



December 20th, 2021
December Legislative and Policy Report

Overview

The 2022 Legislature convenes Monday, January 10th. The last few weeks have been filled with a frenzy of interim committee work in advance of the 2022 Session. The work of the Special Committees on Education, Taxation, and Mental Health Modernization in particular are indicative of some of the key issues to come before the 2022 Legislature. Other notable events over the last few weeks that may have an impact on legislative and political happenings in 2022 include the unexpected resignation of both KDHE Secretary Dr. Norman as well as Governor Kelly's Chief Counsel; support for eliminating the state sales tax on food as a campaign issue for both parties; as well as the legislation resulting from the 2021 Special Session.

Big Picture

Special Session Summary

- The Legislature convened for a brief, one-day special session on November 22nd to confront federal vaccination mandates. They passed a bill that allows the following:
 - Religious and medical exemptions for the COVID-19 vaccination. An employer is not allowed to question the religious exemption, rather, an employee simply must attest to a new statutory standard. The new law states that beliefs include “theistic and non-theistic moral and ethical beliefs as to what is right and wrong that are sincerely held with the strength of traditional religious views.” The religious exemption is no longer tied to religious beliefs.
 - A person refusing vaccination who is dismissed from his/her job can claim unemployment benefits. If an employer refuses an exemption, that employer can be fined based on the number of employees.
- The bill passed the Senate 24-11 and the House 77-34. The Governor signed the bill, despite there likely not being enough votes to override a veto.
- Link to the Conference Committee Report Brief (bill summary): http://kslegislature.org/li_2021s/b2021s/measures/documents/summary_hb_2001_2021
- In the few weeks since the special session, federal courts have blocked many of the federal vaccination mandates. The Kansas Attorney General signed onto a lawsuit with several other states challenging the mandate and prevailed in getting the mandate blocked.
- On December 16th a federal appeals court in Ohio ruled against Kansas and lifted the ban challenging the federal OSHA immunization mandate on employers with more than 100 employees. The issue now heads to the U.S. Supreme Court.

Updates on State Revenues

November Tax Receipts

- The State's November total tax collections exceeded estimates by \$18.9 million. November's total tax collections amounted to \$626.8 million, exceeding last November's estimates by \$70.1 million.
- View November's tax receipts here: https://governor.kansas.gov/wp-content/uploads/2021/12/05_November_Revenue_FY2022_12-01-2021_Final.pdf

Marketplace Facilitator Revenue

- Last Session, the Legislature passed its major income tax cut bill which included a marketplace facilitator provision requiring those entities to collect and remit sales and compensating use taxes. Originally estimated to generate \$35.5 million annually, that provision has generated \$23 million in just the first three months of its effective date on July 1st. It is now estimated this provision will bring the state an additional \$100 million annually.

Eliminating the State Sales Tax on Food

- With the latest estimates showing the state's revenues in good order, both parties have renewed conversations about eliminating the state's portion of the food sales tax. The issue has emerged as a major topic for both Governor Kelly in her reelection efforts and for Attorney General Derek Schmidt in his gubernatorial bid.
- The Governor's proposal to eliminate the state sales tax on food does not impact the portion of local sales tax levied. Additionally, it does not affect the tax on the sale of prepared food.
- Though this is a bipartisan issue, the politics of 2022 being an election year may complicate the process of passing a seemingly bipartisan initiative.

Healthcare Related Activities & Issues

Interim Committees Wrap Up Work

Mental Health Modernization & Reform

- This committee concluded their work for the interim on December 15th after finalizing and accepting recommendations from the various workgroups.
- Several recommendations overlapped with work done by the KanCare Oversight committee, including the recommendation to expand Medicaid postpartum coverage from 60 days to 12 months. (As a side note, the federal Build Back Better Act currently stalled in Congress includes postpartum coverage for 12 months, but in the absence of its progress, we are moving forward at the state level to enact this into law.)
- Other recommendations focused on suicide prevention efforts, including funding for the 988 National Suicide Prevention Lifeline, as well as a recommendation to incorporate the Mental Health Intervention Team pilot into the school finance formula.
- Another topic of discussion included the recent announcement by KDADS to open a Psychiatric Residential Treatment Facility (PRTF) in collaboration with KVC in Hays. More on the announcement here:
 - <https://governor.kansas.gov/governor-laura-kelly-announces-partnership-to-bring-youth-psychiatric-hospital-to-hays/>

- The committee also adopted the telehealth workgroup recommendations that addressed topics such as quality assurance, crisis services, and telehealth use in the child welfare system. They did not recommend any payment parity provisions.
- The committee report will likely be released in early to mid-January.

