

# **Committee Reports to the 2019 Kansas Legislature**

# **KLRD**

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analysis for the Kansas Legislature*

## **Supplement**

**Kansas Legislative Research Department  
February 2019**

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Kansas Legislative Research Department  
300 SW 10<sup>th</sup> Ave., Room 68-West, Statehouse  
Topeka, Kansas 66612-1504

Telephone: (785) 296-3181  
[kslegres@klrd.ks.gov](mailto:kslegres@klrd.ks.gov)  
[www.kslegislature.org/klrd](http://www.kslegislature.org/klrd)

**Special Committees;  
Selected Joint Committees;  
Other Committees,  
Commissions, and  
Task Forces**

Special Committee on Federal and State Affairs

Joint Committee on Corrections and Juvenile Justice Oversight

Joint Committee on Information Technology

Robert G. (Bob) Bethell Joint Committee on Home and  
Community Based Services and KanCare Oversight

Joint Legislative Transportation Vision Task Force

Legislative Task Force on Dyslexia

Statewide Broadband Expansion Planning Task Force



**Kansas Legislative Research Department  
300 SW 10<sup>th</sup> Ave., Room 68-West, Statehouse  
Topeka, Kansas 66612-1504**

**Telephone: (785) 296-3181  
[kslegres@klrd.ks.gov](mailto:kslegres@klrd.ks.gov)  
[www.kslegislature.org/klrd](http://www.kslegislature.org/klrd)**

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# Foreword

This publication is the supplement to the *Committee Reports to the 2019 Legislature*. It contains the reports of the following committees: Special Committee on Federal and State Affairs, Joint Committee on Corrections and Juvenile Justice Oversight, Joint Committee on Information Technology, Robert G. (Bob) Bethell Joint Committee on Home and Community Based Services and KanCare Oversight, Joint Legislative Transportation Vision Task Force, Legislative Task Force on Dyslexia, and Statewide Broadband Expansion Planning Task Force.

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## ***Summary of Conclusions and Recommendations***

### ***Special Committee on Federal and State Affairs***

The Committee generally agreed the parties interested in sports wagering should attempt to resolve issues or conflicts identified during the meeting before proposing legislation during the 2019 Session.

### ***Joint Committee on Corrections and Juvenile Justice Oversight***

The Committee recommended legislation to lapse \$6.0 million from the Kansas Department of Health and Environment Evidence-based Programs Account and restore \$6.0 million to the Department of Corrections (KDOC) Evidence-based Programs Account for fiscal year 2019, and legislation expanding the allowable purposes of the Evidence-based Programs Account of the State General Fund to allow expenditures to be made for transportation and electronic monitoring costs related to the programs and practices served by the Account. The Committee recommended appropriate agencies address the issue of Medicaid suspension versus termination for persons entering the correctional system, and legislative consideration of ways to increase the use of surveillance of offenders as an alternative to expanding prison bed space. The Committee also recommended legislative consideration of increased pay and benefits for KDOC employees. The Committee further recommended KDOC consider implementing treatment for inmates with hepatitis C and legislative consideration of providing the necessary funding for the expanded provision of SB 123 Program services.

### ***Joint Committee on Information Technology***

The Committee made several recommendations to the 2019 Legislature related to cybersecurity training for state employees; increasing cybersecurity funding; cybersecurity assessment reports made by state agencies; prioritizing security vulnerabilities within state agencies; the use of risk scores in the information technology (IT) project approval process; clarification of statutes related to the current \$250,000 IT project threshold; improving transparency in IT projects; Committee review of requests for quotations and requests for proposals; prohibiting sole-source contracts extending over a period of ten years for IT goods and services; filling the Chief Information Technology Architect position within the Office of Information Technology Services; encouraging partnerships with IT talent recruiters and increasing capacity for IT talent in the state; and exploring ways to provide more science, technology, engineering, and math opportunities in the state.

### ***Robert G. (Bob) Bethell Joint Committee on Home and Community Based Services and KanCare Oversight***

The Committee recommended the Kansas Department for Aging and Disability Services (KDADS) request for proposal for high-touch administrative case management at the local level be monitored and a request be made for a report on progress made in nursing facility inspections toward compliance with federal and state law requiring inspections every 12 months.

Recognizing suicide is the second leading cause of death among individuals ages 15-24 and ages 25-44 and the Kansas suicide rate in 2013 was 16.7 percent higher than the national average, the Committee expressed its concern to the Mental Health Task Force regarding the suicide rate and recommends the Task Force continue to study to identify causes and develop mitigating tools.

The Committee recommended the Kansas Department for Health and Environment and KDADS continue to monitor and report to the legislative health and budget committees on the efforts to reduce the waiting list for the Physical Disability and the Intellectual and Developmental Disability Home and Community Based Services waivers and the KanCare Medicaid eligibility backlog.

The Committee expressed concerns about the lack of preventive dental care for adult Medicaid recipients.

The Committee proposed Committee bills to do the following: increase the protected income level cap; restore the Temporary Assistance for Needy Families eligibility profile to its 2010 level; and create the practice of dental therapy (incorporating the language of 2018 SB 312, as it passed the Senate).

### ***Joint Legislative Transportation Vision Task Force***

The Task Force was directed to evaluate the Transportation Works for Kansas (T-Works) program, the state's transportation system, uses of the State Highway Fund (SHF), and the sufficiency of transportation funding; solicit local input; and make recommendations regarding the transportation system and the SHF. The Task Force's 35 members received testimony from Kansas Department of Transportation (KDOT) staff, other experts, and more than 300 individuals or groups at Task Force meetings held in each of the 6 KDOT districts, in the Kansas City and Wichita metropolitan areas, and in Topeka.

The conclusions and recommendations of the Task Force include the following:

- The Task Force found it is imperative the State of Kansas provides consistent, stable funding in order to maintain a quality transportation system;
- The Task Force recommended any new program authorize general transportation planning for at least ten years and include funding for preservation, modernization, and expansion and economic opportunity projects;
- The Task Force found the top transportation priority for the State must be to restore funding for preservation to protect the investment Kansans have made in their transportation system;
- The Task Force recommended the 21 modernization and expansion projects announced under T-Works but delayed be the top priority modernization and expansion projects and be let within four years;
- The Task Force noted sales tax revenues are statutorily directed to the SHF and recommended the Legislature review the role of the sales tax in transportation funding and examine additional sources of funding for transportation. The Task Force found increasing vehicle fuel efficiency, alternative-fuel vehicles, and other factors have contributed to motor fuel tax revenues not keeping pace with transportation needs;
- The Task Force found geographic equity continues to be important in the distribution of state moneys spent on transportation in Kansas;
- The Task Force affirmed local transportation needs exceed available resources and some portion of SHF moneys should be directed to local governments to meet those needs. It also noted increased local participation may be required for local projects, and it recommended the Legislature consider authorizing revenue-increasing options; and
- The Task Force recognized the increasing roles of transit, passenger rail, and active transportation in the overall Kansas transportation system and the continuing importance of aviation and freight railroads to the state.

## ***Legislative Task Force on Dyslexia***

The Task Force made recommendations in five areas.

**Pre-service.** The Task Force recommended the Kansas State Board of Education (KSBE) modify standards for teacher training programs to include standards from the International Dyslexia Association (IDA) and modify certain teacher licensure requirements to include testing on the science of reading. The Task Force recommended the Legislature provide funding to train appropriate college professors in associated fields.

**Professional learning.** The Task Force recommended KSBE require schools to offer professional development opportunities related to dyslexia. It stated KSBE should encourage colleges of education to develop a course of study with a specialization in dyslexia and geared toward a Science of Reading endorsement. The Task Force recommended the Legislature provide funding for school districts to train appropriate staff on dyslexia and screening for dyslexia.

**Screening and evaluation process.** The Task Force recommended KSBE require school districts to screen and identify students at risk of or showing characteristics of dyslexia and should amend the school accreditation model to require districts to implement a rigorous tiered system of supports subject to external review. The Task Force recommended KSBE develop appropriate screening resources and provide them to school districts. It recommended the Legislature provide funding for the acquisition of those resources and training of teachers in the use of those resources.

**Evidence-based reading practices.** The Task Force recommended each district use structured literacy to teach literacy skills to all students and promote early intervention for students with characteristics of dyslexia. The Task Force recommended KSBE identify a dyslexia coordinator and create a dyslexia handbook.

**Other.** The Task Force recommended the IDA's definition of dyslexia be used throughout the Kansas school system. The Task Force recommended the Legislature reappoint the Task Force to monitor progress of the implementation of the recommendations.

## ***Statewide Broadband Expansion Planning Task Force***

The Task Force was created by Senate Sub. for HB 2701 (2018) and is charged with working collaboratively to develop criteria for the creation of a statewide map for defining and evaluating the broadband needs of Kansas, identifying issues associated with a statewide broadband expansion project, considering recent action by the Federal Communications Commission related to broadband services, identifying funding sources to expand broadband, developing criteria for prioritizing the expansion of broadband services across Kansas, reviewing current law concerning access to the public right-of-way for public utilities, and proposing future activities to complete the statewide broadband expansion plan.

The Task Force met on January 11, 2019, and heard presentations about broadband access across Kansas, broadband-related grants in Kansas, and the Connect America Fund. The Task Force did not make recommendations or propose legislation. The Task Force sunsets on June 30, 2020.

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# **Report of the Special Committee on Federal and State Affairs to the 2019 Kansas Legislature**

**CHAIRPERSON:** Senator Bud Estes

**VICE-CHAIRPERSON:** Representative John Barker

**OTHER MEMBERS:** Senators Anthony Hensley and Robert Olson; and Representatives John Carmichael (substituting for Gail Finney), Ron Highland, and Sean Tarwater

## **STUDY TOPIC**

The Committee is to evaluate the impact of the U.S. Supreme Court decision in *Murphy v. NCAA*, which overturned federal sports betting restrictions, on Kansas Law. As part of this study, the Committee could consider recent legislation introduced by the Kansas Legislature and other states.

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# Special Committee on Federal and State Affairs

## REPORT

### Conclusions and Recommendations

The Committee generally agreed the interested parties should attempt to resolve any issues or conflicts identified during the meeting before proposing legislation during the 2019 Session.

*Proposed Legislation:* None

### BACKGROUND

The Legislative Coordinating Council (LCC) directed the Committee to evaluate the impact of the U.S. Supreme Court decision in *Murphy v. NCAA*, which overturned federal sports betting restrictions, on Kansas Law. As part of this study, the Committee was advised to consider recent legislation introduced by the Kansas Legislature and other states.

The Committee was granted two meeting days by the LCC and met on December 4, 2018, at the Statehouse.

### COMMITTEE ACTIVITIES

The Committee held an all-day meeting on December 4, 2018. During the meeting, the Committee heard testimony from a variety of interested parties and asked questions of conferees concerning the topic of sports betting. Major topics from that testimony are described below.

#### Current Legal Barriers in Kansas

Staff provided an overview of current Kansas law, stating existing law prohibits sports wagering. Specifically, the *Kansas Constitution* prohibits gaming with four exceptions: bingo conducted by non-profit organizations; parimutuel horse and dog racing conducted by non-profit organizations; the State-owned and -operated lottery, which includes the Kansas Expanded Lottery Act (KELA) and four State-owned casinos; and raffles conducted

by charitable organizations. [See Kan. Const. Art. 15 §3.] Sports betting is also specifically prohibited in statute. KSA 2018 Supp. 21-6404 provides it is a Class B misdemeanor to bet on sporting events.

Staff stated several steps must be taken to legalize sports wagering in Kansas. To comply with constitutional requirements, an amendment authorizing sports wagering would need to be made or, alternatively, the State would need to own and control sports wagering. The criminal provision would also need to be repealed or amended.

Additionally, federal law prohibited most states from conducting sports wagering through the Professional and Amateur Sports Protection Act (PASPA) before the U.S. Supreme Court struck down its provisions in 2018. See below for more information on that decision.

#### 2018 Supreme Court Decision

In *Murphy v. NCAA*, 138 S.Ct. 1461 (2018), the U.S. Supreme Court struck down a 1992 law prohibiting states from allowing betting on sporting events.

The federal law, known as PASPA (28 USC §§ 3701-3704), had prohibited all sports lotteries with a few very narrow exceptions. Several states had some form of sports wagering exempted from the federal law; however, Nevada was the only one of those states conducting sports wagering in a meaningful way between 1992 and 2018.

In 2011, New Jersey passed a law authorizing sports betting. This law was struck down by the courts as a violation of PASPA as part of a challenge brought by five professional sports leagues. New Jersey later repealed the state law expressly authorizing sports wagering, but did not replace it with language expressly prohibiting sports betting. Again, the sports leagues sued New Jersey, claiming by not expressly prohibiting sports wagering, the state law effectively authorized sports gambling by implication. In 2018, the U.S. Supreme Court issued a ruling striking down PASPA on the grounds the federal law prohibited the modification or repeal of state law prohibitions and unlawfully regulated the actions of state legislatures.

Since the Supreme Court struck down PASPA, several states and the District of Columbia have passed laws authorizing sports wagering.

## **2018 Kansas Sports Betting Legislation**

Staff provided an overview of relevant legislation from the 2018 Legislative Session, during which the Kansas Legislature considered a number of measures related to the legalization of sports wagering: SB 455, HB 2533, HB 2792, and HB 2793. All four of these bills died in Committee at the end of the 2018 Session. Hearings were held on two of the bills (SB 455 and HB 2792) and an informational-only hearing was held on one bill (HB 2792).

### ***SB 455 and HB 2792***

SB 455 and HB 2792 would have created the Kansas Sports Wagering Act (Act). Among other things, the Act would have authorized the Kansas Lottery to offer sports wagering:

- In-person at a facility operated by the Kansas Lottery;
- Through lottery retailers contracting with the Kansas Lottery;
- Over the Internet, including websites and mobile device applications; and
- Through a licensed interactive sports wagering platform.

All sports wagering would have been under the ultimate control of the Kansas Lottery. Counties would not have been allowed to be exempt from or effect changes in the Act.

The bills would have created two new crimes (severity level 5 nonperson felonies): misuse of nonpublic sports information and sports bribery.

The Act would have prohibited sports wagering for:

- Persons under 21 years old;
- Operators, as well as their directors, officers, owners, employees, or relatives of those individuals living in the same household;
- Athletes, coaches, referees, team owners, employees of a sports governing body or its member teams, and player and referee union personnel, who could not place wagers on any sporting event overseen by that governing body; and
- Any person with access to nonpublic confidential information held by the operator from placing wagers with the operator.

A sports governing body would have been allowed to:

- Notify the Kansas Racing and Gaming Commission (KRGCC) it desires to restrict, limit, or exclude wagering on its sporting event; and
- Bring a civil case to recover damages or other equitable relief against any person who knowingly engages in, facilitates, or conceals conduct related to sports bribery.

Sports wagering operators would have been required to:

- Cooperate with investigations by the KRGCC, sports governing bodies, or law enforcement agencies, including:



- Immediately reporting to the KRGC any criminal or disciplinary proceedings, such as:
  - Abnormal wagering activity;
  - Potential breaches of the sports governing body's rules and codes of conduct; or
  - Any other conduct that corrupts a betting outcome of a sporting event and suspicious or illegal wagering activities; and
- Remitting a sports betting right and integrity fee to each sports governing body overseeing events wagers that were placed during the preceding quarter.

Under the Act, no less than 6.75 percent of the sports wagering revenues would have been distributed to the Expanded Lottery Act Revenues Fund.

### ***HB 2793***

HB 2793 contained many of the same provisions as SB 455 and HB 2792, but amended the existing KELA, rather than creating a separate sports wagering act.

This bill did not include a sports betting right and integrity fee.

### ***HB 2533***

HB 2533 would have required any sports betting in Kansas to be conducted solely on the premises of a racetrack gaming facility and be managed and operated by one or more racetrack gaming facility managers.

## **Potential Considerations for Future Legislation**

### ***Other States***

An Ohio senator and President of the National Council of Legislators from Gaming States (NCLGS) appeared before the Committee and spoke about Ohio's experiences with sports betting as well as some considerations Kansas legislators may consider if they decide to proceed with sports betting legislation.

The Senator stated legalizing sports betting could provide revenue for the State to put towards preventing illegal sports betting and suggested states legalizing sports betting consider the following:

- Consumer protection, including equal access to information and ensuring winners are paid;
- Anti-money laundering, by ensuring there is a system in place that prevents individuals from using sports wagering as a way to cover up illegal activities;
- Preventing match fixing, by protecting athletes, sport officials, team owners, and all those involved in sport contests from harm, threats, and improper influence;
- Addressing problem gambling early; and
- Tax policy, to ensure individuals do not simply continue using the illegal sports betting channels previously available to avoid taxes.

The Senator also urged the Committee to consider:

- Who would be authorized to accept sports bets, specifically mentioning casinos, parimutuel racing sites, resort facilities, and bars and taverns;
- What types of sports bets would be allowed; for example, allowing wagering only on professional sports or including amateur sports and whether to allow "in-play" or parlay wagers;
- Where sports betting would be allowed to occur and whether mobile sports betting would be authorized;
- When sports betting would be implemented and whether it would become effective all at once or in phases; and

- How sports betting would be managed, considering the use of a central portal for all sports wagering information and multi-state compacts to allow sharing of the information collected in the central portal among states. The Senator suggested this approach would address many of the concerns associated with consumer protection, money laundering, match fixing, problem gambling, and tax collection.

The Senator concluded his remarks by stressing the importance of carefully crafting any legislation related to legalizing sports betting in Kansas.

The Senator and the President and Chief Executive Officer (CEO) of Spectrum Gaming Capital, responding to questions from the Committee, stated the American Gaming Association estimates \$150.0 billion is currently being illegally wagered nationwide. Based on Kansas' population and this figure, legalizing sports wagering could mean \$60.0 million or more would be subject to any state taxes imposed on sports wagering. Mobile sports wagering increases the estimates. An accurate estimate would require a deeper and more specific analysis of the State's goals and regulations concerning sports wagering.

The Senator and the CEO stated sports books are a small percentage of all wagers made and will likely not negatively impact other casinos or gaming facilities. The Senator informed the Committee because of sports betting's small margin, tax rates can quickly make this type of gaming unprofitable. He stated the tax rates vary from state to state and the industry believes the maximum tax rate to effectively compete against illegal gaming is 10.0 percent or below.

The CEO urged the Committee to look to other states when crafting sports betting legislation. He stated Delaware, Mississippi, Nevada, New Jersey, New Mexico, New York, Pennsylvania, Rhode Island, and West Virginia have all legalized sports betting, while 18 other states have proposed legislation. The Senator stated Delaware requires the State to "own" sports betting conducted in the state.

