



Overview

While the last few weeks have been incredibly busy, the biggest news is the successful effort by the Legislature to call a special session for November 22nd. This marks the first time in the state's history when the Legislature, by petition, has been successful in calling a special session. (Historically, governors have solely been the ones to exercise this authority). During the special session, the Legislature intends to seek remedies for the federal COVID-19 vaccine mandates, but as with any special session, lawmakers can introduce and debate other topics. Specifically, the Legislature is expected to debate three measures recommended by the Special Committee on Government Overreach and the Impact of COVID-19 Mandates. Further details, and links to the proposed legislation, are provided below.

The Legislature convenes for special session at 10:00 AM on Monday, November 22nd, and we will provide pertinent updates as it progresses. We expect the focus of the Session to be on these issues, but any action is possible.

The 2022 Session begins in less than sixty days. Both the Special Committee on Education and the Special Committee on Taxation are finally scheduled to meet at the end of November and will provide recommendations to the 2022 Legislature. A very significant number of issues are taking shape for 2022 and the impending elections next fall will amplify them all.

Big Picture

COVID-19 Related Proposals for Special Session

- **First Proposal: Exemptions**
 - These first two proposals were brought forward by Senate President Masterson.
 - This proposal specifically speaks to religious and medical exemptions for vaccinations and seeks to make that process easier for Kansans seeking a medical or religious exemption from the federal COVID-19 vaccination mandate. In summary, the proposal clarifies the two exemptions from a COVID-19 vaccination mandate:
 - First Exemption (medical): Employers shall exempt an individual from the COVID-19 vaccine requirement if it endangers the life of the employer or any individual that resides with them, and if that individual provides a statement signed by a physician or other provider that is physician-directed.
 - Second Exemption (religious): If an employee attests that the COVID-19 vaccination violates his/her sincerely held religious belief, the employer shall grant an exemption based on those sincerely held religious beliefs, without inquiring into the sincerity of those beliefs. The proposed legislation appears to be more permissive with assertions of a religious exemption that would prohibit any employer inquiry regarding COVID-19 status.
 - The bill draft can be viewed here:
http://www.kslegislature.org/li/b2021_22/committees/cte_spc_2021_gov_ovrchr_and_covid19_1/documents/testimony/20211109_05.pdf

- Second Proposal: Unemployment
 - The proposal would provide an employee who, after requesting and being denied an exemption for complying with an employer's COVID-19 vaccination requirements, eligibility for unemployment benefits. It would be effective retroactively to September 9th, when the Biden Administration released its executive order for the federal mandate.
 - The bill draft can be viewed here: http://www.kslegislature.org/li/b2021_22/committees/ctte_spc_2021_gov_ovrrch_and_covid19_1/documents/testimony/20211109_06.pdf
- It is worth noting both proposals have received pushback from many of the state's major business groups, including the Kansas Chamber, who are concerned with the unintended consequences on both the current workforce shortage as well as the state's unemployment trust fund balance.
- Third Proposal: Employee Damages
 - Representative Vic Miller (D-Topeka) also proposed that if an employer independently requires an employee to be vaccinated, the individual is entitled to damages if injured.

State Response to Federal Mandates

- Prior to the various legislative proposals now up for debate, both the Governor and Attorney General made clear their opposition to the federal vaccination mandates. More on the issue here: <https://kansasreflector.com/2021/11/05/kansas-governor-attorney-general-both-oppose-federal-vaccine-mandate/>
- The Attorney General has also joined with six other states to challenge the Biden Administration's executive order that mandates companies with more than 100 employees require their staff members to be vaccinated.

