



Memorandum

Date: October 21, 2022

Re: Legislative and Policy Report

Overview

Election Day is about three weeks away, with many still labeling the Governors' race a toss-up. Several prominent polls have the candidates as just about tied, as Governor Kelly continues to add to a long list of economic development wins while the Schmidt campaign tries to get a definitive edge over the incumbent Kelly. Despite a largely positive last couple of weeks approaching the General Election, the Kelly Administration has come under some renewed fire for the state of the foster care system in Kansas. The two candidates took part in one final debate on October 5th, a synopsis of which can be read here:

<https://kansasreflector.com/2022/10/05/kansas-governor-frontrunners-schmidt-kelly-counterpunch-through-debate-in-johnson-county/>

While the outcome of the General Election will certainly steer the course of the 2023 Session, what remains certain regardless of the winner, is that the 2023 Session is just two and a half months away. Undoubtedly, some of the big topics will include medical marijuana; taxes including the sales tax on food and property taxes; non-public schools and special education; and workforce and economic development, particularly as plans begin in earnest for Panasonic's arrival in Kansas.

This report covers some of the highlights over the last month. We'll provide a report following the General Election detailing the outcomes and implications for the coming Session.

Big Picture

September Revenues

- The State's September tax collections totaled \$961 million, exceeding estimates by nearly \$100 million. Last month's receipts exceeded last September's total revenues by \$84.5 million.
- <https://governor.kansas.gov/kansas-september-total-tax-receipts-84-5-million-more-than-last-september-2/>

November Constitutional Amendments

- Here is a reminder summary of the two constitutional amendments on the ballot in a few weeks. The rules and regs amendment in particular could have significant ramifications across agencies and industries if passed.
 - Kansas Legislative Veto or Suspension of Executive Agency Regulations Amendment.
 - A "yes" vote supports this constitutional amendment to authorize the state legislature to pass laws by a simple majority vote to revoke or suspend rules and regulations adopted by executive agencies or officers.

- A "no" vote opposes this constitutional amendment to authorize the state legislature to pass laws by a simple majority vote to revoke or suspend rules and regulations adopted by executive agencies or officers, thereby maintaining that the legislature may pass a bill to change the law governing the executive agency or pass a concurrent resolution expressing displeasure with the rule or regulation adopted by executive agencies.
- Kansas County Sheriff Election and Recall Amendment.
 - A "yes" vote supports amending the state Constitution to require the election of county sheriffs in counties that had not abolished the office as of January 2022 and provide that sheriffs may be recalled from office or removed by a writ of quo warrant to initiated by the attorney general.
 - A "no" vote opposes this amendment to require counties to elect sheriffs, thereby maintaining that counties can elect to operate under a consolidated law enforcement agency according to state law.

The rules and regulations constitutional amendment is an expression of legislative reaction to a variety of state agency action perceived to be regulatory decisions that should be managed legislatively. Some of the energy is focused on public health regulatory decisions arising during the pandemic; for example, the state's vaccination list is a regulatory decision, health care facilities, and environmental policy set in regulations. The "sheriff amendment" issue arises from one county wherein the county chief law enforcement officer represents a joint city and county agreement. The addition to the constitution for the Attorney General to initiate removal of an elected county sheriff is new authority.

Medical Marijuana

- The Special Committee on Medical Marijuana held its first of three scheduled meetings on October 12th. This meeting was largely for regulators and state agencies, including KBI and KDOR, to provide information, as well as for a recap of the legislation that passed the House in 2021.
- The Committee met again on October 19th to hear from supporters, opponents, and neutral parties. Many private citizens, as well as the ACLU, KDHE, and the Kansas African American Affairs Commission offered testimony in support. Neutral testimony was offered by the Kansas Chamber, Kansas Self-Insurers Association, Lamar Outdoor Advertising, DCCCA, and the State Fire Marshall. Opponents included the Kansas Medical Society, Johnson County Sheriff's Office, and a handful of other organizations.
- The Committee is scheduled to meet on November 16th to finalize committee recommendations for the 2023 Legislature. That final recommendation will resemble House Sub for SB 158 that passed during the 2023 session and there is a strong likelihood it will pass.

Healthcare Activities & Topics

Latest KAAP Activities

- KAAP continues its efforts, in conjunction with KDHE and DCF, to refine its legislation for the CARE Act, and is preparing for reintroduction of the bill at the beginning of the 2023 Legislature.