## ***Kansas Entities***

### **Lottery**

The Chief Counsel for the Kansas Lottery presented information on what models would be workable to establish sports wagering under Kansas law. He emphasized the need for intentional action concerning any attempt to legalize sports wagering to ensure flexibility in the implementation of any new law to ensure the State's interests and needs are prioritized. The Chief Counsel also stated, while the State may receive some revenue if sports wagering was legalized, any estimates must be reasonable in light of the fact sports betting is a small margin business. He also expressed concerns related to integrity fees and requiring only official data from the leagues be used in conducting sports wagering. The Chief Counsel informed the Committee the Kansas Lottery included a future option for sports wagering in their recent request for proposal to replace the Kansas Lottery's central computer system.

Looking at Kansas specifically, the Chief Counsel noted, while the *Kansas Constitution* would require sports wagering to be State-owned and -operated, the specifics of implementing such a program could be determined by the Legislature. He stated the State would likely need ultimate control of what types of bets were authorized, what sporting events wagers were allowed to be placed on, setting the wagering line, and the ability to cancel wagers or stop betting completely.

The Chief Counsel provided four suggestions for a successful sports wagering platform in Kansas:

- Be mindful of the interested parties:
  - Sports wagering players—incentivize players away from illegal markets, consider how mobile betting would work to ensure compliance with the law;
  - Four State-owned casinos—provide each the opportunity to be involved, even if they choose not to participate, without requiring casinos be the only authorized locations of placing sports wagers; and

- Kansas Lottery retailers—most will not want to participate in sports wagering, but could potentially look at sports wagering kiosks, much like the recently authorized lottery ticket vending machines;
- Ensure sports wagering is safe and secure:
  - Ensure players are in Kansas and over 21 years old; and
  - The Sports Wagering Integrity Monitoring Association (SWIMA) is a new, voluntary organization that will help ensure integrity of sports matches by sharing sports betting data across operators and states;
- Address problem gambling:
  - Problem Gambling and Addictions Grant Fund; and
  - Voluntary self-exclusion program; and
- Address illegal wagering:
  - Law enforcement resources, including:
    - Creating statutory language specifying sports wagering outside of State-owned and -operated platforms is illegal;
    - Increasing criminal penalties; and
    - Creating education programs and allowing anonymous reporting of attempted improper influencing of outcomes or players.

### State-owned casinos

A representative of Kansas Entertainment, LLC, spoke about the need to legalize sports betting to protect consumers and create benefits for the State now that the federal ban has been lifted. He expressed the opinion that to achieve these goals, licensing and regulation of sports wagering should be within the oversight of the Kansas State Lottery Commission. He also stated the opinion that the best approach to sports wagering would be to allow the Kansas Lottery to contract with the entities currently authorized to conduct gaming under state law: the state casinos and parimutuel racetracks. The representative informed the Committee Kansas Entertainment supported the use of in-person and geo-fenced mobile wagering through these previously

licensed, highly regulated facilities because it would:

- Ensure persons seeking to place wagers met the legal qualifications to do so; and
- Maximize economic benefits to the State and local communities by growing traditional gaming, which would increase the tax revenue to the State and local economies.

The representative advised against the State paying royalty fees to the professional sports leagues, stating it would be a bad policy and should be dealt with in private contracts rather than statutes. He concluded his remarks by urging the Committee to consider legislation passed by West Virginia, which included regulation by the state's Lottery Commission and allowed the state's casinos to offer sports betting in person and apply for a license to operate an interactive sports wagering platform that includes mobile betting run through the casinos. The West Virginia legislation did not include an integrity fee.

### Association of Community Mental Health Centers

The Association of Community Mental Health Centers provided written testimony stating any legislation authorizing sports betting should contain additional funding for addiction treatment.

### ***Sports Organizations***

A representative of Major League Baseball, the National Basketball Association, and the PGA Tour appeared before the Committee. The principles he identified as necessary for a sports betting market in Kansas are as follows:

- Integrity provisions:
  - Require operators to provide real time betting data to regulators and leagues for monitoring purposes;
- Reasonable wagering restrictions:

- Prohibition on bets with high risk of manipulation or corruption (*i.e.*, a bet based solely on individual conduct);
- Require operators use official league data:
  - Decrease risk of inaccurate or conflicting results;
- Mobile betting:
  - Increase competitiveness with illegal sports betting market in attempt to shut it down and capture more revenue for the State; and
- League compensation:
  - Royalty fee of 0.25 percent on the amount bet on contests to be paid to the sports leagues;
  - Precedent from U.S. horse racing and international sports betting; and
  - Compensates sports leagues for their significant investment, incentive for the sports leagues to grow sports betting market.

A representative of Kansas Star Casino, Boot Hill Casino, and Kansas Crossing Casino appeared before the Committee and expressed support for legalizing sports wagering conducted through the State-owned and -operated casinos and regulated by the Kansas Lottery and the KRGC.

He suggested any taxes on these Kansas Lottery Gaming facilities conducting sports betting match the 6.75 percent established in Nevada, so the legal sports betting market could compete against the illegal market. He also stated certain provisions requested by the sports leagues would make it difficult for casinos to manage sports wagering and compete with the illegal market, including 1.0 percent integrity fees, requiring the use of only league-provided data, and including a provision in law allowing only the leagues to determine which bets can be made.

The representative explained the casinos agreed with the leagues on the need for a mobile sports wagering marketplace to compete with the existing illegal websites. He cautioned these mobile apps should be subject to the oversight of the KRGC and Kansas Lottery like all other gaming is under existing law. Procedures put in place to verify customers' identity and legally place a sports wager could include: cross checks against credit history, banking information, driver's licenses and government-issued identification, and a self-exclusion list when creating a wagering account.

He concluded his remarks by stating sports wagering apps could help the casinos grow their businesses, which would ultimately increase revenues for the State.

### DraftKings

Written testimony from a representative of DraftKings urged the Committee to consider low taxes, low fees, the use of mobile apps, and allowing multiple operators to provide sports wagering services to Kansas.

### Kansas City Royals

Written testimony from the Kansas City Royals presented the following suggestions for legalizing sports betting in Kansas: the ability for the leagues to opt-out of problematic forms of betting; real-time recordkeeping; the use of official league data; combating false or deceptive advertising; age verification of bettors; mandated cooperation with Major League Baseball investigations; barring athletes, coaches, and officials from betting on their own games; real-time data sharing; and requiring casinos share costs associated with integrity monitoring.

## **CONCLUSIONS AND RECOMMENDATIONS**

The Committee generally agreed the interested parties should attempt to resolve any issues or conflicts identified during the meeting before proposing legislation during the 2019 Session.

# **Report of the Joint Committee on Corrections and Juvenile Justice Oversight to the 2019 Kansas Legislature**

**CHAIRPERSON:** Senator Molly Baumgardner

**VICE-CHAIRPERSON:** Representative J. Russell Jennings

**RANKING MINORITY MEMBER:** Senator Pat Pettey

**OTHER MEMBERS:** Senators Ed Berger, Oletha Faust-Goudeau, Mary Pilcher-Cook, Mary Jo Taylor, and Rick Wilborn; and Representatives Sydney Carlin, Gail Finney, Dennis “Boog” Highberger, Susan Humphries, John Resman, and Eric Smith

## **CHARGE**

KSA 2018 Supp. 46-2801 directs the Committee to monitor inmate and juvenile offender populations and to review and study the programs, activities, plans, and operations of the Kansas Department of Corrections. In addition, the Committee is authorized to tour the El Dorado Correctional Facility and the Hutchinson Correctional Facility and to study the following topics:

- Increase transparency and accountability following a police shooting, including reducing the time for victims’ families to be notified and allowing the county coroner, rather than the county or district attorney, to determine whether the shooting was justified; and
- Human trafficking, including the number of beds and other resources needed for the victims of human trafficking.

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# Joint Committee on Corrections and Juvenile Justice Oversight

## ANNUAL REPORT

### Conclusions and Recommendations

The Committee recommends appropriate agencies address the issue of Medicaid suspension versus termination for persons entering the correctional system.

The Committee recommends the Legislature consider ways to increase the use of electronic surveillance of offenders as an alternative to expanding prison bed space.

In light of lawsuits in other states regarding screening and treatment of inmates with hepatitis C, the Committee recommends KDOC consider implementing treatment for inmates with hepatitis C.

The Committee recommends the Legislature provide the necessary funding for the expanded provision of SB 123 Program services.

Noting comments from Kansas Department of Corrections (KDOC) employees regarding the difficulties presented by the current level of pay and benefits, the Committee recommends the Legislature increase pay and benefits for KDOC employees. Committee members suggested various options the Legislature could consider to accomplish this recommendation, although the Committee did not have an opportunity to further vet the suggestions. The suggestions included:

- Bringing facility correctional officers within the Kansas Police and Firemen's Retirement System, as passed by the House in 2018 HB 2448;
- Implementing a 15.0 percent across-the-board increase in compensation for KDOC employees through three 5.0 percent increases effective July 1, 2019, January 1, 2020, and July 1, 2020;
- Allowing the Secretary of Corrections to implement special incentives for KDOC employees who serve as mentors for new employees, once the new employees complete a year of service;
- Eliminating classified positions to allow more ability to provide incentives and merit pay; and
- Building a 401(k) system.

**Proposed Legislation:** The Committee requests legislation to:

- Lapse \$6.0 million from the Kansas Department of Health and Environment (KDHE) Evidence-Based Programs Account and restore \$6.0 million to the KDOC Evidence-Based Programs Account for FY 2019, while also considering the possible need to move

other funds to KDHE to cover Medicaid caseloads for FY 2019 that would have been covered by part of the lapsed \$6.0 million; and

- Expand the allowable purposes of the Evidence-Based Programs Account of the State General Fund, created by KSA 75-52-164, to allow expenditures to be made for transportation and electronic monitoring costs related to the programs and practices served by the Account.

## **BACKGROUND**

The 1997 Legislature created the Joint Committee on Corrections and Juvenile Justice Oversight to provide legislative oversight of the Kansas Department of Corrections (KDOC) and the Juvenile Justice Authority (JJA). Pursuant to Executive Reorganization Order No. 42, on July 1, 2013, the jurisdiction, powers, functions, and duties of the JJA and the Commissioner of Juvenile Justice were transferred to KDOC and the Secretary of Corrections. Statewide, there are eight correctional facilities: El Dorado Correctional Facility, Ellsworth Correctional Facility, Hutchinson Correctional Facility, Lansing Correctional Facility, Larned Correctional Mental Health Facility, Norton Correctional Facility, Topeka Correctional Facility, and Winfield Correctional Facility. KDOC also operates parole offices throughout the state and is responsible for the administration of funding and oversight of local community corrections programs.

There is one operational juvenile correctional facility (JCF): Kansas Juvenile Correctional Complex. Individuals as young as 10 and as old as 17 years of age may be adjudicated as juvenile offenders and remain in custody in a JCF until age 22.5 and in the community until age 23.

The Committee is composed of 14 members, with 7 members each from the House and the Senate. In odd years, the chairperson and ranking minority member are House members and the vice-chairperson is a Senate member; in even years, the chairperson and ranking minority member are Senate members and the vice-chairperson is a House member.

The Committee's duties, as outlined in KSA 2018 Supp. 46-2801(k), are to monitor the inmate population and review and study KDOC's

programs, activities, and plans regarding its statutorily prescribed duties, including the implementation of expansion projects; the operation of correctional, food service, and other programs for inmates; community corrections; parole; and the condition and operation of the correctional institutions and other facilities under KDOC's control and supervision. The Committee is also charged to review and study the adult correctional programs, activities, and facilities of counties, cities, and other local governmental entities, including the programs and activities of private entities operating community correctional programs and facilities, and the condition and operation of jails and other local governmental facilities for the incarceration of adult offenders.

Similarly, the Committee is charged to review and study programs, activities, and plans involving juvenile offenders, including the responsibility for their care, custody, control, and rehabilitation, and the condition and operation of the JCFs. Further, the Committee is charged to review and study the JO programs, activities, and facilities of counties, cities, school districts, and other local governmental entities, including programs for the reduction and prevention of juvenile crime and delinquency; programs and activities of private entities operating community juvenile programs and facilities; and the condition and operation of local governmental residential or custodial facilities for the care, treatment, or training of juvenile offenders.

## **COMMITTEE ACTIVITIES**

The Committee requested three meeting days and an additional day to tour the El Dorado Correctional Facility and Hutchinson Correctional Facility. The Legislative Coordinating Council granted the Committee a total of three days, including one travel day. In addition to its



statutory duties, the Committee was charged to study the following topics:

- Increase transparency and accountability following a police shooting, including reducing the time for victims' families to be notified and allowing the county coroner, rather than the county or district attorney, to determine whether the shooting was justified; and
- Human trafficking, including the number of beds and other resources needed for the victims of human trafficking.

The Committee met October 22 and 23, 2018, at the Statehouse and on November 13, 2018, at the El Dorado Civic Center. Before its November 13 meeting, the Committee toured the El Dorado Correctional Facility.

## **October 22 Meeting**

### ***Sentencing Guidelines***

The Committee began with an overview of the Kansas Sentencing Commission and the sentencing guidelines presented by the Executive Director of the Kansas Sentencing Commission. The Executive Director reviewed the duties and responsibilities of the Commission, which include prison bed population and inmate classification projections, maintenance of the Kansas Sentencing Guidelines Desk Reference Manual, estimates of the prison bed impact of proposed legislation, administration of payments for the SB 123 Drug Abuse Treatment Program (SB 123 Program), and annual review of the sentencing guidelines to suggest legislative and administrative changes to the Governor and Legislature. The Executive Director presented an overview of the basic structure of the sentencing guidelines, which use crime severity levels and an offender's criminal history to establish presumptive sentences for each offense.

### ***Adult Inmate Prison Population Projections***

The Executive Director also presented information on current prison population characteristics, changes in population from FY 2017 to FY 2018, five-year prison admission trends, information on guideline new

commitments, a comparison of admission types from FY 2017 and FY 2018 for males and females, information on parole and post-release supervision condition violators, and adult prison population trends and projections. Projections indicate population will exceed capacity within the ten-year projection window.

### ***Justice Reinvestment Initiative and SB 123 Program Updates***

The Executive Director of the Kansas Sentencing Commission presented updates regarding the Justice Reinvestment Initiative implemented through 2013 HB 2170, reviewing the graduated sanctions established by this bill and its intended impacts. He presented a variety of data regarding implementation of these sanctions over the past five years. Finally, the Executive Director provided an overview of the 2003 SB 123 Program, which provides a treatment alternative to incarceration for certain substance abuse offenders.

### ***Impact of SB 123 Program on Community Corrections and Treatment Providers***

The President of the Behavioral Health Association of Kansas presented additional information on the status of the SB 123 Program, and expressed the need for additional funding for the Program. He stated more persons need treatment, but it would be harder to expand the program without additional funding.

A representative of Mirror, Inc., provided information on the day-to-day functions of the SB 123 Program. He stated the goal of the program is to keep families in their original communities. The representative also discussed areas of emphasis, such as peer-support services, intensive case management, supportive employment funds, and medication-assisted treatment, all of which would require additional funding.

### ***Juvenile Justice Oversight Committee Overview***

The Chairperson of the Juvenile Justice Oversight Committee (JJOC), provided an overview of the JJOC. He reminded the Committee the JJOC was formed pursuant to 2016 SB 367 to collect data and to monitor reform of

the juvenile justice system. The Chairperson also stated since the reforms were put in place, the number of youth in facilities has dropped 34.0 percent and 7,308 days were discharged from probation for juvenile offenders. The Chairperson expressed the concerns of JJOC, agencies, and stakeholders regarding reinvestment funds taken from the Evidence-Based Programs Account during the 2018 Session and urged that these funds be saved for use first for juvenile offenders and their families, in accordance with the intention of the 2016 reforms. Responding to a question, he indicated the JJOC will have two years of data available in July 2019.

### ***Evidence-Based Programs Account Update***

Staff from the Office of Revisor of Statutes and Kansas Legislative Research Department (KLRD) presented information regarding funds appropriated during the 2018 Session related to the KDOC Evidence-Based Programs Account. Staff stated 2018 House Sub. for SB 179 created a framework for juvenile crisis intervention facilities for juveniles with a mental health crisis. The final budget bill, 2018 House Sub. for SB 109 (Sec. 68 and 95), lapsed \$6.0 million from the KDOC Evidence-Based Programs Account, and these funds were appropriated to the Kansas Department of Health and Environment (KDHE) to be distributed as grants to build such facilities. Staff then answered questions regarding the specifics of the funds transfer. While acknowledging the need for programs addressing youth with a mental health crisis, Committee members expressed their concern that KDOC funds specifically intended for programs for juvenile offenders had been moved to KDHE for programming that is not specifically directed at juvenile offenders.

### ***Juvenile Services Overview***

The Deputy Secretary for Juvenile Services, KDOC, presented an overview of juvenile services within KDOC. The Deputy Secretary noted, compared to ten years ago, there are fewer juveniles in detention and correctional facilities. One option for juveniles who are charged with a crime is the “Immediate Intervention Program” (IIP), which is similar to diversion for adults. He also stated of the 2,018 youth who completed IIP, 88.6 percent were successfully discharged.

The Deputy Secretary discussed juvenile sex offenders, stating sex offender court assessment and community-based treatment has been successful with 82.0 percent of discharges in FY 2018, resulting in no court revocation or termination of treatment. Responding to a question, he stated probation is typically concurrent with treatment, which can last up to a year.

The Deputy Secretary also discussed recidivism among juvenile offenders. He provided statistics showing, compared to the previous year, there were 2,895 fewer juvenile arrests. However, he noted recidivism rates overall were similar to the prior year with 27.8 percent of juvenile offenders going back to a correctional facility. Of those, 11.2 percent returned within 180 days and 16.6 percent returned within a year.

Finally, the Deputy Secretary discussed an assessment of juvenile defender services conducted by the National Juvenile Defender Center. He stated it would take up to 24 months, and JJOC has established a subcommittee to study the data from the assessment and to make recommendations on the future use of reinvestment funds.

### ***Community Mental Health Centers***

A representative of the Community Mental Health Centers of Kansas and a representative of the Johnson County Mental Health Center presented an overview of community mental health centers (CMHCs) in the state. The representative stated CMHCs provide behavioral health services in all 105 counties of Kansas, 24 hours a day.

The CMHCs of Kansas representative also discussed 2018 SB 179, which authorized juvenile crisis intervention centers. He stated a Judicial Council advisory committee examined the issue in 2017 and drafted a report on the topic. The representative briefly described the recommendations contained in the Judicial Council report. His organization feels one key reason for creating juvenile crisis intervention centers is the lack of availability of psychiatric residential treatment facility beds in the state, and building juvenile crisis intervention centers will

help youth stay in their community with extra support.