State Revenue Update

- State revenues continue their trend of exceeding estimates, with October's total tax receipts exceeding estimates by \$104.2 million. More information on October's receipts here: <https://governor.kansas.gov/governor-laura-kelly-announces-kansas-october-total-tax-receipts/>
- The latest consensus revenue estimates, released last week, predict a \$2.89 billion ending balance at the end of this fiscal year, and a \$3.77 billion ending balance the following year, marking some of the highest projected ending balances in recent years. These estimates will be adjusted and updated in April 2022.
- More on these figures, and what they mean for state politics going forward, here: <https://kansasreflector.com/2021/11/10/new-kansas-revenue-forecast-predicts-2-89b-surplus-bolstering-push-to-cut-food-tax/>

Push to Repeal the Food Sales Tax

- Within a couple of days of each other, both Governor Kelly and Attorney General Derek Schmidt, in his campaign for Governor, announced their intentions to reduce the state's

6.5% sales tax on food. This is a topic that, for the most part, has seen bipartisan support in recent years. The state's healthy ending balance, coupled with that bipartisan support, would suggest this passes the Legislature in some form next Session.

- More on these efforts here: <https://kansasreflector.com/2021/11/08/kansas-gubernatorial-candidates-push-legislature-to-eliminate-or-reduce-food-sales-tax/>

Healthcare Related Issues

Special Session Concerns

- Healthcare organizations and public health entities are paying very close attention to the upcoming Special Session of the Legislature beginning on November 22. When the COVID-19 Mandate Committee met on November 12th, they discussed the anticipated bills for the Special Session mentioned above.
- Members of the committee raised numerous issues related to the current laws and practices related to all vaccinations. There was discussion by legislators about changing current law regarding current vaccination policy and the ability for the legislature and parents to determine vaccination and public health policy.
- There is a high potential that during the special session the COVID-19 vaccination exemption bill could be amended to make substantial long-term changes to current Kansas practice and policy regarding KDHE and public health experts who retain control of vaccination policy.
- We should pay close attention to the committee and floor action during the Special Session, and plan to advocate for preservation of the State's current vaccination policy.

COVID-19 Vaccination Approved for 5–11-Year-Olds

- In early November, Governor Kelly announced the state would adopt FDA guidelines for administering the Pfizer vaccine to children ages 5-11. More information on that announcement here: <https://governor.kansas.gov/kansas-adopts-fda-cdc-guidelines-for-pfizer-vaccine-for-children-ages-5-11/>
- The availability of the COVID-19 vaccination for school-aged children will be a likely topic of debate during the Special Session and 2022 Session, and there has already been some discussion during the Special Committee on Government Overreach concerning vaccination exemptions for school children and clarifying that process.

Interim Committee Updates

Special Committee on Mental Health Modernization & Reform

- The various workgroups of the committee are wrapping up discussions of priorities and revisions to last year's recommendations.
- The System Capacity and Transformation workgroup met recently to discuss recommendations related to the legal system and law enforcement. These included revisions to topics discussed last year including the following:
 - The work group preliminary recommendations include a 10-15 percent increase in behavioral health Medicaid rate increase. They also will encourage the state to

provide more integrated care funding and coding for mental health, substance use disorder, and primary care.

- Expand training in correctional facilities to allow employees to better recognize individuals with SUD needs.
- The committee also discussed the need to fund specialty courts around the state, including regional specialty courts, as well as the necessity of providers to work with the courts.
- The Services and Workforce workgroup met recently to discuss the following recommendations:
 - Incentivize programs and policies to increase access to psychiatry services, including requesting an LPA audit to collect data and report on these programs.
 - Fully fund a statewide psychiatric access program that includes linked specialty teams with high levels of expertise (i.e., psychiatrists, child/adolescent psychiatrists, peripartum psychiatrists, pediatricians, etc.) to provide multi-disciplinary consultations to healthcare providers.
 - The workgroup also discussed the need to increase capacity and access to Medication Assisted Treatment (MAT) through provider training, as well as the credentialing of methadone clinics. The committee discussed the need to engage the MCOs on this initiative.
 - On the topic of community-based liaisons, the workgroup discussed alternatives to fee-for-service billing for peer support services, including grant funding for CMHCs and SUD providers.
 - New topics discussed by the workgroup included trauma-informed care, suicide prevention, and Medicaid postpartum coverage. (Ultimately, on that specific topic, the committee recommended the KanCare Oversight Committee take it under consideration).
- The telemedicine working group is examining a variety of insurance industry-favored proposals to ensure provider education and safety requirements are in place to govern the future use of telemedicine. There are few providers on the work group and there will be continued discussion of payment parity this week.