KanCare Oversight Committee

- The committee wrapped up their work for the year after two days of discussion and recommendations last week.
- The State Medicaid Director provided an update on the KanCare procurement process. The current MCO contracts are effective through December 31st, 2023. The agency estimates the stakeholder engagement and RFP drafting processes will last six to nine months, followed by CMS review. The state will then review bids and announce contracts, estimated to last another three to four months. Lastly, the agency will oversee the process for MCO readiness reviews and implementation, which will last about 12 months. KDHE has retained a consultant to assist in the RFP development and has also begun informal conversations with stakeholders. Additionally, the KanCare 1115 waiver expires at the end of 2023, and KDHE is reviewing options for the state to consider, whether to renew the 1115 waiver or switch to another source of federal authority such as a 1915(b) managed care waiver.
- After testimony and lengthy discussion on the need to increase Medicaid reimbursement rates for a variety of providers and services, the committee ultimately recommended to direct the State Medicaid Director to review and provide a report on raising the Medicaid reimbursement rate for various codes, including EMS, pediatric primary care, and certified nurse midwives.
- The committee also, like the Mental Health Reform Committee, recommended adding code 90846 as a billable Medicaid code that allows for therapy without the patient present.
- Related to Medicaid postpartum coverage, the committee also recommended monitoring the funding source for the federal perinatal behavioral health program, Kansas Connecting Communities, since the federal grant may be up for renewal in July 2023.
- The Oral Health Kansas initiative to create an adult dental benefit in the KanCare Medicaid program received a boost when the committee heard from Dr. Vujicic, Chief Economist from ADA's Health Policy Institute on the cost of introducing Medicaid adult dental benefits in Kansas. While no specific recommendation was made on this topic, the committee expressed interest in, and a will to address the issue, perhaps specifically within the Kansas Senior Care Task Force. OHK testified in support of the proposal.

New KDHE Secretary Announced

- Following Dr. Norman's resignation on November 19th, the Governor relatively quickly announced a new KDHE Secretary, Janet Stanek, on November 29th. Acting Secretary Stanek must still be formally approved by the Kansas Senate.
- More on that announcement here: <https://governor.kansas.gov/governor-laura-kelly-announces-janet-stanek-as-secretary-for-the-kansas-department-of-health-and-environment/>

Latest on the Office of the Child Advocate

- In early December, the Governor announced Kerrie Lonard (Lawrence) as the state's Child Advocate. More on the appointment here: <https://governor.kansas.gov/governor-laura-kelly-announces-kerrie-lonard-as-child-advocate/>
- Since the announcement, Senate and House leadership have made it clear they intend to take up legislation in 2022 to establish the office in state law rather than by executive order.

KDHE Initiatives on Maternal Mortality

- The U.S. Department of Health and Human Services recently awarded funding for KDHE to address maternal mortality. More on the announcement and specific initiatives below:
- <https://knap2.kdhe.state.ks.us/NewsRelease/PDFs/12.15.21%20-%20New%20Initiatives%20to%20Address%20Maternal%20Mortality.pdf>

Upcoming Activities

Monday, December 20-Tuesday, December 21st.

Legislative Budget Committee. 9:00 AM.

- Budget matters, performance-based budgets, and recommendations.
- Full agenda can be found here:
http://kslegislature.org/li/b2021_22/committees/ctte_leg_budget_1/documents/agenda/weeklyinterim/20211220.pdf

Monday, January 10th.

First Day of 2022 Session.