## **October 23 Meeting**

### ***KDOC Operations***

The Committee began the second meeting day with an update from the Secretary of Corrections (Secretary) regarding KDOC operations. The Secretary began by showing the Committee a map of corrections locations in the state. He noted three satellite facilities in addition to the main correctional facilities. Next, the Secretary discussed statistics relating to the incarcerated population. He stated Kansas is ranked 32<sup>nd</sup> out of 50 states, with 331 per 100,000 residents incarcerated. The Secretary also discussed the demographics of the incarcerated population.

The Secretary discussed the mental health needs of inmates, indicating the primary correctional mental health center has been transitioned to the El Dorado Correctional Facility. KDOC's goal is to help this population transition into the community as opposed to going to a mental health facility. The Secretary noted the addition of high-acuity behavioral health beds at the El Dorado Correctional Facility in FY 2017 and FY 2018 and described how these units work with newly developed restrictive housing diversion programs for offenders with serious mental illness. He also noted a plan at the Lansing Correctional Facility to add similar beds and staff training provided through the American Correctional Association's Correctional Behavior Health Certification Program. The Secretary also discussed recidivism, noting recidivism is measured 36 months after release and data from 2014 is the latest year available. In that year, the recidivism rate was nearly 34.0 percent, which is a slight decline from the 2013 rate.

The Secretary also spoke about violent incidents among inmates. He noted KDOC is working to reduce the number of serious batteries, but the agency is seeing a growing number of security threat groups, or gangs. The Secretary also discussed an incident at the El Dorado Correctional Facility from July 2018, noting an agency review of the incident and the response from staff. After review, KDOC made additional security enhancements.

The Secretary discussed efforts toward reducing violent incidents, including the use of restrictive housing or solitary confinement. He noted the restrictive housing population has been reduced by 25.0 percent in recent years. However, he also noted there are some offenders who would prefer to be in restrictive housing. Also, the Secretary discussed protective custody housing, which is a level below restrictive housing and allows for more programming.

The Secretary also spoke about a positive event held by KDOC for female offenders at the Topeka Correctional Facility. The event was held at the Kansas Children's Discovery Center and allowed female inmates to participate in activities with their children or grandchildren. The Secretary noted there was no charge for the offenders or their families to participate in the activities.

The Secretary provided an update on the Lansing Correctional Facility construction project. He stated the project is now ahead of schedule and is anticipated to be ready for occupancy in January 2020. Capacity of the new construction will be 2,432. The Secretary also discussed beds being added at other facilities and stated the new statewide capacity is expected to be 10,537 beds.

The Secretary also discussed turnover in the agency. He noted the recent pay raises were very much appreciated and the turnover numbers he would be presenting do not include implementation of the most recent pay raises. Current turnover is based on the number of filled positions, as opposed to a calculation based on a total of the full-time employee percentage. Based on information from the last year, turnover was calculated at 41.0 percent for uniformed staff. The Secretary also discussed reasons for staff turnover and noted fewer people are seeking careers in law enforcement and corrections, which is a nationwide issue.

The Secretary discussed the budget of KDOC, noting the agency is required to increase shrinkage rates each year to balance the budget. He noted in FY 2019, adult facilities are holding open 255 positions, which is 9.0 percent of authorized staffing. KDOC has submitted a supplemental budget request to reduce the rate to 3.0 percent shrinkage. He also stated some costs, such as

transportation, must be prioritized when accounting for shrinkage, so funds from salaries are cut to pay for such costs.

The Committee generally discussed KDOC employee wages and was informed new correctional hires would begin at \$15.75 per hour. The Committee also discussed employee overtime and was informed three facilities account for 75.0 percentage of overtime. The Secretary presented a graph to the Committee that showed wages over the past 30 years, including wages adjusted for inflation. The Secretary also discussed the pay raises from the past year, noting 396 staff received an increase.

The Secretary responded to a Committee question regarding private employment of inmates by stating privately employed inmates are paid a prevailing wage for their industry. He also noted offenders pay taxes, child support, restitution, and fines from their wages. Additionally, inmates are required to save a certain percentage of their wages for release and they are also charged a percentage for room and board. The Secretary stated those funds go back to the correctional industries account to pay for programming.

### ***Contract Programs and Finance***

The Executive Director of Contract Programs and Finance, KDOC, presented information on contract programs for the agency. He stated the current state contract with Corizon is subject to a renewal option that could extend the contract through 2023 for health care services. The Executive Director also stated Medicaid is billed for allowable expenses when inmates are taken to hospitals for treatment, and noted 43.0 percent of the inmate population have a “chronic care” issue. Committee members expressed concern that persons on Medicaid before incarceration lose their benefits while incarcerated. The Executive Director responded Corizon helps inmates enroll in Medicaid before discharge.

The Executive Director also spoke about the agency monitoring the contract with Corizon. He stated most persons monitoring the contract are KDOC employees, but the agency also has a memorandum of agreement with the University of Kansas Medical Center, which assists with monitoring the contract. Staff who monitor the

contract review grievances and provide health care peer review. He stated if Corizon is not in 90.0 percent compliance with the contract, the company pays a fee. If services are not provided, or if enough hours are not provided, KDOC deducts from the monthly invoice accordingly. The Committee inquired about the specifics of the contract, including the basis for payment. The Executive Director responded the contract is based upon a fixed rate per facility, with clauses in the contract allowing for adjustment based upon changes in the population. He also discussed the total amount of the contract.

The Executive Director next discussed contract education services. He stated KDOC has contracted for educational programs, such as General Education Development (GED), special education, and traditional high school diplomas. He provided statistics for inmates, noting 36.0 percent of inmates do not currently possess a GED or high school diploma. The Director also noted inmates with shorter sentences and who are under age 35 are prioritized. He also discussed the “Young Offender” program at Larned Correctional Mental Health Facility with GED offline pre-testing, which allows offenders to complete a practice exam without KDOC paying exam fees. The Executive Director spoke about a “fast-track” GED program, which allows those who are ready to take the actual GED exam to finish the program on a quicker timeline, freeing up seats for others.

The Executive Director also presented information on vocational programming. He stated the program focuses on trades with labor shortages. The program provides basic skills, but participants also need to learn on the job. Students are also able to obtain OSHA 10 certification, which is desirable for employers. The Director noted the vocational education program has a “Young Offender” program specifically for offenders between 18 and 25 years old, as that age group has a higher recidivism rate and is more likely to commit offenses while incarcerated. He also stated a new vocational facility has been built at Larned Correctional Mental Health Facility with welding, carpentry, and plumbing class capabilities. A Committee member stated Barton County Community College has a partnership with the Larned Correctional Mental Health Facility program and allows participants to obtain a certification from the Community College. The

Executive Director further noted the Topeka Correctional Facility has a computer coding program and that industry has substantial vacancies.

The Committee asked questions concerning manufacturing jobs and nursing employment opportunities. The Executive Director responded KDOC examined the manufacturing courses and found offenders were not obtaining manufacturing jobs after release. He further noted offenders are not able to receive a license to become a nurse after release, so the agency does not offer coursework in that field. The Director also spoke about Kansas Correctional Industries (KCI) jobs within KDOC facilities. He stated more than 1,000 offenders work in KCI jobs annually and are paid wages beginning at \$0.40 per hour. Out of their wages, employees must pay 25.0 percent for room and board. Other inmate job opportunities include work with Aramark, the food contractor for KDOC.

### ***Community and Field Services***

The Deputy Secretary of Community and Field Services, KDOC, presented information on community probation, parole, and release of offenders. She first discussed the current structure of parole and probation within the state, noting the differences in oversight and funding between the different programs. The Deputy Secretary also noted KDOC oversees compact parole and probation, which means the offender committed a crime in a different state, but is currently being supervised in Kansas. She stated the Interstate Compact for Adult Offender Supervision is an agreement between states that carries the weight of federal law and uses a national web-based database to track offenders. The Deputy Secretary noted nearly 25.0 percent of supervision cases are Compact offenders, with the majority of cases coming from Missouri, Oklahoma, and Texas. Kansas has sent 914 cases to those states, and is currently supervising 1,620 offenders from the same states.

The Deputy Secretary discussed caseloads for probation and parole. She stated the average statewide caseload per supervision officer is 38 cases. The Deputy Secretary also noted the risk level of particular cases can affect caseloads, with higher risk cases resulting in a lower total

caseload. Responding to a question from the Committee, she stated KDOC assesses relative intensity, intensity scoring, and caseloads and risk level is weighted in funding decisions. The Deputy Secretary also discussed case closures, stating unsuccessful closures are subject to judicial discretion and such closures have risen over the past year. She stated 9.0 percent of offenders are classified as high risk with the majority of offenders being classified as moderate risk (55.0 percent).

The Deputy Secretary also discussed community corrections, stating each county is able to decide community processes, and each county is involved at different levels. She stated some counties have an advisory board and criminal justice coordinating council. The Deputy Secretary also discussed releases. She stated a “transition team” was developed in Field Services in FY 2018 to address the increasing number of releases. The Deputy Secretary also discussed the use of GPS monitoring for certain offenders, noting Jessica’s Law requires the use of GPS. She stated 47.0 percent of offenders under GPS supervision were Jessica’s Law offenders. The Deputy Secretary also stated KDOC utilizes assessment tools for specialized crimes, such as domestic violence offenses, and GPS requires the offender to be supervised at a higher level. Responding to a question from the Committee, she stated GPS monitoring costs \$4.79 per day, but offenders are asked to help pay for the costs. Responding to an additional question, the Deputy Secretary stated GPS services are paid under a contract with the provider giving KDOC an alert if the rules are violated.

The Deputy Secretary also presented information on both community and administrative challenges. She noted community challenges include housing, behavioral health services, and domestic violence issues. The Deputy Secretary stated an administrative challenge is the different information technology systems used by KDOC because the systems do not interface with each other. She also discussed staff retention as an issue.

### ***Victim Services***

The Director of Victim Services, KDOC, presented information on victim services within

the agency. She stated part of KDOC's mission statement is it supports victims of crime, and funding for the program is a mixture of state and federal funding. The Director noted 37,259 victims were registered at the end of FY 2018. Responding to a Committee question, she stated victims can register even if the offender has not been convicted. The Director further noted 85.0 percent of offenders have victims registered and KDOC sent 22,000 notification letters last year with 9,756 victims served. She stated notifications are sent for different reasons, including inmate release, absconson, expiration of sentence, death, and escape. These are all scenarios in which a notification is statutorily required.

The Director discussed domestic violence, stating 3.0 percent of male offenders under supervision of the Secretary have a domestic violence tag. She also noted 90.0 percent of Victim Services liaison time is spent responding to victims of domestic violence, with 25.0 percent of revocations of supervision being attributed to domestic violence. Responding to a question from the Committee, the Director stated anger management classes are not effective because the classes do not address the driving force behind domestic violence. She also discussed the domestic violence screening tools utilized by KDOC, stating 57.0 percent of respondents said they had no history of domestic violence, but a further investigation revealed that 20.0 percent of those who claimed no history of domestic violence actually had a previously documented issue.

The Director also discussed Batterer Intervention Programming (BIP). She stated all KDOC staff receive training regarding domestic violence. The Director also discussed the cost of providing BIP to offenders, with initial testing costing \$150 and follow-up tests costing \$25. She next cited research showing offenders who complete BIP lower their risk of both recidivism and re-assault. The Director also discussed a study of the Topeka BIP group, the largest in the state. She stated 81.0 percent of those who completed the program were not charged with another crime within five years of completion and did not have a subsequent protection order placed against them in that county. The Director noted in a statewide review of persons completing the program in 2016 or 2017, 76.0 percent have not been charged with another person crime and 81.0 percent have not

been charged with a new domestic violence offense. Responding to a Committee question, the Director stated the Office of the Attorney General would be the agency to contact to inquire about offering BIP to a particular jurisdiction.

The Director presented information regarding Adverse Childhood Experiences (ACEs). She stated there are three types of ACEs: abuse, neglect, and household dysfunction. The Director noted many BIP participants experienced both emotional and physical abuse. She stated one or less ACE would present no long-term problems, but four or more ACEs could result in a shorter life expectancy. The Director also noted the domestic violence assessment is being updated to include questions regarding ACEs.

The Director also presented information regarding the Crime Victims Compensation Board (CVCB). She stated its purpose is to provide monetary compensation for medical expenses, loss of earnings, burial expenses, or other costs associated with the treatment of injuries sustained as a result of being a victim of violent crime. The Director noted the CVCB awarded \$3.1 million to crime victims in the prior fiscal year. She also presented information regarding the Governor's Domestic Violence Fatality Review Board, noting the Board reviews domestic violence deaths and makes recommendations. Responding to a Committee question, the Director stated the Board reviews up to ten deaths per year.

### ***Preliminary Committee Comments and Recommendations***

The Chairperson asked members of the Committee to consider the information that had been presented and to develop preliminary recommendations ahead of the next meeting. The Committee also asked staff to provide information regarding officer-involved shootings, body and dash cameras, and the lapse in funding from KDOC for juvenile crisis intervention centers. The Chairperson also noted a WorkKeys topic would be held for consideration during a future interim period.

## **November 13 Meeting**

### ***El Dorado Correctional Facility Tour***

Before its November 13 meeting at the El Dorado Civic Center, the Committee toured the EDCF.

### ***Feedback from Kansas Department of Corrections Employees***

The Committee heard verbal feedback from several KDOC employees who were asked to share what they liked about their jobs, what worries them about their jobs, and an experience they had that changed their view of the job either positively or negatively.

The things employees liked about their jobs included camaraderie between employees, being excited to go to work, the people with whom they work, the pride of working for the State, and various career opportunities that arise.

Worries the employees related included concerns caused by lack of salary increases coupled with increased benefit costs (which can result in loss of net pay) and general cost-of-living expenses, good coworkers leaving for other opportunities, employees having to work multiple jobs, a reduction in required credentials to try to address staff shortages, the difficulties in trying to arrange for all shifts to be covered due to lack of staff, addressing needs of victims and offenders, budget constraints, employees who become eligible for food stamps when hired, and how to retain staff to develop the desired tenure.

Experiences related by the employees included encountering former inmates in the community who shared the positive directions of their lives since leaving incarceration, watching juveniles graduate, seeing resolution in difficult family situations for juveniles, seeing offenders connect with the speaker at a class that helps the offenders understand the impact of their crimes, and seeing inmates get their first job.

KDOC also provided the Committee with a copy of a redacted written exit interview questionnaire.

### ***Update on Increased Transparency for Body and Dash Cameras***

The Sedgwick County Sheriff and representative of the Kansas Sheriffs' Association (KSA) provided the Committee with information he had received from questions asked of Kansas sheriffs regarding body and dash camera usage at a recent conference. He noted most, if not all, Kansas sheriffs are using at least one type of camera. Most are using body-worn cameras. Some sheriffs using vehicle cameras noted an issue can be the inability of vehicle cameras to record anything occurring away from the vehicle. Sheriffs reported no issues with the new 20-day response period to requests to review video (see also the Presentation of Follow-up Information from October Meetings section on the following page) other than the Johnson County sheriff stating a cost of about \$30,000 to redact video prior to viewing.

In response to questions from the Committee, the Sheriff stated:

- By policy, the Sedgwick County Sheriff's Office turns off cameras when interacting with the public at community events intended to build relationships with law enforcement;
- Usually an outside entity is responsible for redacting video;
- Video storage can be contracted or developed in-house. While contracting for storage is expensive, it is still usually less expensive than developing an in-house solution;
- Video files are retained under the record retention periods set by the State for criminal investigation records;
- To the extent possible, camera use guidelines set through best practices established by associations would be preferred to guidelines being established in statute; and
- In the new video request and viewing statutory provisions, the term "parent"

does not seem to be well-defined, which could increase litigation.

The Bel Aire Chief of Police and representative of the Kansas Association of Chiefs of Police (KACP) provided the Committee with the perspective of the Bel Aire Police Department and KACP regarding law enforcement video. He noted most police agencies in Kansas are small and, thus, camera and video storage costs can be an issue. He suggested policies for camera use should be tailored to the needs and expectations of each community in which they are used. He stated he was not aware of any problems encountered with the new statutory requirements for viewing of recordings, but noted redaction of videos could become an issue. An agency could be overwhelmed by a large number of requests. Another concern could be privacy issues related to victims and third-party citizens who might be recorded on the video. In some cases, a defendant could also be a victim within the same recording, raising privacy issues.

In response to a question from the Committee, the Chief stated it would be helpful if the law enforcement associations were involved in continuing discussions regarding agency policies.

A representative of KSA and KACP noted several ongoing issues regarding law enforcement recordings, including video retention periods and evidentiary standards; video storage size; helping law enforcement personnel better understand the Kansas Open Records Act; and balancing the public interest in access to recordings with the privacy rights of the defendant, victims, and third parties.

The Chairperson noted a memorandum prepared for the Committee by the Office of Revisor of Statutes regarding transparency and accountability following an officer-involved shooting.

### ***Prison Industries at Hutchinson Correctional Facility***

The founder of Seat King, LLC, described for the Committee how his manufacturing company partnered with Hutchinson Correctional Facility to establish a production facility staffed by inmates

within the facility. He outlined the philosophy of his company and some of the benefits realized by the company and the inmates who work for it.

In response to questions from Committee members, he stated his company will re-hire most inmate employees once they leave prison if they remain in the Hutchinson area; Seat King pays inmates a fair market rate based upon prevailing rates for the job, which is established by the State; and inmates are covered by workers compensation by the company while on the job.

### ***Presentation of Follow-up Information from October 22 and 23 Meetings***

KLRD staff reviewed a memorandum collecting responses from KDOC, the Judicial Branch, and the Kansas Sentencing Commission to various requests received during the October Committee meetings, including requests related to the mother visitation program, court services officer pay rates, inmate population demographic breakdowns, KDOC retirements, immediate intervention programs, recidivism, contract bed information, sex offender treatment program completion rates, cost of the GED program, ex-inmate military service, and female incarceration studies.

KLRD staff reviewed a memorandum summarizing the responses to the voluntary survey of law enforcement agencies regarding dash and body camera usage requested by the Committee during the October 22 and 23 meetings. The survey asked responding agencies to provide information regarding their current and planned body and dash camera usage, any guidelines or policies, and cost for cameras and storage, as well as any viewing requests received under the new statutory requirements effective July 1, 2018 (KSA 2018 Supp. 45-254). Staff also reviewed a spreadsheet attached to the memorandum containing the detailed survey responses and a list of comments received from survey respondents.

