



## **Community Bankers Association of Kansas**

### **November Policy Report & Special Session Update**

**November 17, 2021**

#### **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 22<sup>nd</sup>. 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 a special session at 10:00 AM on Monday, November 22<sup>nd</sup>, 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 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/ctte\\_spc\\_2021\\_gov\\_ovrrch\\_and\\_covid19\\_1/documents/testimony/20211109\\_05.pdf](http://www.kslegislature.org/li/b2021_22/committees/ctte_spc_2021_gov_ovrrch_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 9<sup>th</sup>, 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](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 one hundred 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/>

## **Financial Institutions Related Issues**

Aside from the Joint TEFPI Committee (Technology-Enabled Fiduciary Financial Institutions), this has been a notably quiet interim for financial institutions. The TEFPI passed the Legislature during the 2021 session in House Bill 2074. During the next few weeks, between the Special Committee on Taxation and the Joint TEFPI Committee (not to mention the special session), there will likely be a few noteworthy items.

The Joint TEFPI committee will meet Tuesday, December 7<sup>th</sup>. The agenda has yet to be announced.

### **Special Committee on Taxation**

- There is one issue that will likely come up during the Special Committee we would draw your attention to. It relates to debate from last session, as well as an interim LPA (Legislative Post Audit) study, regarding the notion of government and not-for-profit businesses being in competition with for-profit businesses and those entities having an unfair advantage over for-profit businesses.
- The LPA study on government competition is underway and will likely be a topic of discussion during the Special Committee on Taxation (though an agenda is yet to be announced).
- LPA is “specifically investigating competition in the health and fitness, childcare, and mental health industries in Kansas,” and sent a survey to those entities across the state. It is a 10-question survey that asks respondents how much they agree or disagree with certain statements, such as:
  - “My business is at a disadvantage when competing with similar not-for-profit or government centers.”
  - “My business is at a disadvantage because my not-for-profit/government competitors:
    - Get tax breaks that my business does not.
    - Do not have to follow the same regulations as my business.
    - Get preferential access to markets that my business does not.”
  - The survey also asks questions such as “which kinds of state/local taxes do you see as the most burdensome to your business?”
- This will likely be a focus of the Special Committee on Taxation and will likely gain traction during the 2022 Session. Particularly if the entities considered in “competition” with local governments are further expanded or considered, this could have detrimental impacts on local communities and the services they provide. For example, there is a distinction between two entities that may provide some related services such as treadmills or weights and a community center that has treadmills and weights but also programs, public meeting space, and senior and children services, often for free or cheaper fees.
- Again, we simply note this because it will likely come up both during the Special Committee, as well as the 2022 Session, and could potentially shift the property tax burden to homeowners, including fixed-income families, seniors, etc.

## **Upcoming Activities**

*Monday, November 22<sup>nd</sup>.*  
Special Session begins.

*Monday-Tuesday, November 29<sup>th</sup>-30<sup>th</sup>.*  
Special Committee on Taxation.

*Tuesday, December 7<sup>th</sup>.*  
Joint Committee on TEFFI Oversight.

**Wrap Up**

Let us know if you have any questions.

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