marketplace facilitators to collect and remit sales and transient guest taxes when annual sales made in Kansas exceed \$100,000. This policy is supported by Governor Kelly— albeit without the \$100,000 threshold – and lowers the fiscal note of the bill to roughly \$284 million over three years.

The Senate passed the bill with a veto-proof majority of 30-10. The House, however, passed it by a vote of 81-43. The House needs to flip three votes to get to a two-thirds majority to override the veto; and Republican leadership is confident they can. Governor Kelly also announced last week she will have her own “tax cut” proposal for the Legislature to consider. If she can garner support from the moderate Republicans that voted in favor of SB 50, that may complicate an override attempt even further.

The Consensus Revenue Estimating Group, made up of university economists and state budget officials, met on April 20 to revise the November 2020 State General Fund forecast revenues. They announced the state is expected to see a \$361 million increase over previous estimates for fiscal years 2020 and 2021. This announcement has

encouraged supporters of SB 50 that argue the state is in a strong financial position to cut taxes for Kansans.

As expected, Governor Kelly also vetoed [Senate Bill 55](#), which creates the fairness in women's sports act to require that female student athletic teams only include members who are biologically female. The bill *"sends a devastating message that Kansas is not welcoming to all children and their families,"* Kelly said in her veto explanation. Neither chamber passed the bill with a veto-proof majority, so a successful override is uncertain.

Five additional bills were vetoed during the April break:

- [House Bill 2039](#), requiring students to pass a civics test and financial literacy course in order to graduate from high school, and [House Bill 2089](#) that requires the State Board of Education to establish curriculum guidelines for gun safety education. According to Governor Kelly, both bills are legislative overreach on the Board of Education's authority to set K-12 curriculum.
- Governor Kelly rejected [House Bill 2058](#), which lowers the age to obtain a concealed carry license to 18 years, saying *"the legislation will allow more guns on campuses and drive prospective students away from our schools."*
- [House Bill 2183](#), meant to stop ballot harvesting, would limit the number of advanced ballots delivered on behalf of another voter to 10 ballots in an election. According to the Governor's veto statement, *"the bill is designed to disenfranchise Kansans, making it difficult for them to participate in the democratic process."*
- Last, the Governor vetoed a license plate bill that included the "Don't Tread on Me" Gadson flag plate, saying it was divisive and racist. [House Bill 2166](#) authorizes several other distinctive license plates, and Kelly said in her veto statement that she would sign a bill without the Gadson flag included.

There's speculation on which bills the Legislature plans to try and override. However, Senate President Ty Masterson (R-Andover) was quoted saying that *"Republicans will respond to the governor's veto-a-rama with a veto-override-a-rama when we return in May."* This could make for an interesting and potentially much longer than anticipated veto session.

The Senate Tax and Judiciary Committees will continue work on [Senate Bill 286](#) when they return next week. This legislation establishes the COVID-19 governmental use claims fund to provide income and property tax credits to certain businesses forced to shut down or limit capacity during the pandemic. If passed, this bill offers relief for many Kansas businesses impacted by government-imposed shutdowns.

Budget negotiators began meeting on Monday to start work on the omnibus budget bill before the Legislature reconvenes next week. Most controversial appropriation still to be made is for K-12 education, which failed to pass the Senate as a stand-alone bill before the break due to concerns of a voucher like provision authorizing tax credits. Budget committees have set up a debate over the judiciary and state employees should received a 2.5% pay increase with House including it in the omnibus bill while the Senate did not.

On Monday, Governor Kelly signed the main budget bill sent to her before first adjournment but not before making 18 line-item vetoes to the proposal. This year, Governor Kelly has vetoed the largest number of bills in 17 years. One item in particular is a provision requiring state agencies and major contractors to use E-Verify, a federal program used to determine eligibility to work in the U.S. It applies to state contracts of at least \$50,000. The amendment was added by a member of the Governor's own party, Senator Tom Holland (D-Baldwin City) during the Senate floor debate on the budget. The measure has been tried for several years in Kansas, but lawmakers have generally viewed immigration policy as a federal, not state, issue.

Aside from these issues, other conference committees can continue to meet during the veto session, negotiating differences between House and Senate positions on any remaining bills.

Monday marks the 81<sup>st</sup> day of the legislative session. Ninety days have been authorized for the 2021 Legislative Session so any days past May 12 will be overtime and require additional money to fund lawmakers finishing up their work in Topeka.