Finally, KLRD staff noted the Committee had been provided a memorandum, requested at the October 22 and 23 meetings, containing a timeline for the inclusion of funding for juvenile crisis intervention centers in the 2018 appropriations bill (2018 House Sub. for SB 109).



## CONCLUSIONS AND RECOMMENDATIONS

The Committee recommends appropriate agencies address the issue of Medicaid suspension versus termination for persons entering the correctional system.

The Committee recommends the Legislature consider ways to increase the use of electronic surveillance of offenders as an alternative to expanding prison bed space.

In light of lawsuits in other states regarding screening and treatment of inmates with hepatitis C, the Committee recommends KDOC consider implementing treatment for inmates with hepatitis C.

The Committee recommends the Legislature provide the necessary funding for the expanded provision of SB 123 Program services.

Noting comments from KDOC employees regarding the difficulties presented by the current level of pay and benefits, the Committee recommends the Legislature increase pay and benefits for KDOC employees. Committee members suggested various options the Legislature could consider to accomplish this recommendation, although the Committee did not have an opportunity to further vet the suggestions. The suggestions included:

- Bringing facility correctional officers within the Kansas Police and Firemen's Retirement System, as passed by the House in 2018 HB 2448;
- Implementing a 15.0 percent across-the-board increase in compensation for KDOC

employees through three 5.0 percent increases effective July 1, 2019, January 1, 2020, and July 1, 2020;

- Allowing the Secretary to implement special incentives for KDOC employees who serve as mentors for new employees, once the new employees complete a year of service;
- Eliminating classified positions to allow more ability to provide incentives and merit pay; and
- Building a 401(k) system.

The Committee requests legislation to:

- Lapse \$6.0 million from the Kansas Department of Health and Environment (KDHE) Evidence-Based Programs Account and restore \$6.0 million to the KDOC Evidence-Based Programs Account for FY 2019, while also considering the possible need to move other funds to KDHE to cover Medicaid caseloads for FY 2019 that would have been covered by part of the lapsed \$6.0 million; and
- Expand the allowable purposes of the Evidence-Based Programs Account of the State General Fund, created by KSA 75-52-164, and to allow expenditures to be made for transportation and electronic monitoring costs related to the programs and practices served by the Account.

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# Report of the Joint Committee on Information Technology to the 2019 Kansas Legislature

**CHAIRPERSON:** Senator Mike Petersen

**VICE-CHAIRPERSON:** Representative Blake Carpenter

**RANKING MINORITY MEMBER:** Senator Tom Holland

**OTHER MEMBERS:** Senators Marci Francisco, Dinah Sykes, and Caryn Tyson; and Representatives Pam Curtis, Keith Esau, Kyle Hoffman, and Brandon Whipple

## **CHARGE**

The Committee is directed to:

- Study computers, telecommunications, and other information technologies used by state agencies and institutions, defined by KSA 2018 Supp. 75-7201 to include executive, judicial, and legislative agencies and Board of Regents institutions;
- Review proposed new acquisitions, including implementation plans, project budget estimates, and three-year strategic information technology plans of state agencies and institutions. All state governmental entities are required to comply with provisions of KSA 75-7209 *et seq.* by submitting such information for review by the Committee;
- Monitor newly implemented technologies of state agencies and institutions;
- Make recommendations to the Senate Committee on Ways and Means and House Committee on Appropriations on implementation plans, budget estimates, and three-year plans of state agencies and institutions;
- Report annually to the Legislative Coordinating Council and make special reports to other legislative committees as deemed appropriate; and
- Discuss the three recommendations for legislative consideration included in the Legislative Division of Post Audit's recent information technology audit report titled "Enterprise Project Management Office: Evaluating the Statutory Definition and Monetary Threshold for Major IT Projects."

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# Joint Committee on Information Technology

## ANNUAL REPORT

### Conclusions and Recommendations

The Committee makes the following recommendations to the 2019 Legislature:

- Introduce legislation to require all state employees to participate in cybersecurity training at least once a year;
- The House Committee on Appropriations and the Senate Committee on Ways and Means should increase cybersecurity funding for state agencies;
- The Kansas Information Security Office should develop a prioritization plan for addressing security vulnerabilities among state agencies;
- Schedule a Joint Committee on Information Technology (Committee) meeting early in the 2019 Session for the purpose of approving language to be included in legislation to amend the Kansas Cybersecurity Act (created in 2018) to require agency heads to submit cybersecurity assessment reports to the Chief Information Security Officer on an annual basis and include an appropriate enforcement mechanism;
- The Executive, Judicial, and Legislative Chief Information Technology Officers (CITOs) should develop and use a risk score approach in the information technology (IT) project approval process;
- The Revisor of Statutes staff should review statutes related to the current \$250,000 IT project threshold and report back to the Committee early in the 2019 Session for the purpose of drafting legislation that would clarify such statutes for university IT projects;
- The Enterprise Project Management Office should improve transparency of IT projects that have been recast so the Legislature is aware of the true cost of a project over the entire life of the project;
- For IT procurements exceeding \$5.0 million, the Committee should review any request for quotation (RFQ) or request for proposal (RFP) before a contract is awarded, and such RFQ or RFP should include an impact assessment explaining how the contract will affect Kansas workers;
- The Director of Procurements should not authorize any sole-source contract that extends for a period exceeding ten years;
- The Chief Information Technology Architect position should be filled as soon as possible;
- The Executive CITO should continue developing partnerships with IT talent recruiters and increasing capacity for IT talent in the state;

- The Legislative Coordinating Council should consider expanding the scope of the Committee to include exploring ways to provide more science, technology, engineering, and math (STEM) opportunities in the state; and
- The House and Senate Committees on Education should look for opportunities to increase STEM education (including coding classes) across the state.

**Proposed Legislation:** None

## BACKGROUND

The Joint Committee on Information Technology (Committee) has statutory duties assigned by its authorizing legislation in KSA 46-2101 *et seq.* The Committee may set its own agenda, meet on call of its Chairperson at any time and any place within the state, and introduce legislation. The Committee consists of ten members: five senators and five representatives. The duties assigned to the Committee by KSA 46-2101 and KSA 2018 Supp. 75-7201 *et seq.* are as follows:

- Study computers, telecommunications, and other information technologies used by state agencies and institutions. The state governmental entities defined by KSA 2018 Supp. 75-7201 include executive, judicial, and legislative agencies and Board of Regents institutions;
- Review proposed new acquisitions, including implementation plans, project budget estimates, and three-year strategic information technology (IT) plans of state agencies and institutions. All state governmental entities are required to comply with provisions of KSA 2018 Supp. 75-7209 *et seq.* by submitting such information for review by the Committee;
- Monitor newly implemented technologies of state agencies and institutions;
- Make recommendations to the Senate Committee on Ways and Means and the House Committee on Appropriations on implementation plans, budget estimates,

and three-year plans of state agencies and institutions; and

- Report annually to the Legislative Coordinating Council (LCC) and make special reports to other legislative committees as deemed appropriate.

In addition to the Committee's statutory duties, the Legislature or its committees, including the LCC, may direct the Committee to undertake special studies and to perform other specific duties.

KSA 2018 Supp. 75-7210 requires the Executive, Judicial, and Legislative Chief Information Technology Officers (CITOs) to submit annually to the Committee all IT project budget estimates and revisions, all three-year plans, and all deviations from the state IT architecture. The Legislative CITO is directed to review the estimates and revisions, the three-year plans, and the deviations, and then make recommendations to the Committee regarding the merits of and appropriations for the projects. In addition, the Executive and Judicial CITOs are required to report to the Legislative CITO the progress regarding implementation of projects and proposed expenditures, including revisions to such proposed expenditures.

## COMMITTEE ACTIVITIES

The Committee met during the 2018 Interim as authorized by the LCC, on December 17 and 18, 2018. In addition to these days, the Committee met during the 2018 Session on March 8, April 26, and May 2, 2018.

## March 8

### *Election of Chairperson and Vice-chairperson*

The Committee elected a new chairperson and vice-chairperson for the 2018 calendar year. The new Chairperson announced the intention to elect a ranking minority member, selected from the same chamber as the chairperson, at the next meeting.

### *Executive Branch Quarterly IT Project Report*

The Interim Executive CITO reviewed the executive branch agency reports for the October-December 2017 quarter. The Executive CITO reported five new “active” projects:

- Electronic tracking for the Women, Infants and Children program by the Kansas Department of Health and Environment (KDHE);
- Implementation of a new KDHE air-quality project combining six obsolete air compliance systems;
- Office of Information Technology Services (OITS) consolidation of 23 service desks into a centralized service desk;
- Kansas Department of Labor (KDOL) data management/data analytics; and
- KDOL’s new tax-audit software.

The Interim Executive CITO reported five projects in “alert” status:

- A Fort Hays State University (FHSU) enterprise resource planning system that added functionality requiring the project to be recast;
- An OITS load balancer upgrade, which requires new hardware;

- A Kansas Criminal Justice Information System eCitation II project that requires refreshing business projects. A representative of the Kansas Sheriffs’ Association explained major business practices were being changed in the project. The representative predicted the project to be completed sometime between October 2018 and the first quarter of 2019;
- KDOL’s Incarceration Database/Victim Notification Service, which needed to include more county jails; and
- KDOL’s tax-audit software, which was slightly behind schedule.

The Interim Executive CITO described three projects that had to be recast:

- Pittsburg State University’s cloud implementation, which was behind schedule and over budget;
- Kansas Department of Revenue’s (KDOR’s) KanLicense II project, which was behind schedule and was undergoing more regression testing at the request of the Secretary of Revenue; and
- The Kansas Bureau of Investigation’s (KBI’s) Identity Access Management project, which was operating under a new schedule.

The Interim Executive CITO noted one project in “caution” status for being behind schedule: the KDHE Medicaid Management Information System Modernization (MMIS) Project, a joint venture among five states. Responding to questions, the Interim Executive CITO stated the \$91.0 million project is funded 90.0 percent through federal moneys and 10.0 percent through the State General Fund (SGF), but maintenance funding returns to approximately 60.0 percent from federal funding and 40.0 percent SGF funding.

Finally, the Interim Executive CITO noted five completed projects:

- Kansas State Department of Education's replacement of the Kansas Nutrition–Claims and Information Management system;
- FHSU's hyper-converged data center and backup;
- OITS' mainframe transition project. Responding to a member's question about the propriety of using this as a template for the FHSU project, the Interim Executive CITO said OITS does not have authority to make decisions about IT projects of Board of Regents institutions;
- KBI's livestream equipment; and
- KDOR's forecast and modeling system for the consensus revenue estimating process.

## **April 26**

### ***KanLicense Update***

The Committee heard from the Director of Vehicles, KDOR, regarding the final tests and preparations for the launch of KanLicense, a statewide, web-based system for issuing and tracking driver's licenses. The Director stated the roll out was tentatively scheduled for Monday, May 7, 2018, with the conversion from the agency's legacy system occurring over the weekend, potentially closing motor vehicle offices on Friday, May 4, 2018, in order for the system to go live on Tuesday, May 8, 2018. The Director acknowledged delays had occurred in the project, but he noted these delays did not involve any additional costs to the agency or the State. Responding to a member's concern that future IT projects undertaken by KDOR would be outsourced to third-party vendors, leading to a loss of state jobs, the Director stated large projects would continue to be outsourced by the Division of Vehicles, but the Division planned to utilize KDOR IT staff for smaller projects.

## **May 2**

### ***Election of Ranking Minority Member***

The Committee elected a new ranking minority member, as had been discussed in the March 8 meeting.

### ***Enterprise Project Management Office Audit***

A representative of the Legislative Division of Post Audit (LPA) reviewed an audit of the Enterprise Project Management Office (EPMO). He gave a brief background of the EPMO and the history of LPA's authority to perform audits of agency IT projects. The representative stated the focus of the audit was to determine whether the statutory definition and monetary threshold for a major IT project appear to be appropriate, and what effects changing the definition or threshold would have on project oversight. He stated auditors interviewed stakeholders, who reported the definitions are appropriate; however, they recommended certain projects be excluded from approval or oversight, such as license renewals, hardware purchases, and infrastructure projects. Stakeholders also suggested the monetary threshold might be too low or too simplistic, reaching consensus that small projects do not benefit from oversight and other projects need other requirements integrated with the monetary threshold. Several ancillary issues were raised as the audit was conducted: quarterly reports on IT projects are not always complete or accurate, two statutory requirements are not being followed, and the fees for service do not always reflect actual costs. Stakeholders also questioned whether EPMO's project management services add sufficient value to the State. The representative concluded the current definitions and oversight requirements were found to be adequate, but noted a list of LPA recommendations for both executive action and legislative action. He also noted EPMO's response to the audit: the agency generally agreed with the findings, but stated the agency lacks authority to effect changes when it finds IT deficiencies in executive branch agencies. In response to concerns over rates, EPMO stated it had completed a thorough review of rates to bring the agency into compliance with federal regulations. Responding to a Committee question, the LPA representative stated the current IT project threshold of \$250,000 would be equivalent to \$360,000 if adjusted for inflation.



Responding to Committee questions, a project manager from EPMO explained the process of project management and stated the Kansas Eligibility and Enforcement System project under KDHE was originally estimated at \$90.0 million and, with enhancements, ended up costing \$150.0 million.

### ***Department of Administration IT Security Audit***

A representative of LPA presented its most recent IT security audit of the Department of Administration in an executive session pursuant to KSA 2018 Supp. 75-4319(b)(12)(C).

### **December 17 and 18**

#### ***Quarterly Report and Consolidation Efforts***

The Executive CITO reviewed the IT quarterly project reports for the Kansas Information Technology Office, outlining projects in good standing (8), in “caution” status (2), in “alert” status (4), and those that had been recast (2). He also stated one program is in “hold” status. He suggested rather than using a \$250,000 threshold for determining project reports, a risk-based oversight approach might be more effective. Responding to members’ questions regarding various executive branch IT projects, the Executive CITO responded:

- The FSHU Enterprise Resource Planning project is in “alert” status due to being 39.0 percent over schedule;
- KDHE’s MMIS is funded mostly by federal dollars (90.0/10.0 percent match) until the project is completed, then the federal/state match drops to 60.0/40.0 percent for maintenance, typically;
- KDOR’s KanLicense implementation has gone well, and the system went online in October 2018; and
- The vendor for KDHE’s e-reporting to the Environmental Protection Agency provided custom software development.

The Executive CITO also updated the Committee on the work of OITS to streamline certain agency functions through collaboration and consolidation of technical services; the hybrid approach maintains ownership of the applications and data at the agency level, but centralizes core IT services under OITS. All executive branch agency Chief Information Officer positions were consolidated under a Chief Technology Officer (CTA) on October 7, 2018. The CTA will report to the Executive CITO and will carry out the duties of the vacant Chief Information Technology Architect (CITA). He stated the new team structure will be fully implemented by February 2019. A new position, Chief Operations Officer, is being created for a person who will be responsible for the operational aspects of OITS. Consolidated services will be outsourced to a vendor and costs will be based on consumption so agencies pay only for what is needed for hardware and services. A new data center is included in the contract.

#### ***State Cybersecurity***

A representative of Microsoft State and Local Government discussed recent issues of state cybersecurity. He outlined the process by which a hacker can gain control of an agency’s data and, by extension, an entire state’s data system. He explained hackers use a state’s transparency against it; using automated asymmetrical attacks, hackers are often successful in breaching state data systems because only 5.0 percent of preliminary security alerts are investigated. He emphasized the importance of security updates of software and recommended cloud-based security systems. If an agency chooses to provide its own security, he encouraged communication integration among data systems and a coordinated response to attacks. He concluded by offering ten actions that would minimize risk, such as deploying phishing-proof identities for all users and automating information protection and classification.

#### ***KanLicense Update***

The Director of Property Valuation and Director of Vehicles, KDOR, updated the Committee on the KanLicense project. He reported the data conversion was completed and the new licensing system went live on October 23, 2018, with no interruption in service. He noted

special features that enable a citizen to renew a driver's license online or with a mobile device.

### ***Sole Source Contracts in IT Procurement***

Kansas Legislative Research Department (KLRD) staff reviewed the exemptions to the State's procurement process as it relates to contracts for IT goods and services. Staff stated competitive bids are the standard practice for negotiating state contracts. However, under certain circumstances, the State employs noncompetitive procurement or "sole-source" contracts. The Department of Administration's Office of Procurement and Contracts (OPC) employs a prior-authorization review process to determine whether a purchase should be exempt from competitive bids; such exemptions include compatibility with existing equipment, software maintenance from a developer, or when a company is the only known provider. Staff listed examples of prior authorization for IT purchases showing the agency, the vendor, the amount of purchase, and the officer who made the determination. Responding to a question, KLRD staff replied a request for quotation (RFQ) is used for one-time purchases and a request for proposal (RFP) for recurring purchases.

The Director of the OPC responded to members' questions:

- There are no negotiations for an RFQ;
- A request for information is not used since it provides information for competitors;
- The information for an RFP is obtained from the agency;
- A vendor may discuss parameters with an agency, but when the information is given to the Department of Administration for an RFP, discussion with a vendor is prohibited;
- Three principals evaluate an RFP: a representative from the agency, a representative from OPC, and a Department of Administration official;

- IT proposals are separated into the technical details and the proposed costs; and
- If an agency wants a sole-source contract, a request must be submitted to the Department of Administration.

Members expressed concern regarding sole-source contracts since significant funds were expended through such contracts.

### ***Presentation on Oversight of IT in Other States***

KLRD staff reviewed the history of the State's statutory oversight of IT projects and provided information regarding other states' approaches to IT management. She stated Kansas' IT oversight began in 1992 with HB 2578, which created the Joint Committee on Computers and Telecommunications. In 1994, Senate Sub. for HB 2573 established the Kansas Information Resources Council (KIRC), created the position of Chief Information Architect, and introduced new procedures for supervising IT resources. In 1998, SB 5 reorganized IT, abolishing the KIRC and creating the Information Technology Executive Council (ITEC) with 17 statutory participants. The bill also established the Office of CITA and three CITO's, one for each branch of Kansas government. The legislation established a threshold for IT projects and required agencies to submit a description, schedule, costs, and a cost-benefit statement for any project exceeding \$250,000. The bill provided a new name and duties for the legislative oversight committee (Joint Committee on Information Technology, or JCIT) and modified purchasing practices for state agencies. Minor changes to the State's IT structure were made in 2013 (HB 2200 abolished the Division of Information Services and Computers and established OITS in its place) and in 2018 (House Sub. for SB 56 modified ITEC membership).