Joint Committee on Child Welfare System Oversight

- The committee met November 3rd-4th to make final recommendations to the 2022 Legislature. The committee made several recommendations, including the following:
 - Explore instituting a statutory cap on caseloads.
 - Direct DCF to explore and potentially change to a performance-based contract process as opposed to the current RFP process.
 - Replace the \$21 million from the Evidence-Based Practice Fund that was swept last year.
 - Recommend that attachment science is considered when deciding permanency for children.
 - Explore providing the same services and supports for children placed in kinship as children placed in foster care.

- The committee continued its discussion, and criticism, of the Governor’s Executive Order to establish the Office of the Child Advocate. The committee made two recommendations related to this issue:
 - Recommend the Governor rescind the Executive Order and instead issue an Executive Reorganization Order, which the Legislature would have to approve.
 - Recommend the Governor and Legislature work together to craft legislation to “codify a true, independent, transparent” Office of the Child Advocate.
- The latest on this issue here: <https://kansasreflector.com/2021/11/05/panel-calls-on-kansas-governor-to-rescind-child-advocate-order-or-risk-legal-confrontation/>
- The preliminary recommendations from October’s meetings can be viewed here: http://www.kslegislature.org/li/b2021_22/committees/ctte_jt_child_welfare_ovst_1/documents/testimony/20211103_04.pdf

Other Issues Discussed by the Child Welfare Committee

- Overview of Legislative Post Audit (LPA) Child Welfare Audits.
 - LPA provided an overview of the major child welfare audits over the last ten years. Their summary report can be viewed here: http://www.kslegislature.org/li/b2021_22/committees/ctte_jt_child_welfare_ovst_1/documents/testimony/20211103_02.pdf
 - This article by the Kansas Reflector sums up the committee response to the audit report: <https://kansasreflector.com/2021/11/03/kansas-senator-disappointed-by-inaction-on-foster-care-audits/>
- The committee heard testimony from several providers, foster families, and organizations on topics ranging from Family First, requirements for foster families, best interest staffing, crossover youth, faith-based child welfare-related organizations, and others.
 - More on some of the committee discussion here: <https://kansasreflector.com/2021/11/03/kansas-foster-care-system-isnt-following-family-first-imperative-advocates-parents-argue/>

Adrian’s Law Amendment

- KAAP provided testimony in favor of amending Adrian’s Law to require physical evaluation of potential child abuse victims. KAAP’s testimony can be viewed here: http://www.kslegislature.org/li/b2021_22/committees/ctte_jt_child_welfare_ovst_1/documents/testimony/20211104_09.pdf
- Dr. Hansen’s testimony can be viewed at the 5:27:00 mark during the meeting on November 4th: <https://www.youtube.com/watch?v=5VN1wIohKeU>
- The committee recommended the Legislature amend Adrian’s law accordingly and provide funding of \$500,000 for both components (statewide triage modeled on the pilot in Johnson and Wyandotte counties, and increasing Safe Care Provider training).
- This article provides a summary of KAAP’s testimony: <https://kansasreflector.com/2021/11/05/kansas-lawmakers-consider-requiring-physical-evaluation-for-child-abuse-claims/>

Upcoming Activities

Wednesday, November 17th.

Special Committee on Mental Health Modernization & Reform.

Thursday, November 18th.

Special Committee on Mental Health Modernization & Reform.

Governor's Commission on Racial Equity & Justice.

Monday, November 22nd.

Special Session begins.