Upcoming Activities of Interest

APRN

- Following the State Board of Nursing adoption of rules and regulations the Kansas AAP, the Kansas Medical Society, and others opposed there has been no additional activity, but we anticipate either litigation or legislation proposed in 2023.

Medical Marijuana

- The Special Committee on Medical Marijuana has met twice and will meet again November 16th to finalize recommendations to the 2023 Legislature. KMS testified in support of more stringent proscribing restrictions, limits on THC content, a medicine based advisory committee, and physicians liability.
- We anticipated their final product will resemble House Sub for SB 158 that passed in 2022 and it is likely to pass both chambers in 2023.

The Joint Committee on Child Welfare System Oversight

- The Committee will meet again in November to make recommendations to the 2023 Legislature. However, the Committee will hold a special meeting on October 26th to address some issues that have been brought to light regarding Cornerstones of Care, one of the state's foster care contractors. Several committee members have addressed growing concerns of a lack of transparency on the part of DCF and of the child welfare system in general. Additionally, lawmakers on the committee have announced renewed efforts to make the Office of the Child Advocate independent of the governor's office. Governor Kelly's use of an executive order to create the office during the 2022 Session has prompted lasting frustration from many lawmakers.

KanCare Updates

- The KanCare Oversight Committee met in September and received updates from agencies and MCOs.
- KDHE reported on several pertinent topics, including pursuing different waiver options; expanding the community health worker initiative; and the unwinding of the PHE.
- Community Health Workers: KDHE is pursuing partnering Medicaid with its Division of Public Health and is working with UMHMF and others to fit community health workers into the Medicaid model.
- The PHE is expected to expire around mid-January. KDHE is preparing for this by offering support for members online through a chat-bot where members can submit updated contact information; collaborating with MCOs, associations, and foundations to assist with messaging and reaching members; and re-vamping eligibility discontinuance letters to member to include available local navigator resources.
- KDHE has also held its first round of public meetings for the public to offer opinions on the future authority of KanCare by changing the structure of our KanCare waiver to reduce the impact of the federal budget neutrality constraints. As a reminder, after the 2022 Legislature extended the timeline, RFPs for KanCare 3.0 cannot be released until January 31st, 2023 and public comment will begin in January.

Early Childhood Services

- The KanCare Oversight committee recently reviewed recommendations of the 2020 and 2021 Special Committee on Mental Health Modernization and Reform. One of those recommendations included increasing access to early childhood services. KDADS is reviewing this recommendation and working with KDHE in considering a recommendation to increase access to billing codes as part of KanCare 3.0.

CCBHC Grant

- SAMHSA has awarded Kansas an additional \$12.6 million for transitioning CMHCs to CCBHCs.
- For more information, and for a breakdown of the funds for each CMHC: <https://kdads.ks.gov/media-center/news-releases/2022/10/14/governor-laura-kelly-announces-12.6m-to-transition-community-mental-health-centers-to-improved-model-of-care#:~:text=TOPEKA%20%E2%80%93%20Governor%20Laura%20Kelly%20today,more%20comprehensive%20array%20of%20services.>

KDHE Releases 2020 Behavioral Risk Factor Surveillance Survey (BRFSS)

- This month, KDHE released results from its 2020 BRFSS, which provides data on health trends and conditions in Kansas and informs communities and the state about this data and gives direction for public health planning and policy to combat some of these concerning trends.
- The full BRFSS report can be viewed here: <https://www.kdhe.ks.gov/DocumentCenter/View/15669/2020-Kansas-BRFSS-Report-PDF>
- A short summary of results can be found in this KDHE press release: <https://www.kdhe.ks.gov/CivicAlerts.aspx?AID=424>
- A few notable data points include:
 - 35.3% of Kansas adults are considered obese,
 - 19% of Kansas adults have been diagnosed with depression at some point,
 - 12% of Kansas adults lack healthcare coverage,
 - Black Kansans suffer from diabetes more than twice the rate of white Kansans,
 - And less than half of Kansas adults received a flu shot during the previous year.

Upcoming Activities

We'll be providing updates monthly and as issues arise during the fall. Interim committee meetings can be viewed live or recorded on both the Legislature's website

<http://www.kslegislature.org/li/> and YouTube <https://www.youtube.com/c/KSLegislatureLIVE>

Additionally, interim committees, membership, agendas, and testimony can be found on the Legislature's website, although meeting documents are not always timely.

http://www.kslegislature.org/li/b2021_22/committees/non_standing/#Joint