Staff reviewed some notable JCIT recommendations over the past 24 years, including:

- A 5-year planning document and a multi-year budget estimate must be submitted to JCIT;
- Budget information about all projects should be given to the House Committee on Appropriations and the Senate Committee on Ways and Means;
- JCIT must be notified following a 10.0 percent or \$1.0 million cost overrun before a new project plan is submitted;
- Project costs must include both internal and external costs; and
- The Chief Information Security Officer (CISO) should review security plans and certify approval for proposed new projects.

Staff listed the states that provide direct legislative oversight of IT (10) and those that offer other types of IT oversight (6), including 16 states that have cabinet-level technology agencies. Responding to a question, she replied no state exercises authority beyond observation and oversight.

A member commented on the limitations of legislative oversight to mitigate IT projects' cost overruns, recast projects, and delays. He asked how the Committee can be more proactive in minimizing these problems. Another member noted the three-year-plan requirement has been ignored by agencies.

### ***LPA Project Monitoring Audits***

A representative of LPA briefly discussed the closing out of two project monitoring audits conducted by LPA in recent years: the KDOR KanLicense project and the KDOL Online System for Claims Administration Research/Regulation project. He reviewed a recent audit of EPMO, which was also discussed at the May 2 meeting.

The representative commented the audit was triggered by recent project failures under the authority of the newly created EPMO. The audit reported stakeholders generally found the statutory definition of IT projects appropriate; however, stakeholders recommended eliminating certain projects from approval and oversight to save agency staff time and resources. They also suggested adding a statutory definition of "infrastructure projects" to help codify how certain projects are handled. Further, most stakeholders recommended raising the threshold that the EPMO tracks from \$250,000 to \$500,000, since smaller projects do not benefit from project oversight. Stakeholders also suggested including non-monetary factors and implementing a tiered system of monitoring levels for various projects.

The LPA representative cited other issues that should be considered for further action:

- Estimated project costs may not accurately reflect staff time;
- Recast projects' costs may be understated;
- Statutory compliance may need to be addressed. Currently, the Executive CITO carries out duties ascribed to the Legislative CITO, and three-year strategic IT plans have not been collected;
- EPMO fees are not always aligned with costs for services; excess revenues may be considered profits and a violation of federal regulations;
- Most agency officials questioned the value received from EPMO services; they cited limited oversight, which fails to keep projects on schedule or within budget. OITS noted its lack of statutory authority to fulfill its oversight functions;
- The vacant CITA position needs to be filled or its duties distributed to other staff; and
- The Committee should review and amend relevant statutes.

### ***Recent Security Audits***

A representative of LPA presented the most recent IT security audits of the KBI, KDHE, Pittsburg State University, the Department for Children and Families, the Kansas Highway Patrol, and KDOL. Each audit was presented in executive (closed) session.

### ***Update on Legislative IT Projects***

The Acting Legislative CITO told the Committee recent legislation allowing legislators to be included as members of ITEC has provided valuable input for IT decisions. The Acting Legislative CITO introduced the Director of Application Services, Kansas Legislative Office of Information Services (KLOIS). The Director listed the application services that provide for legislative reports, bill drafts, chamber automation, statute books, committee information, and other services. He noted the tracking of conference committees has been improved, but tracking bills that are merged with other bills still awaits a solution. A member encouraged improvement in responding immediately to bill amendments.

The Director of Technical Services, KLOIS, outlined changes in technical services, such as the streaming audio for committee meetings. She reported April's security assessment rated the Legislature's security risk as average, and KLOIS has addressed the highest vulnerabilities. She noted the data center in the Statehouse has a backup system in Kansas City. A recent RFP for data protection resulted in choosing World-Wide Technologies' (WWT) Rubrik backup system. Another RFP for data storage resulted in selection of WWT's Cisco Hyperflex, a system that should eliminate data bottlenecks. She also cited an upgrade to the House voting management system.

### ***Update on Judicial IT Projects***

The Judicial CITO reviewed progress on the Centralized Case Management System, one of the services of the eCourt comprehensive system being developed for the Judicial Branch. He expressed gratitude to the Legislature for providing docket fees that enable the project to go forward. He listed the benefits of the new system, which he stated will automate county systems statewide, improve communication and data sharing, and balance staff work loads among the

counties. He stated the project is on time and on budget, with the first services to go live June 2019; completion of the entire project is scheduled for August 2021. He added vendor Tyler Technologies adapted an off-the-shelf program to minimize costs.

### ***KDOR CGI Technologies Contract***

The Chief Financial Officer (CFO) of KDOR reviewed issues related to KDOR's contract with CGI Technologies (CGI) for software used for the processing of tax returns. He explained the original 1995 contract was with vendor American Tax Systems, which CGI purchased in 2004; the 30-year software contract did not include upgrades for the original software. CGI agreed to provide upgrades in lieu of lapsed software maintenance fees of \$600,000 with the stipulation KDOR's licensing fees would reimburse CGI at 80.0 percent until the debt is satisfied, after which KDOR would receive 100.0 percent of the fees. He noted the CGI upgrades have more than covered the costs of the debt.

The CFO responded to members' questions:

- There are two contracts with CGI: software upgrades for a cost of \$42.0 million, and all other tax-support software systems for a cost of \$40.0 million;
- Of the employees who were displaced by the CGI contract, 22 were hired by CGI, 30 found other state jobs, and others retired. A member requested a time line from 1995 regarding employees' job status and whether CGI jobs left the state;
- At the end of the contract in 2025, finding a comparable vendor might be too costly; and
- The original contract was a fixed-price contract.

## CONCLUSIONS AND RECOMMENDATIONS

The Committee made the following recommendations to the 2019 Legislature:

- Introduce legislation to require all state employees to participate in cybersecurity training at least once a year;
- The House Committee on Appropriations and the Senate Committee on Ways and Means should increase cybersecurity funding for state agencies;
- The Kansas Information Security Office should develop a prioritization plan for addressing security vulnerabilities among state agencies;
- Schedule a Committee meeting early in the 2019 Session for the purpose of approving language to be included in legislation that would amend the Kansas Cybersecurity Act (created in 2018) to require agency heads to submit cybersecurity assessment reports to the CISO on an annual basis and include an appropriate enforcement mechanism;
- The Executive, Judicial, and Legislative CITO's should develop and use a risk score approach in the IT project approval process;
- The Revisor of Statutes staff should review statutes related to the current \$250,000 IT project threshold and report back to the Committee early in the 2019 Session for the purpose of drafting legislation that would clarify such statutes for university IT projects;
- The EPMO should improve transparency of IT projects that have been recast so the Legislature is aware of the true cost of a project over the entire life of the project;
- For IT procurements exceeding \$5.0 million, the JCIT should review any RFQ or RFP before a contract is awarded, and such RFQ or RFP should include an impact assessment explaining how the contract will affect Kansas workers;
- The Director of Procurements should not authorize any sole-source contract that extends for a period over ten years;
- The CITA position should be filled as soon as possible;
- The Executive CITO should continue developing partnerships with IT talent recruiters and increasing capacity for IT talent in the state;
- The LCC should consider expanding the scope of the Committee to include exploring ways to provide more science, technology, engineering, and math (STEM) opportunities in the state; and
- The House and Senate Committees on Education should look for opportunities to increase STEM education (including coding classes) across the state.

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# **Report of the Robert G. (Bob) Bethell Joint Committee on Home and Community Based Services and KanCare Oversight to the 2019 Kansas Legislature**

**CHAIRPERSON:** Representative Daniel Hawkins

**VICE-CHAIRPERSON:** Senator Vicki Schmidt

**RANKING MINORITY MEMBER:** Representative Barbara Ballard

**OTHER MEMBERS:** Senators Barbara Bollier (February and April), Bud Estes, Richard Hilderbrand, Laura Kelly, and Ty Masterson (August and November); and Representatives Susan Concannon, John Eplee, Kyle Hoffman (August and November), Jim Ward, and Chuck Weber (February and April)

## **CHARGE**

KSA 2018 Supp. 39-7,160 directs the Committee to oversee long-term care services, including home and community based services (HCBS). The Committee is to oversee the savings resulting from the transfer of individuals from state or private institutions to HCBS and to ensure any proceeds resulting from the successful transfer be applied to the system for the provision of services for the long-term care system. Further, the Committee is to oversee the Children's Health Insurance Program (CHIP), the Program for All-Inclusive Care for the Elderly (PACE), and the state Medicaid program (KanCare), and monitor and study the implementation and operations of these programs, including, but not limited to, access to and quality of services provided and any financial information and budgetary issues.

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# Robert G. (Bob) Bethell Joint Committee on Home and Community Based Services and KanCare Oversight

## ANNUAL REPORT

### Conclusions and Recommendations

The Committee expresses the following concerns and adopts the following recommendations:

- The Kansas Department for Aging and Disability Services (KDADS) request for proposal for high-touch administrative case management at the local level be monitored;
- A request be made for a report on progress made in nursing facility inspections toward compliance with federal and state law requiring inspections every 12 months;
- Recognizing suicide is the second leading cause of death among individuals ages 15-24 and ages 25-44 and the Kansas suicide rate in 2013 was 16.7 percent higher than the national average, according to the 2014 Kansas Annual Summary of Vital Statistics from the Kansas Department of Health and Environment (KDHE), the Committee expresses its concern to the Mental Health Task Force (Task Force) regarding the suicide rate and recommends the Task Force continue to study to identify causes and develop mitigating tools; and
- KDHE and KDADS continue to monitor and report to the legislative health and budget committees on the efforts to reduce the waiting lists for the Physical Disability and the Intellectual and Developmental Disability Home and Community Based Services waivers and the KanCare Medicaid eligibility backlog.

The Committee expresses concerns about the lack of preventive dental care for adult Medicaid recipients.

**Proposed Legislation:** The Committee requests the following:

- A Committee bill to increase the protected income limit cap (KAR 129-6-103 (13)(c));
- A Committee bill be pre-filed to restore the Temporary Assistance for Needy Families eligibility profile to its 2010 level; and
- The 2018 dental therapist bill (2018 SB 312, as it passed the Senate) be reintroduced as a Committee bill in the 2019 Legislative Session.

## BACKGROUND

The Robert G. (Bob) Bethell Joint Committee on Home and Community Based Services (HCBS) and KanCare Oversight operates pursuant to KSA 2018 Supp. 39-7,159, *et seq.* The previous Joint Committee on HCBS Oversight was created by the 2008 Legislature in House Sub. for SB 365. In HB 2025, the 2013 Legislature renamed and expanded the scope of the Joint Committee on HCBS Oversight to add the oversight of KanCare (the State's Medicaid managed care program). The Committee oversees long-term care services, including HCBS, which are to be provided through a comprehensive and coordinated system throughout the state. The system, in part, is designed to emphasize a delivery concept of self-direction, individual choice, services in home and community settings, and privacy. The Committee also oversees the Children's Health Insurance Program (CHIP), the Program for All-Inclusive Care for the Elderly (PACE), and the state Medicaid programs.

The Committee is composed of 11 members: 6 from the House of Representatives and 5 from the Senate. Members are appointed for terms that coincide with their elected or appointed legislative terms. The Committee is statutorily required to meet at least once in January and once in April when the Legislature is in regular session and at least once for two consecutive days during both the third and fourth calendar quarters, at the call of the chairperson. The Committee is not to exceed six total meetings in a calendar year; however, additional meetings may be held at the call of the chairperson when urgent circumstances require such meetings. In its oversight role, the Committee is to oversee the savings resulting from the transfer of individuals from state or private institutions to HCBS and to ensure proceeds resulting from the successful transfer be applied to the system for the provision of services for long-term care and HCBS, as well as to review and study other components of the State's long-term care system. Additionally, the Committee is to monitor and study the implementation and operations of the HCBS programs, CHIP, PACE, and the state Medicaid programs, including, but not limited to, access to and quality of services provided and financial information and budgetary issues.

As required by statute, at the beginning of each regular session, the Committee is to submit a written report to the President of the Senate, the Speaker of the House of Representatives, the House Committee on Health and Human Services, and the Senate Committee on Public Health and Welfare. The report is to include the number of individuals transferred from state or private institutions to HCBS, as certified by the Secretary for Aging and Disability Services, and the current balance in the HCBS Savings Fund. (See Appendix A for the 2018 report.) The report also is to include information on the KanCare Program, as follows:

- Quality of care and health outcomes of individuals receiving state Medicaid services under KanCare, as compared to outcomes from the provision of state Medicaid services prior to January 1, 2013;
- Integration and coordination of health care procedures for individuals receiving state Medicaid services under KanCare;
- Availability of information to the public about the provision of state Medicaid services under KanCare, including access to health services, expenditures for health services, extent of consumer satisfaction with health services provided, and grievance procedures, including quantitative case data and summaries of case resolution by the KanCare Ombudsman;
- Provisions for community outreach and efforts to promote public understanding of KanCare;
- Comparison of caseload information for individuals receiving state Medicaid services prior to January 1, 2013, to the caseload information for individuals receiving state Medicaid services under KanCare after January 1, 2013;
- Comparison of the actual Medicaid costs expended in providing state Medicaid

services under KanCare after January 1, 2013, to the actual costs expended under the provision of state Medicaid services prior to January 1, 2013, including the manner in which such cost expenditures are calculated;

- Comparison of the estimated costs expended in a managed care system of providing state Medicaid services before January 1, 2013, to the actual costs expended under KanCare after January 1, 2013; and
- All written testimony provided to the Committee regarding the impact of the provision of state Medicaid services under KanCare upon residents of adult care homes.

All written testimony provided to the Committee is available through Legislative Administrative Services.

In developing the Committee report, the Committee is also required to consider the external quality review reports and quality assessment and performance improvement program plans of each managed care organization (MCO) providing state Medicaid services under KanCare.

The Committee report must be published on the official website of the Kansas Legislative Research Department (KLRD). Additionally, the Kansas Department for Aging and Disability Services (KDADS), in consultation with the Kansas Department of Health and Environment (KDHE), is required to submit an annual report on the long-term care system to the Governor and the Legislature during the first week of each regular session.

## COMMITTEE ACTIVITIES

The Committee met twice during the 2018 Session (February 16 and April 23) and twice for two days each during the 2018 Interim (August 20 and 21 and November 8 and 9). In accordance with its statutory charge, the Committee's work focused on the specific topics described in the following sections.

## KanCare Overview and Update

At each meeting, the KDHE Medicaid Director and Director of Health Care Finance (Medicaid Director) provided the following: KanCare program updates, including the status of the State's Section 1115 waiver application, the KanCare request for proposal (RFP), KanCare utilization and cost comparison data, the MCOs' financial status, and a corrective action plan (CAP) update; stakeholder and legislative engagement efforts; KanCare data and analytics; updates on the Medicaid eligibility application backlog; efforts to address the opioid epidemic and anti-psychotic use in nursing homes; and a KanCare Executive Summary containing data on eligibility and expenditures, financial summaries, the provider network, medical loss ratio, claims, value-added and in-lieu-of services, and grievances, appeals, and fair hearings received. (*Note: Section 1115 of the Social Security Act gives the Secretary of Health and Human Services authority to approve experimental, pilot, or demonstration projects that are found by the Secretary to be likely to assist in promoting the objectives of the Medicaid program.*)

At the February 16 meeting, the Medicaid Director stated an intention to change the culture of the agency to be more positive in responding to the challenges of administering KanCare. The Medicaid Director traced updates on KDHE's compliance with 2017 Senate Sub. for HB 2026 and preliminary results of the Working Healthy program. (*Note: Senate Sub. for HB 2026 [2017], among other changes, requires MCOs to provide certain education and training, provide documentation in certain situations, pay nursing facilities with a change in ownership, and prohibits discriminating against any licensed pharmacy or pharmacist located within the geographic coverage area of the MCO. The bill also requires KDHE to procure the services of an independent auditor to review, at least once per calendar year, a random sample of all claims paid and denied by each MCO and the MCO's contractors.*)

At the April 23 meeting, the Secretary of Health and Environment commented on how to integrate Medicaid and public health and improve health care financial performance. The Secretary provided a summary of services and payments across the MCOs and the average cost per service.

The Medicaid Director noted a Medical Assistance Program identifier will be federally required for all Medicaid providers by January 1, 2019, to receive payment on claims. (*Note:* A National Provider Identifier is a unique identification number for covered health care providers.) The second iteration of the provider module for integrated credentialing will go live on January 1, 2019, creating a single access point for providers to receive credentialing with the State and all three MCOs at one time; the credentialing will follow the three-year intervals for MCO credentialing. The Medicaid Director concluded by announcing the CAPs listed had all been completed; KDHE was waiting for the system to be implemented for the adverse interactions. The Medicaid Director also stated the increased provider rates would go into effect on September 1, 2018, and claims paid in June and July 2018 would be reprocessed at the higher rate.

At the November 8-9 meeting, the Medicaid Director briefly touched on the status of legislative-funded programs: OneCare Kansas (Health Homes), reinstatement of Medicaid post incarceration, mid-year rate adjustment, telehealth, and juvenile crisis centers. The Medicaid Director noted future fiscal notes on bills impacting KDHE will include an implementation timeline to provide legislators with information to better determine a realistic effective date. The Medicaid Director requested more input from legislators regarding the 2018 Kansas Telemedicine Act (Senate Sub. for HB 2028); the Medicaid Medical Director (Medical Director) reported KDHE was following Centers for Medicare and Medicaid Services (CMS) guidelines as a first step but wanted to ensure legislative intent is being met. The Medicaid Director discussed questions to be addressed to implement the Juvenile Crisis Center legislation (2018 House Sub. for SB 179).

## ***KanCare 2.0***

**Section 1115 waiver renewal application.** At the February 16 meeting, the Medicaid Director noted the State's Section 1115 waiver (KanCare 2.0) application had been accepted by CMS, and CHIP had been reauthorized.

At the April 23 meeting, the Medicaid Director traced the Section 1115 waiver application timeline and the adjustments being

made to the KanCare program (referenced as KanCare 1.x). (*Note:* The term KanCare 1.x was used to reference the Section 1115 waiver application without the changes prohibited by the legislative budget proviso in 2018 House Sub. for SB 109, Section 118.) The adjustments to the Section 1115 waiver would be focused on the following hypotheses proposed by KDHE: value-based reimbursements will further integrate physical and behavioral health services; increasing employment and independent living supports to provide opportunities for individuals with a disability or a behavioral health condition will help them become more independent; telehealth will enhance access to care in rural, semi-rural, and underserved areas; and removing barriers for services provided in institutions for mental diseases (IMDs) will result in improved access to services and better health outcomes. CMS limits the State's reimbursement for IMDs. KDHE will be seeking a waiver from CMS for full reimbursement of the whole spectrum of substance use disorders (SUD) and co-occurring SUD and mental health conditions services provided within IMDs.

The Medicaid Director indicated KDHE's direction regarding the Section 1115 waiver application moving forward was that KDHE would continue to consider the possibility of work requirements in the future, but without a lifetime limit on eligibility. The Medicaid Director stated discussions with CMS would be clear that no changes to KanCare eligibility will be implemented until at least July 1, 2019, or January 1, 2020, to allow input from the Legislature. The Medicaid Director indicated the lifetime limit on eligibility included in the Section 1115 waiver application filed with CMS could be removed through language in the special terms and conditions to that effect or, if requested by CMS, by filing an amendment to the application.

The Medicaid Director stated at the August 20-21 meeting KDHE was meeting weekly with CMS to finalize an extension of the Section 1115 waiver; approval was anticipated in November 2018. The work opportunities for persons with disabilities program was included, but could not be implemented until July 1, 2019, to allow for legislative input. The work requirement will not be implemented without legislative approval. The legislative-funded telehealth initiative was nearing

readiness to go live January 1, 2019. The Medicaid Director stated the IMD SUD exclusion is under behavioral health and the agency can move forward with the exclusion without violating the legislative budget proviso (2018 House Sub. for SB 109, Section 118) prohibiting certain changes to the January 1, 2018, version of KanCare program without legislative approval.

The Medicaid Director noted at the November 8-9 meeting CMS approval of the Section 1115 waiver extension was still anticipated in November, with the only new program included being the IMD exclusion for SUDs to allow for reimbursement for SUD services within IMD facilities. (*Note:* The Section 1115 waiver extension was approved by CMS on December 18, 2018.) The Medicaid Director commented, pursuant to the legislative budget proviso prohibiting any other changes to the Medicaid program as it existed on January 1, 2018, any other new program proposed in the waiver extension was being postponed until at least July 1, 2019.

**Compliance with KanCare proviso.** Committee members expressed concern KDHE was not following a legislative budget proviso included in the 2018 Omnibus Budget bill for fiscal year (FY) 2018 and FY 2019 (2018 House Sub. for SB 109, Section 118) that required a hiatus in the changes proposed by the KanCare 2.0 Section 1115 waiver application. At the August 20-21 meeting, the Medicaid Director stated there was ongoing litigation on this issue. The Medicaid Director noted changes KDHE would like to consider to improve the system: improvement of network adequacy to ensure persons are receiving needed services; implementation of required CMS regulations; removal of the requirement that people with disabilities must request a continuation of services after ten days; and changes to eligibility, such as the protected income limit (PIL). However, the Medicaid Director stated these would be changes to the program as it existed on January 1, 2018, and would be prohibited by the proviso.

With regard to concerns that the process of changing MCOs will be too expensive, the Medicaid Director stated all the programs that were identified as cost drivers (*e.g.*, community service coordination, work requirements, MediKan

initiative, and work opportunities for people with disabilities) had been moved to an implementation date of July 1, 2019, or later, to allow for legislative input during the 2019 Legislative Session. Although these items are being discussed, the Medicaid Director stated they would not go live on January 1, 2019.

The Medicaid Director stated the waiver hypotheses with the Section 1115 waiver had been adjusted to reflect four new assumptions on which favorable input was received at the November 2017 meeting of this Committee: value-based reimbursement models will fully integrate physical and behavioral health care; increasing employment independent living supports will help people become more independent; the use of telehealth will enhance access to care in rural, semi-rural, and underserved areas; and removing payment barriers to services provided at IMDs will result in improved access to service and better health outcomes.

An Assistant Revisor, Office of Revisor of Statutes, reviewed the language of the proviso with the Committee, including the requirement for legislative prior authorization for any changes in the manner in which KanCare managed care services are provided that are “substantially different” than the manner in which those services were provided on January 1, 2018, including changes to the eligibility requirements.

The Medicaid Director assured Committee members KDHE had not implemented any changes included in KanCare 2.0 and would follow the directives of the proviso. It was reported the agency was moving forward with readiness reviews to ensure the MCOs can operate the requirements of managed care in the state. The Medicaid Director confirmed the proviso is in place until July 1, 2019, and KanCare 1.x will be in place in 2018 and 2019 until the Legislature has an opportunity to consider the changes desired. The Medicaid Director noted, should the Legislature choose to include the work requirements during the 2019 Session, KDHE would have to amend the waiver to implement the work requirements. The Medicaid Director agreed with a Committee member who stated the work requirements would not be a cost reduction measure.

**Request for proposal.** At the April 23 meeting, the Medicaid Director stated the KanCare 1.x RFP, initially issued as the KanCare 2.0 RFP, was in the procurement process. The Medicaid Director stated the technical review and cost proposal review had been completed, and KDHE would be meeting with the bidders in the future. The RFP process is used to select entities to provide KanCare services and does not address the waiver application process regarding eligibility conditions for receipt of benefits.

The Secretary of Administration reported on the status of the RFP for the KanCare contract at the August 20-21 meeting. The process, which went out for bid in November 2017, went through June 2018. During this time period, there were multiple legislative hearings, discussions with the vendors, and meetings with the agencies. In June 2018, contracts were awarded to three of the six vendors after evaluation of the submitted bids. The Secretary said, following the award of the contracts, all three unsuccessful bidders (including Amerigroup Kansas Plan [Amerigroup], which provided managed care services under the initial KanCare contract) protested, which is not unusual for a contract of this magnitude. The Department of Administration, Office of Procurement and Contracts, responded to and denied the bid protests. The State was into a judicial review process as a result of a lawsuit filed by Amerigroup against the State. There were hearings in early August 2018 about whether the State could go forward with the contracts while the rest of the litigation was ongoing. The State was successful in arguing it would be detrimental to the State to stop the process at that time. The State would be moving forward under the terms of the contracts while the remaining issues were litigated. The Secretary stated the subject of the litigation was whether the process was fair to all six bidders and whether the decisions made by the state agencies and the Department of Administration were arbitrary or based on the documentation and facts available. The case was on an expedited schedule and hearings in September 2018 were anticipated. The new MCO contracts with Aetna Better Health of Kansas, Inc. (Aetna), Sunflower Health Plan, and UnitedHealthcare Community Plan of Kansas (UnitedHealthcare) will go into effect on schedule, January 1, 2019, barring a judicial ruling to the contrary. The three-year contract provides an

option to renew. The Medicaid Director added all KDHE contracts have a termination clause but do not typically impose penalties for termination.

The court issued a decision on October 12, 2018, denying Amerigroup's complaint and dismissing the case. At the November 8-9 meeting, the Medicaid Director confirmed all litigation surrounding the MCO contract issuance was completed.

Addressing concerns with the process of changing MCOs, the Medicaid Director noted at the August 20-21 meeting there was flexibility in the process to alter the program so as not to bind the next administration. The contracts with the MCOs and the Section 1115 waiver being negotiated with CMS are for three years with two one-year extensions, with the option to terminate or amend.

The Medicaid Director stated open enrollment was for all KanCare members, not just those currently enrolled with Amerigroup. Any members enrolled with Amerigroup who did not make an MCO choice at open enrollment would be enrolled with Aetna.

The Medicaid Director stated at the November 8-9 meeting KDHE was working to make the transition to Aetna as smooth as possible in order to ensure continuity of care for individuals. He shared a few key elements in the continuity of care: no reduction in the existing plan of care for 90 days, unless the member specifically requests the reduction in services; MCOs without a contract with an existing provider would have to pay 100.0 percent of the fee schedule; and existing prior authorizations for drugs or services would remain in effect for the first 90 days to allow time for the prior authorizations to be provided to the new MCO and time to reassess the members' needs. KDHE had scheduled go-live phone support sessions in January 2019 to answer member and provider questions. The Medicaid Director stated, on January 1, 2019, KDHE will go live with a new version of the provider portal that will include a prior authorization form and a single provider credentialing form for every provider to be used by the three MCOs as required by 2017 Senate Sub. for HB 2026.

At the November 8-9 meeting, the Medicaid Director provided an update on the status of the KanCare MCO contracts to begin in 2019. The Medicaid Director noted the MCO contracts were signed in July 2018, and the parties finalized an amendment to specify the contract length is for three years with two one-year extensions. The parties were working on a second amendment for 2019 rate setting. The Medicaid Director noted, if KDHE decided not to extend the new contract with an MCO beyond the three years, an RFP would need to be issued by the end of 2019 to allow sufficient time for the RFP process to run its course and have a new MCO in place prior to the end of the existing three-year contract. The Medicaid Director clarified the contract contains a termination clause that allows KDHE to terminate within 30 days but reminded Committee members of the lengthy period of decommissioning that would follow.

**MCO readiness review process.** The Medicaid Director described the readiness review process at the August 20-21 meeting, which was under way to ensure the three MCOs under the new KanCare contract would be ready to process claims and enroll providers by January 1, 2019. Public meetings for providers and members were scheduled to communicate the changes beginning January 1, 2019, and possible future changes.

### ***KanCare Utilization and Data Analytics***

At the February 16 meeting, the Medicaid Director stated KDHE had signed an agreement with the Kansas Health Institute (KHI) to process data and was building a partnership with the University of Kansas School of Medicine for more accurate data. The Medicaid Director wanted a data analytics stakeholder group by October 2018 to work on providing more accurate statistics. The Chairperson requested one member each from the House Committee on Health and Human Services and the Senate Committee on Public Health and Welfare be on the data analytics stakeholder group and suggested a specific representative.

At the April 23 meeting, the Medicaid Director stated a KDHE data analysis team review of the KanCare utilization data indicated the numbers did not match what had been previously provided to the Committee. To address this matter, KDHE obtained the services of an independent

data analyst and combined that analysis with an analysis by the KDHE data analysis review team, resulting in what the agency believed was a more accurate representation of KanCare utilization. New data analytics were provided comparing 2012 and 2016 KanCare and HCBS waiver utilization and KanCare cost comparisons.

**KDHE Analytics Division.** At the November 8-9 meeting, the Director of Finance and Informatics, KDHE, discussed the strategic goals of the Analytics Division. KDHE entered into partnership with DXC Technology (DXC) and Cerner. DXC had been the fiscal agent handling claims processing and fiscal responsibilities for some time. Cerner was fairly new to the agreement and would handle the analytical capabilities. The Director reported on the development of the Enterprise Data Warehouse (EDW) that is operational but not yet complete. Stage 1 had been completed with the transfer of data from the legacy system to the EDW, allowing for the pulling of data to do the analytics. Stage 2 would bring in ancillary data sources, such as data available to KDADS to make Medicaid eligibility determinations. Public health data could also be brought into the EDW at a later date to provide a more complete picture of the Medicaid beneficiaries as a whole. Some of the analytical goals developed during the KDHE quarterly strategic meetings with DXC and Cerner were provided.

The Medicaid Director provided data comparing KanCare utilization for 2017 to pre-KanCare (2012) for all KanCare programs and HCBS waivers. The Medicaid Director provided some possible solutions to address the 6.0 percent decline in KanCare utilization for dental services from 2016 to 2017. Committee members were reminded that Medicaid covers only dental services for children, with adults qualifying only for emergency extractions and any other adult dental services being provided as a value-added benefit by the MCOs.

**KanCare Meaningful Measures Collaborative (KMMC).** At the April 23 meeting, a representative of KHI commented on collaborative efforts between KHI and KDHE to provide staffing and data analytics, the KMMC. The Chairperson suggested an outline of this collaborative initiative be considered at the

Committee's third-quarter meeting to allow for Committee input on the collaborative.

A roundtable discussion of the KMMC data initiative, led by a representative of KHI, was held at the August 20-21 meeting. The initiative includes 40 diverse groups, all of whom have an interest in the success of KanCare. The endeavor would, from the data available, develop a data network to include transparency, performance measures, and other metrics that would increase the usefulness of the broad spectrum of information. The purpose is to create a data repository to make information more readily available and useful. The scope of the project was presented. The group includes consumers, stakeholders, state agencies, and the research community.

For the group to function efficiently, an Executive Committee was established. The Executive Committee members stated the plan is to upgrade the technology, increase training in order to accomplish the goals, build a process that is sustainable, and then standardize the data. Additionally, two work groups were formed—the Data Resource Work Group and the Stakeholder Work Group—to provide an opportunity for additional focused input in the work of the KMMC. A list of members for the Executive Committee and each of the work groups was provided. Members of the Executive Committee and the work group members shared the focus of the respective groups.

The Secretary of Health and Environment and the Secretary for Aging and Disability Services stated, respectively, KDHE and KDADS fully support the initiative and noted the Executive Committee played an important role in balancing the desires of stakeholders and providing focus for the group.

A KHI representative summarized the presentations by noting the importance of proceeding in a timely manner and expressed the desire to build a system that will be a model for the country. The KHI representative noted funding sources had yet to be established, but the system should not require expensive maintenance. The importance of access to state infrastructure was stressed and a public/private partnership was

suggested. The KHI representative stated the group would maintain an arms-length process with state agencies and no budget had been proposed yet for the group. A Committee member commented costs related to the project could affect agency budgets more than the State General Fund (SGF). Further meetings of the group were planned, and the group expected to make an official presentation to the Legislature and update the Committee at the beginning of 2019. The Chairperson also requested regular reports to the Committee.

At the August 20-21 meeting, the Commissioner for Community Services and Programs, KDADS, provided the timeline for consideration and implementation of proposed metrics for HCBS quality measurements, which would be incorporated into the KMMC.

At the November 8-9 meeting, a KHI representative outlined the progress of the KMMC. The representative stated, by the end of 2018, the working groups would provide basic inventory and a data map, and, early in 2019, would have additional details for the data map and would provide a priority list of measures. In-kind funding was being provided by participating organizations and state agencies; other funding came from the REACH Healthcare Foundation. A beta KMMC website would be developed under the leadership of the Kansas Foundation for Medical Care (KFMC).

## **Clearinghouse**

### ***Medicaid Eligibility Backlog***

At the February 16 meeting, the Medicaid Director informed the Committee, as of February 7, 2018, the number of unprocessed Medicaid applications past the 45-day requirement for an application to be processed was 5,407. At the April 23 meeting, the reported number of unprocessed applications (both active and pended) at the end of March 2018 past the 45-day processing requirement was 4,854 (257 Family Medical, 4,241 Elderly and Disabled, and 356 Long Term Care [LTC]). Additionally, there was a backlog of reviews past the 45-day requirement as follows: 539 Family Medical, 1,053 Elderly and Disabled, and 728 LTC. At the August 20-21 meeting, the reported number of unprocessed applications (both



active and pending) at the end of July 2018 past the 45-day processing requirement was 1,450 (673 Family Medical, 349 Elderly and Disabled, and 428 LTC). The review backlog past the 45-day requirement was as follows: 364 Family Medical, 30 Elderly and Disabled, and 90 LTC. At the November 8-9 meeting, the reported number of unprocessed applications (both active and pending) at the end of October 2018 past the 45-day processing requirement was 825 (151 Family Medical, 335 Elderly and Disabled, and 339 LTC). The review backlog past the 45-day requirement was as follows: 59 Family Medical, 29 Elderly and Disabled, and 22 LTC. The Medicaid Director provided charts to the Committee showing the numbers of unprocessed applications past 45 days by category and by month from January 2018 to October 2018.

### ***Oversight of Maximus***

**CAP and innovations.** At the February 16 meeting, the Medicaid Director stated CAP tasks were 92.0 percent completed. The metrics built into the contract with Maximus were discussed. The Medicaid Director also noted, if Maximus had not resolved the issues with the Clearinghouse by June 1, 2018, liquidated damages for contract noncompliance would be retroactive to January 20, 2018.

The Medicaid Director reported at the April 23 meeting daily calls by KDHE to Maximus regarding the Clearinghouse deficiencies had brought some improvement. The Medicaid Director stated a budget request was made for 25 additional positions to assist in improving response time for applications. A significant drop in Family Medical reviews resulted in further work with Maximus. Changes in the eligibility processing system were expected to result in better progress with the Elderly and Disabled programs, which continued to have a large number of applications. The numbers of LTC applications and reviews had trended down. The expansion of the Liaison Pilot program to assist LTC facilities with application resolution was ongoing, with the expectation all 360 LTC facilities would soon be included in the program. Nursing home survey results provided showed a significant increase in satisfaction with the Liaison Pilot program.

The Medicaid Director stated KDHE had developed an eligibility charter with key priorities for the KanCare program. Among the measures being considered by KDHE if Maximus did not meet the contract expectations by June 1 was the possibility KDHE would assume portions of the Maximus responsibilities in those areas where KDHE would be able to provide better service with the least disruption to beneficiaries. The Medicaid Director listed several eligibility innovations expected to enhance the effectiveness of the eligibility process.

**Maximus contract.** At the August 20-21 meeting, the Secretary of Health and Environment reported the contract agreed to with Maximus, which was not then signed, would extend the partnership through 2019. Under the terms of the contract, KDHE would assume responsibility for training and quality beginning January 1, 2019, and KDHE would consider directly managing other aspects of application processing in 2019. The contract would cost KDHE an additional \$2.0 million, all from the SGF, but KDHE had no budget authority for the increased cost of the Maximus contract. The Finance Council would have to agree to fund the added cost.

In response to questions about the contract, the Secretary stated, in the future, Maximus would be accountable for fewer metrics; in the short term, it did not appear possible to make the Maximus decision cost neutral; it did not make sense to bring in a third party to assume Medicaid application processing, and the State is not in a position to take on the task; as part of the negotiations, up to \$10.0 million in concessions would be received; Maximus applied staff beyond the requirement in the prior contract; beyond 2019, KDHE would consider a new contract with a different vendor; and the \$2.0 million increase in the Maximus contract for FY 2019 includes funds for KDHE to prepare for its additional responsibilities and payment to Maximus.

The Secretary acknowledged continued eligibility backlogs at the Clearinghouse at the November 8-9 meeting. The Secretary explained the contract with Maximus had been finalized and would expire June 30, 2019, with a six-month option for the latter half of 2019. Beginning on January 1, 2019, under Phase I, the KDHE Division of Health Care Finance would assume

responsibility for the training and quality functions of the Clearinghouse staff. Phase I would also require subleasing additional space and hiring 27 employees. The Secretary stated the Medicaid eligibility application backlog was at its lowest point since the State entered into a contract with Maximus in 2013, but much work remained to be done. No decision had been made regarding KDHE's future relationship with Maximus.

The Secretary further stated KDHE recommendations for Phase II are pending approval from the Governor-elect. Decisions would need to be made quickly to enable the State to assume the additional responsibilities before the expiration of the Maximus contract. Under the proposed Phase II, the KDHE Division of Health Care Finance would assume the responsibility for Elderly and Disabled and LTC Medicaid determinations from Maximus on July 1, 2019. An additional 241 state employees would need to be hired to begin training on April 1, 2019, to make determinations on these more complex cases. Phase II would require the State to lease an additional facility to house the additional employees. As of July 1, 2019, Maximus would focus solely on processing Family Medical and CHIP applications.

The liquidated damages, as of the November 8-9 meeting, that KDHE had been able to assess on Maximus as a result of the contract negotiation were reported.

## **Opioid Policies**

The KDHE Chief Health Officer and Medicaid Medical Director (Medical Director) reviewed Medicaid opioid policies at the February 16 meeting. The Medical Director stated a new opioid use for pain management prior authorization was approved by the Drug Utilization Review (DUR) Board in January 2018 and was to be implemented on May 1, 2018.

At the April 23 meeting, the Medical Director said policies were being developed to address short-term and chronic opioid users. Additionally, Kansas was selected for the Medicaid Innovation Accelerator Program to address opioid use.

The Medical Director stated at the August 20-21 meeting that a Medicaid opioid strategy for

pain management was developed, and a Substance Use Disorder Task Force (Task Force) was created and had met five times since April 2018. Details regarding the pain management program were provided, indicating a new push to make the individual more functional, but not necessarily pain free. At the November 8-9 meeting, the Medical Director reviewed a few of the 34 high-priority recommendations of the Task Force, which included creating a central authority to develop goals, objectives, and processes; increasing provider training; and requiring provider registration in Kansas Tracking and Reporting of Controlled Substances (K-TRACS), using K-TRACS to educate providers, and obtaining funding to continue K-TRACS. The Medical Director confirmed the Task Force recommendations included the expansion of Medicaid, and the Task Force report was provided to the Governor on September 1, 2018. The Director indicated some of the recommendations could be instituted by executive order, but Medicaid expansion was not one of them.

There was discussion at the November 8-9 meeting as to whether there should be a requirement for mandatory use of K-TRACS in addition to mandatory K-TRACS registration. The Medical Director agreed there should be mandatory use of K-TRACS, but KDHE would be proceeding with mandatory registration first and then would consider making use mandatory for those providers who prescribe controlled substances. Another member recommended caution for KDHE as it moves forward with mandatory K-TRACS registration and listed several considerations that would need to be addressed. A Committee member urged the Legislature to find sufficient funding to continue the program and update it as needed for effectiveness since long-term funding for K-TRACS has not been solidified.

The Medical Director also discussed the Medicaid opioid policy and prior authorization criteria for opioid products indicated for pain management and KDHE's use of the Centers for Disease Control and Prevention guidelines regarding limitations on the prescribing of opioids.

## **Anti-psychotic Drugs for Dementia Patients**

At the February 16 meeting, the Medical Director discussed the goal of reducing the use of anti-psychotic drugs in patients with dementia. A prior authorization draft was proposed to the Mental Health Medicaid Advisory Committee on February 13, 2018, and once approved would be proposed to the DUR Board for final approval. At the April 23 meeting, the Medical Director stated a draft policy was being considered to reduce anti-psychotic drug use for dementia patients.

At the August 20-21 meeting, the Medical Director stated the off-label use of anti-psychotic drugs in the Medicaid LTC population for the non-dual eligibility group 65 years of age and older had dropped by 28.0 percent. New DUR Board-approved criteria to address anti-psychotic drug use for dementia patients will require a diagnosis for approval of anti-psychotics in patients 65 years of age and older in the LTC non-dual eligibility group setting.

At the November 8-9 meeting, the Medical Director stated the prescribing of anti-psychotic drugs requires a proper diagnosis or a risk of imminent harm to the patient or others. The Medical Director noted adequate staffing levels in LTC facilities could minimize the use of anti-psychotic drugs, and low Medicaid reimbursement rates threaten the survival of some nursing homes.

The Secretary for Aging and Disability Services stated at the November 8-9 meeting Kansas ranked 51<sup>st</sup> in the nation in 2011 in the use of anti-psychotic drugs in nursing facilities; Kansas now ranks 38<sup>th</sup> in the nation; and continued improvement was expected based on the activities undertaken.

## **Step Therapy Cost Avoidance**

The Medical Director noted at the November 8-9 meeting the state's Medicaid program cost avoidance through the use of step therapy for all implemented step therapies from September 2016 through September 2018 was \$7,085,665.

## **Claims Processing**

In response to a Committee member's question at the February 16 meeting regarding

reports on claims processing being skewed by the large number of pharmacy claims that are processed instantaneously, the Medicaid Director indicated he would amend the reporting template to better identify the data reported. At subsequent meetings, KDHE provided data that differentiated between instantaneously approved pharmacy claims and all other claims.

## **Managed Care Organizations' Financial Update**

KDHE provided testimony indicating the adjusted net income (loss) of the MCOs through June 2018 was as follows: Sunflower, \$3,440,034; UnitedHealthcare, \$2,447,025; and Amerigroup, \$15,457,536.

## **KanCare Audit Report**

A Principal Auditor, Legislative Division of Post Audit (LPA), reviewed a recent audit of KanCare at the August 20-21 meeting. The audit addressed a single question: "What effect did transitioning to KanCare have on the State's Medicaid costs, the services provided, and client health outcomes?" The Principal Auditor stated, during the first year of KanCare (2013), state payments to the three MCOs were about \$400 million less than what the MCOs paid in provider claims; however, by 2015, state payments to the MCOs exceeded what the MCOs paid in provider claims by about \$400 million. State payments to the MCOs grew from \$2.1 billion in 2013 to \$3.0 billion in 2016. In regard to Medicaid services during the same period, KanCare increased the use of primary, dental, behavioral health, and nursing facility care, but had little to no effect on inpatient care. The Principal Auditor noted that because of insufficient data, KanCare's effect on Medicaid health outcomes was inconclusive. The Principal Auditor also noted ancillary findings, citing the issue of timeliness and accuracy of claim payments. The audit offered one recommendation: KDHE should take steps to ensure accurate claims data. To accomplish this, the audit recommended KDHE sample Medicaid claims to determine whether interest penalties are inflated and require reimbursement.

## **KDHE Response to KanCare Audit Report**

The Medicaid Director responded to the LPA audit, noting capitation payments include more

than the cost of services. As an example, the Medicaid Director stated a 7.0 percent administrative allowance and a 1.0 percent profit allowance are added to the cost of services, as are Supplementary Medical Education and Health Care Access Improvement Program costs required by CMS based upon utilization. In addressing the approximately \$400 million less in payments to the MCOs in 2013 than were paid by the MCOs in provider claims, the Medicaid Director stated risk corridor payments had to be made because the capitation rates were not set up appropriately at the onset of KanCare. With regard to the approximately \$400 million more in state payments to the MCOs in excess of claims paid to providers by the MCOs, the Medicaid Director explained the excess in state payments was actually about \$80 million when the required portions that make up the capitation payments, other than the cost of services, were taken into account. Additionally, the failure to process Medicaid eligibility renewals added \$60.4 million in 2015 to the cost. The end result is \$19.6 million in excess of claims paid, which is reasonable if the MCOs are managing the KanCare population well.

The Medicaid Director also noted, beyond the demographics of the Medicaid population, factors such as changes in CMS incentives and regulations, legislative action, and fee schedule increases could also drive the expenditures of a program. In order to definitively say the program itself was what increased the cost, if there was a cost increase, these other factors would have to be tracked and controlled.

In addressing the audit report with regard to service use, the Medicaid Director agreed with the report, except for the data related to inpatient use. The Medicaid Director noted there are data issues with Medicaid and provided examples at the federal level, stating the data CMS receives indicates CMS cannot manage the program and outcomes either. He noted CMS has said most Medicaid data across the states is not very good. He stated KDHE has processes in place to ensure quality data. Another issue the Medicaid Director mentioned was the difficulty of working with encounter data because of the reprocessing of claims.

In addition, the Medicaid Director noted there have been system and personnel changes since the

audit was performed and stated the system from which LPA was given data is not the same as that then being used, and KDHE had also moved to a new data warehouse system. To ensure quality data, the Medicaid Director said there are pay-for-performance measures in place for MCOs.

The Secretary of Health and Environment noted the unfortunate timing of the audit and stated, with the current KDHE leadership team in place, many of the audit recommendations were under way before the audit report was available. Upon completion of the audit, the Secretary noted conversations with the LPA audit team during which KDHE expressed concern over the possible impact of releasing an audit with conclusions that were in question. When the audit was published, the lead articles in the leading health care news periodical stated the Kansas Medicaid information was not credible. These articles were published at the same time KDHE was negotiating with Maximus about contract non-performance. The Secretary stated part of the reason KDHE determined not to sue Maximus was the State would have difficulty proving its case in court with the reliability of the state data publicly in question.

### **Acting Medicaid Inspector General**

At the November 8-9 meeting, the Acting Medicaid Inspector General, who was awaiting Kansas Senate confirmation, was introduced. The Office of the Medicaid Inspector General will be established under the Kansas Attorney General. The Medicaid Inspector General duties were assumed by the Acting Medicaid Inspector General after the Senate Confirmation Oversight Committee voted in favor of the nomination on October 9, 2018. The Acting Medicaid Inspector General described the duties of the office and noted the requirement the Medicaid Inspector General provide an annual report to the Kansas Legislature.

### **KanCare Ombudsman**

The KanCare Ombudsman provided written-only updates at each of the Committee meetings on the services provided by the Office of the KanCare Ombudsman.

The number of contacts for the fourth quarter of 2017 was 1,040. The number of 2018 first-quarter contacts was 1,214 and the number during the second quarter was 1,059. In the third quarter of 2018, there were 1,085 contacts. The average quarterly initial contacts for 2018 was trending 18 percent above the 2017 quarterly average and 29 percent above the 2016 quarterly average. Two satellite offices had opened, approximately 20 hours per week each, to answer phones and help beneficiaries. Liaison training to community-based organizations was provided at six areas in Kansas; three were in western Kansas. Additionally, new data were available in the third quarter of 2018 in the form of initial contacts by region by quarter.

### **Presentations on KanCare from Individuals, Providers, and Organizations**

Written and oral testimony was presented at each quarterly Committee meeting. Some individuals and organizations stated appreciation for the help and services provided by the MCOs and relationships developed with the MCOs that have allowed problematic issues to be addressed and resolved quickly.

Other conferees expressed gratitude for the following: KDHE's rescission of a policy that would have disallowed federally qualified health centers from dispensing discounted drugs to managed care enrolled patients; creation of the Nursing Facility Liaison Pilot Project; inclusion of recommendations for comprehensive dental benefits for adults in KanCare 2.0; MCO efforts to develop innovative approaches to health care, such as the integration of best practices into clinic workflow; a change in the policy to allow a HCBS waiver recipient to automatically continue to receive services while going through the grievance and appeals process; assistance given to one provider for the provision of Applied Behavioral Analysis (ABA) services; the 7.0 percent rate increase for HCBS waiver programs; administrative case management; support from KDHE and KDADS for local community-based services and supports coordination; the development of quality measures and metrics for KanCare; the work of the Employment System Change Coalition dedicated to expanding employment opportunities for those with disabilities; KDHE's cooperative efforts in

improving the KanCare eligibility process; positive responses received from KDADS regarding unexpected changes in the interpretation of regulations; and the expanded definition of "brain injury" that addressed a gap in services.

The following is a summary of the concerns and suggested solutions presented by conferees.

### **Concerns**

**Behavioral health.** The current system does not use all the tools available to address the behavioral health crisis, and limited options for addressing the needs of individuals with behavioral health issues.

**Dental care.** Difficulty in finding a dental provider who accepts Medicaid, particularly oral surgeons, due primarily to the inadequate reimbursement rate.

**Clearinghouse.** Ongoing poor communication with the Clearinghouse and erratic service in processing applications; long delays in processing Medicaid applications resulting in nursing facility funding shortfalls, forced reductions in staff to cover cash flow problems, and the refusal of admission to elders in need of care, which in turn continues to harm the availability and quality of care for seniors; problems resolving renewal applications; and termination of coverage because of missing documentation after receipt of letters indicating "no further action was necessary" if the client did not want to change MCOs.

**Application backlog.** The backlog and the uncompensated care resulting from the mishandling of nursing home eligibility applications.

**Supplemental Nutrition Assistance Program (SNAP) benefits.** Individuals with disabilities are regularly removed from SNAP eligibility.

**Targeted case management (TCM).** The shift from TCM has resulted in reduced services for consumers; a need for more emphasis on self-directed care; concern the proposed KanCare 2.0 separates TCM from day and residential services; concern for the future of TCM within the managed

care structure; inadequacies of the care coordination approach; and the MCO care coordinators are removed from personal knowledge of what is required to provide long-term services and supports (LTSS) to individuals with intellectual and developmental disabilities.

**Claims.** Client and provider problems in resolving financial claims; extrapolation of provider error rates, requiring large repayments and resulting in 100.0 percent prepayment audits of the reviewed claim code; coding errors continue to result in denials for those transitioning from home services to nursing home facilities; and problems in receiving payment of claims due to system errors.

**Credentialing.** Excessively long credentialing process and a lack of uniform credentialing across MCOs.

**Nursing facility surveys.** Application of “immediate jeopardy” finding; lack of adherence to a rigid inspection process could result in harm to older adults in LTC facilities; ineffectiveness of surveyors due to inadequate staffing; surveyors with limited experience; high turnover rates; infrequent inspections; KDADS’ reinterpretation of existing licensure regulations that have resulted in the threat of sanctions; and surveyors ignoring the former interpretations of regulations in effect for 20 years.

**Anti-psychotic drugs.** Overuse of anti-psychotic drugs for dementia patients.

**HCBS.** Anticipated client care not provided; difficulties in obtaining attendant home care; less care and fewer services received under the managed care system; no new licenses for HCBS in Johnson County for the past four years; increasing overhead and inadequate payments provided for Medicaid patients in light of the complexity of the process; lack of integrated services; low reimbursement rates and burdensome paperwork requirements for KanCare and Medicare have resulted in some home health and hospice providers closing their doors, jeopardizing patient care for a number of service providers; delays in obtaining MCO authorization for home care; inability for providers to speak with MCO case managers to provide communication of

care updates for home health patients; difficulty in obtaining durable medical equipment for individuals; Medicaid’s institutional bias; low wages and inadequate access to training for service attendants; and concern for the weakening of provider networks, especially the shortage of home care workers.

**KanCare oversight and policy guidance.** Concern with the adequacy of state resources, both staff and funding, to provide oversight and guide policy for KanCare.

**Protected income limit (PIL).** Allowing an individual under an HCBS waiver to keep only the \$727.00 per month PIL plus a \$20.00 disregard is insufficient for living expenses and limits the individual’s ability to live a safe, healthy life.

**Traumatic Brain Injury (TBI) waiver.** Requirement that eligibility for TBI waiver services not begin until 16 years of age is artificial, prevents access to waiver services for younger individuals, and places a financial burden on families; the brain injury definition under the TBI waiver does not include “acquired” brain injury and prohibits the inclusion of all brain-injury survivors, although there is no difference in the needs and care for individuals with TBI and acquired brain injury; difficulty of finding any assistance from a direct service worker or a personal care attendant because of the low wage offered through KanCare for agency-directed workers; significant shortage of ABA service providers in the state; and few ABA service providers able or willing to work with KanCare due to ongoing issues and low reimbursement rates.

**KanCare 2.0.** Proposed changes pose a significant danger to low-income families, especially the lifetime limits proposed; uncertainty surrounding the proposal; and case managers being separated from those receiving services and providers not receiving clarification from the State or from MCOs on the contracts and the effect they will have on Kansans.

**Legislative proviso.** Promises to refrain from making any changes to the existing KanCare system as required by the legislative proviso have not been met.

**State funding cut.** Effect on all centers for independent living except the Topeka Independent Living Resource Center (TILRC).

**Foster care.** Increase in the number of children in foster care needing services.

**Psychiatric residential treatment facilities (PRTFs).** Decrease in the number of licensed beds in youth PRTFs and shorter lengths of stay.

**KanCare Ombudsman program.** Program is not large enough to meet the needs of clients, including legal advocacy.

**Violation of consumer choice and self-direction.** The requirement that only an MCO may refer an individual to the Aging and Disability Resource Center (ADRC) for initial assessment to determine eligibility for HCBS services when such referrals could previously be made by individuals or providers, and MCOs denying some consumers the option to move from a nursing facility back into the community without a third party, such as a nurse from the MCO, approving the transition.

**Fingerprint-based background check.** The requirement for fingerprint-based background checks eliminates a consumer's ability to make a final decision whether to hire someone, causes delays in hiring service workers, and creates problems in self-directed health care.

**Transition from school to community.** The need to develop programs to assist individuals with disabilities to transition from school to community.

**Unfunded requirements placed on providers.** Additional unfunded requirements MCOs place on health care providers.

**Administrative case management RFP.** RFP not yet released by KDADS.

### ***Recommended Solutions***

Elimination of the PIL to receive HCBS or put in place a long range plan to gradually increase the PIL until it is eliminated; re-institution of the Letters of Voluntary Contribution discontinued by KDHE that were sent to applicants who were

almost eligible for Medicaid notifying them they were less than one month away from spending down to the required asset level and could reach eligibility mid-month; reconsideration of the Committee recommendation to give nursing facility surveyors more latitude in interpreting deficiencies; additional oversight to address reinterpretation of existing nursing facility licensure regulations that have resulted in the threat of sanctions or surveyors ignoring former interpretations in regulations; return to TCM as an option for all waiver populations and place more emphasis on self-directed care; expansion of the availability of behavioral health services; consideration of the solutions offered in the Governor's Behavioral Health Services Planning Council's Children's Continuum of Care Task Force Report and Recommendations; increase the intensity of the oversight of the eligibility process; increase in provider reimbursement rates to accommodate increasing nursing facility overhead and the inadequacy of reimbursement provided for Medicaid patients; increase in wages for agency-directed direct service workers and personal care attendants (\$9.00 per hour) to the upper-level recommendation of \$11.04 per hour available to workers paid through self-direction; modify the definition of "brain injury" under the TBI waiver to include "acquired" brain injury or to eliminate the word "traumatic" and remove the arbitrary age limit requirement of 16 years of age or older to receive services; increase in stakeholder involvement; delay KanCare 2.0; expand KanCare; create an independent ombudsman program to provide legal advice on the appeals process and to advocate on behalf of the individual; make the Nursing Facility Liaison Pilot Project permanent; provide direct oversight of KanCare by the Legislature; address fundamental flaws in how ABA services are structured under KanCare, which would require amendment of the Medicaid State Plan; expand the TBI provider network and increase the Medicaid base rates for TBI services; create an exception to the fingerprinting requirement when writing the waiver renewals in 2019 for persons self-directing services on the physical disability (PD), frail elderly (FE), and TBI waivers; exclude LTSS from the medical model for health services; provide sufficient funding for KanCare programs and providers; provide timely quality care assurance for frail elderly adults and adults with disabilities in adult care facilities; eliminate survey delays in

nursing and assisted living facilities; continue reducing the misuse and overuse of anti-psychotic drugs to nursing facilities; improve workforce support to address the shortage of personal care attendants; and comply with the CMS Settings Final Rule (79 CFR 2947; January 16, 2014).

**Conferees.** Private citizens and representatives of the following organizations and providers testified or provided written-only testimony before the Committee: Alliance for a Healthy Kansas and Health Reform Resource Project; Brain Injury Association of Kansas and Greater Kansas City; Behavioral Health Association of Kansas; Case Management Services; Children's Alliance of Kansas; communityworks, inc. and Mind Matters, LLC; Country Club Estates; Disability Rights Center of Kansas; Evergreen Community of Johnson County; GrassRoots Advocates for Independent Living; Integrated Behavioral Technologies, InterHab; Jenian, Inc.; KanCare Advocates Network; Kansas Action for Children; Kansas Adult Care Executives Association; Kansas Advocates for Better Care; Kansas Association for the Medically Underserved; Kansas Association of Area Agencies on Aging and Disabilities; Kansas Association of Centers for Independent Living; Kansas Christian Home; Kansas Council on Developmental Disabilities; KFMC; KHI; Kansas Health Care Association and Kansas Center for Assisted Living; Kansas Home Care and Hospice Association; Kansas Hospital Association; Kansas Medical Society; LeadingAge Kansas; Leavitt Partners; Leukemia and Lymphoma Society; National Multiple Sclerosis Society; Oral Health Kansas; Salem Home; Self Advocate Coalition of Kansas; Solomon Valley Manor; Southeast Kansas Adult Care Executive Association; Southeast Kansas Independent Living Resource Center; Three Rivers, Inc.; TILRC; Topeka Pediatrics and Kids First Urgent Care; Villa St. Francis; and Windsor Place.

### **Managed Care Organization Testimony**

Representatives of all three MCOs provided testimony and responses to presentations by individuals, organizations, and providers at each meeting.

### ***UnitedHealthcare Community Plan of Kansas***

Representatives from UnitedHealthcare presented a new transparency dashboard, Medicaid Insights and Transparency Initiative, managed by a third-party non-profit organization, that is designed to provide up-to-date information for the Committee. Representatives of UnitedHealthcare and the Johnson County Mental Health Center (MHC) described a pilot partnership between the MHC and UnitedHealthcare that links peer drivers with behavioral health patients. The MHC representative reported the program has improved quality-of-life outcomes, as well as lowering overall healthcare expenditures. A representative of UnitedHealthcare explained its Medicare Advantage Dual Special Needs Plan (DSNP), which is a Medicare Advantage prescription drug plan for those individuals who are dual eligible. The DSNP covers additional services not covered by Medicare or KanCare at no cost to the recipient. Presently, the DSNP serves 14 Kansas counties, representing about 50.0 percent of the total dual-eligible consumers in the state. A UnitedHealthcare representative stated, by the end of 2018, the program would provide \$40.0 million in medical and supplemental benefits and services outside of KanCare to approximately 4,000 consumers; that number is expected to grow to \$55.0 million in 2019. Pending CMS approval, UnitedHealthcare hopes to expand the DSNP in 2020 sufficient to cover the counties in which 85.0 percent of the Medicare/Medicaid dual-eligible consumers live.

### ***Sunflower Health Plan***

A representative from Sunflower reviewed Healthcare Effectiveness Data and Information Set Data and noted value-added benefits, HCBS, and extra services. The representative illustrated caregiver collaborations with a Vela Pilot Program that connects service providers with clients through a dedicated phone system and shared a video illustrating community-based collaboration. A representative from Sunflower commented the MCO has been partnering with the Kansas Association for the Medically Underserved to collect aggregate data on social determinants in order to enhance services to members. The Sunflower Medical Director introduced a new resource, Patient Analytics, and provided



information showing improved quality of care for children and adolescents. A Sunflower representative noted innovative strategies that foster integration, including telehealth and introduction of managed LTSS (MLTSS), as effective ways to expand services. Sunflower's investments in community health included more than \$91,000 in non-Medicaid in-lieu-of services and \$285,000 in Medicaid-covered services that kept members from being placed in nursing facilities. Approximately \$1.5 million in value-added benefits were provided from August through September 2018. A \$110,000 grant was used for screening and access to mental health services. A Sunflower representative cited improvements made to KanCare, including those made by the KanCare Improvement Working Group in which Sunflower participated (e.g., standardized credentialing, prior authorizations, and appeals processes; a proactive claims process; and member advisory groups). Sunflower also collaborated with the Windsor Place telehealth initiative, Project Echo to launch in 2019 to focus on serious emotional disturbance (SED) telehealth services, and other advancements in integrated services. A Sunflower representative noted higher Medicaid reimbursement rates are needed to attract providers to meet the TBI service needs in Wichita.

### ***Amerigroup Kansas Plan***

A representative from Amerigroup reviewed the activities and services provided and highlighted operational performance, provider and consumer engagement, and quality of service. Community relations were illustrated with a discussion of a \$60,000 grant to the Iroquois Center for Human Development in Greensburg, Kansas, that allows the agency to expand and improve housing for special-needs adults. An Amerigroup representative introduced representatives from Finity to explain Amerigroup's Health Intelligence Program, which is an incentive program to tie members into responsible health care. An Amerigroup representative outlined the transition and decommission plans to ensure member continuity of care with the end of the Amerigroup KanCare contract. On-site leadership staff will be in place through March 31, 2019, to address run-out of claims activity and encounters, reporting needs, and anything else that needs to be addressed after

the contract runs out. Transition and plan closure will occur on December 31, 2018, and, due to timing requirements, select operations (claims, appeals, and encounters) will continue through the first quarter of 2020.

### **Medicaid Managed Care Study**

At the February 16 meeting, a representative from Leavitt Partners reported on the second phase of the Medicaid Managed Care Study. The representative reviewed the three phases: cost and utilization patterns, which was presented to the Committee on November 28, 2017; measures of quality and access, presented to the Committee at the February 2018 meeting; and a report on performance improvement projects and other activities undertaken by the MCOs that was scheduled for release on February 20, 2018. The representative noted the study was not based on primary research by Leavitt Partners, but, rather, Leavitt Partners relied primarily on data from the KFMC, the State's external quality review organization and Section 1115 waiver demonstration evaluator; data from the National Committee for Quality Assurance; and quarterly reports from KDHE. The representative compared this data with national statistics and commented on the MCO's plans for performance improvements. The Kansas Association of Medicaid Health Plans paid for the study. The Leavitt Partners representative noted the data do not yield to cause-and-effect conclusions. Committee members expressed skepticism about exclusive use of in-house information, indicating they had expected more third-party assessments.

### **Human Services Consensus Caseload**

Staff from the Division of the Budget, Kansas Department for Children and Families, KDHE, KDADS, and KLRD met April 17, 2018, to revise the estimates on human services caseload expenditures for FY 2018 and FY 2019, and November 1, 2018, to revise estimates on caseload expenditures for FY 2019 and to develop estimates for FY 2020 and FY 2021. The estimates include expenditures for Temporary Assistance for Needy Families, the Reintegration/Foster Care contracts, and KanCare Regular Medical Assistance and KDADS Non-KanCare.

## ***Spring Estimate***

The combined estimate for FY 2018 and FY 2019 is an all funds increase of \$108.0 million and a SGF increase of \$109.1 million above the Governor's recommended budget. The FY 2018 estimate for all human service caseloads is \$3.0 billion from all funding sources, including \$1.0 billion from the SGF. The FY 2019 estimate is \$3.4 billion from all funding sources, including \$1.2 billion from the SGF.

## ***Fall Estimate***

The estimate for FY 2019 is an increase of \$121.6 million from all funding sources and an increase of \$54.6 million from the SGF when compared with the budget approved by the 2018 Legislature. The estimate for FY 2020 is \$3.6 billion from all funds, including \$1.3 billion from the SGF. For FY 2021, the estimate for all human service caseloads is \$3.7 billion from all funding sources, including \$1.3 billion from the SGF. The combined estimate for FY 2019, FY 2020, and FY 2021 is an all funds increase of \$277.6 million and a SGF increase of \$85.1 million.

## ***Quarterly HCBS Report***

At each Committee meeting, written testimony was provided by KDADS on the average monthly caseloads and average census for state institutions and LTC facilities. A representative from KDADS provided information on savings on transfers to HCBS waivers and the HCBS Savings Fund balance. (See Appendix A for the 2018 report.) The Secretary for Aging and Disability Services stated the average daily census for the Kansas Neurological Institute and the monthly Medicaid average eligibility caseload for LTC facilities have remained steady for the past six years; the average daily census has decreased for Parsons State Hospital and Treatment Center (PSHTC).

The KDADS Commissioner of Community Services and Programs compared self-directed services with agency-directed services; summarized data on the HCBS waivers, including actual MCO paid amounts; projected the MCO capitation rate cost breakout; and provided a PACE update. The Commissioner also provided data on the average monthly caseloads for HCBS waivers, HCBS Money-Follows-the Person, LTC facilities, and state institutions; average census for

state institutions and LTC facilities; and average length of stay for PRTFs. The Secretary for Aging and Disability Services shared results from the resident satisfaction survey for Kansas nursing homes and data indicating progress in reducing the use of anti-psychotic drugs in nursing homes.

At the November 8-9 meeting, the KDHE Medicaid Director stated the CAP for MLTSS was completed in October 2018, which was confirmed by the KDADS Commissioner of Home and Community Based Services. Additionally, the Commissioner stated the operational items under the 372 CAP (form for annual report on HCBS waivers) have been jointly completed by KDADS and KDHE; the 372 CAP will remain open to meet the CMS ongoing monitoring requirements.

## ***HCBS Waiting Lists Update***

At the November 8-9 meeting, the KDADS Commissioner of Community Services and Programs reported as of October 12, 2018, the HCBS Intellectual/Developmental Disability (I/DD) waiting list had 3,785 individuals and 9,107 individuals were receiving services, and 1,600 individuals were on the HCBS PD waiting list and 5,872 individuals were receiving services. In calendar year 2018, 150 offers for HCBS services were made to individuals on the I/DD waiting list and 1,175 offers were made to individuals on the PD waiting list.

## ***Autism Waiver***

The KDADS Commissioner of Community Services and Programs stated at the April 23 meeting that KDADS has reconvened the Autism Advisory Council, with the goal of providing KDADS with recommendations on topics, including appropriate training guidelines for autism service providers and growing the provider network. The Autism Advisory Council has identified other areas of interest, including streamlining enrollment and billing processes for providers and increasing reimbursement rates. KDADS is working collaboratively with KDHE and the MCOs to address network issues for those receiving services *via* the Autism waiver. At the November 8-9 meeting, the Commissioner stated there were 265 proposed recipients for the Autism waiver as of September 30, 2018.

## ***HCBS Policy Updates***

The KDADS Commissioner of Community Services and Programs outlined HCBS policy updates, which included developing two Person-Centered Service Plan policies reflecting CMS and stakeholder feedback, one focused on I/DD services and the other on the remaining waiver populations.

## ***Survey on Increase in HCBS Provider Rate***

At the August 20-21 meeting, the Commissioner of Community Services and Programs stated, in response to a legislative request, KDADS would send a survey to providers in late August 2018 to understand how the HCBS provider rate increase for FY 2018 and FY 2019 affected direct service workers. At the November 8-9 meeting, the Commissioner stated the survey would be sent to providers by November 15 and results would be available in January 2019.

## ***Network Adequacy Standards***

At the April 23 meeting, the KDADS Commissioner of Community Services and Programs reported KDADS is proposing four types of network adequacy standards for HCBS and Behavioral Health services. KDADS and KDHE will collect monthly and quarterly data sets from the MCOs, claims data, and the Electronic Visit Verification System to track performance against the standards.

## ***RFPs***

At the August 20-21 meeting, the Commissioner of Community Services and Programs stated, in response to new budget parameters passed by the 2018 Legislature, two RFPs would be issued for administrative case management and for the ADRC. The current ADRC contracts end in March 2019. At the November 8-9 meeting, the Commissioner noted work under the new contracts is anticipated to begin on April 1, 2019.

## ***Behavioral Health***

### ***PRTFs***

The Deputy Secretary for Aging and Disability Services and KDADS Commissioner of

Behavioral Health Services (Deputy Secretary) reviewed information regarding PRTFs and the determination of “medical necessity.” Each MCO independently determines the medical necessity that allows a youth to enter a PRTF. KDHE and KDADS audit the records and review the MCOs’ decisions. A pilot program began October 1, 2017, and ended April 1, 2018, which entailed community mental health centers (CMHCs) and the MCOs engaging children on the PRTF wait list and their families in intensive community services. The pilot allowed the CMHCs to complete implementation of Community Based Services Teams (CBSTs), and the MCOs paid an enhanced rate for each CBST. The differences in the number of PRTF patients per MCO is partially determined by the population served by the MCO. The Deputy Secretary also cited possible alternatives to avoid institutional placement.

The Deputy Secretary stated at the August 20-21 meeting KDADS and KDHE clinical staff have recently initiated audits of “medical necessity” and denials being completed in response to concerns regarding inconsistent admissions at PRTFs. The Deputy Secretary noted the PRTF pilot ended in April 2018. There are questions on how well the pilot worked; if KDADS continues with the pilot, changes will need to be made. The Deputy Secretary mentioned a national study on PRTFs being conducted by the National Association of State Mental Health Program Directors Research Institute.

At the November 8-9 meeting, the Deputy Secretary noted there is a shortage of PRTF beds in the state. The Deputy Secretary reviewed the issue of “medical necessity,” which MCOs use to determine juvenile placement in a PRTF. A representative of KFMC commented the MCOs do not use the same criteria to determine medical necessity. KFMC has begun an audit to determine whether the requests for admission to a PRTF met the MCOs’ admission criteria and guidelines and whether the requests for continued stay in a PRTF met the criteria. The 20 denial cases audited to date had confirmed the decisions made by the MCOs. KDADS was downloading 180 additional files for KFMC review to determine the contract cost to complete the audit of the remaining files. Data were provided on the average length of stay in a PRTF for all Medicaid beneficiaries by MCO and the PRTF waiting list by MCO. Prompted by

the PRTF waiting list of 125 juveniles on Medicaid, the National Association of State Mental Health Program Directors Research Institute is conducting a study for KDADS to look at data and trend analysis on PRTF bed utilization and wait lists and reviewing policies and procedures related to admission and placement processes.

### ***Behavioral Health Intensive Crisis Services Initiatives***

At the April 23 meeting, the Deputy Secretary stated KDADS is coordinating with other state agencies and the MCOs to provide behavioral health intensive crisis services for youth and their families. The proposed initiatives will be assisted by a four-year System of Care grant for children and youth with SED, which includes wrap-around community services for youth and families. During the grant period, KDADS staff will develop a sustainability plan and move toward a statewide system of care. KDADS developed an RFP posted in April 2018 to establish enhanced crisis administration services, including a 24-hour crisis hotline and mobile response for all populations. Follow-up information on the RFP was provided at the August meeting.

### ***Housing First Bridge Pilot Program***

The Deputy Secretary noted at the August 20-21 meeting four Kansas sites were selected to participate in a Housing First Bridge Pilot Program, which is a pilot project to provide safe housing for individuals with co-occurring behavioral health issues who will be connected to Housing and Urban Development entry sites upon completion of detox and residential substance abuse programming.

### ***Kansas Client Placement Criteria***

At the November 8-9 meeting, the Secretary for Aging and Disability Services explained the website application for the Kansas Client Placement Criteria screening and assessment tool used by SUD providers to determine the level of care for patients was taken offline due to confidentiality concerns and moved to manual back-up procedures. A review of the system is continuing to determine whether the system can be restored without confidentiality concerns or

whether an outside vendor will be necessary to look at other system options.

### **National Association of States United for Aging and Disabilities (NASUAD) Presentation**

A representative of NASUAD presented information about NASUAD and a national perspective on MLTSS. Supplemental information showing the strategies for success in MLTSS and demonstrating the value of MLTSS was also provided. The NASUAD representative noted state examples of how the MLTSS program has rebalanced spending, improved health outcomes, reduced waiting lists, increased budget predictability, and managed costs.

### **Adult Care Home Receiverships**

The Secretary for Aging and Disability Services commented at the April 23 meeting on the insolvency of Skyline Health Care, which operates 15 adult care homes in Kansas. State statutes allow the Secretary for Aging and Disability Services to become a receiver, and, under specific conditions, operate an adult care home. The Secretary filed applications for receivership in 13 Kansas district courts; the Kansas Supreme Court granted a request to consolidate the 15 actions and transferred venue to the Johnson County District Court. The Secretary was appointed as the temporary receiver and, under that authority, used Civil Monetary Penalty Fund (Fund) moneys to meet payroll and other expenses to keep the 15 facilities open until a buyer can be found. An agreement was entered into with Missions Health of Georgia, LLC, to oversee the management of the 15 facilities. Respondents to the Skyline action consented to the appointment of the Secretary as the receiver of the 15 adult care homes.

The Secretary for Aging and Disability Services provided an update on the Skyline receivership at the August 20-21 meeting, noting the difficulty in finding new operators for the facilities in receivership. The Secretary commented, of the \$4.5 million from the Fund used initially to fund Skyline, \$1.0 million had been returned and another \$1.0 million would be returned to the Fund soon. He noted two other

receiverships, Fort Scott and Great Bend, had been added.

At the November 8-9 meeting, the Secretary for Aging and Disability Services explained, when the receiverships began, the Fund had \$5.6 million. A total of about \$4.6 million was used to fund the 15 Skyline receivership facilities initially, \$2.6 million of which had since been returned to the Fund. KDADS continued to meet with the Skyline landlord as the landlord sought to find operators for the insolvent facilities. The Secretary stated KDADS is not paying rent to the Skyline landlord and would not do so until the Fund moneys have been replaced. The Secretary stated KDADS has had health insurance in place for the Skyline employees since April 1, 2018. The insurance is like that previously offered but not paid for by Skyline. KDADS had filed a federal lawsuit against Skyline and its principals seeking to hold them accountable for the Fund amounts and for failure to fulfill their obligations. KDADS took receivership of three additional facilities (Pinnacle receivership) due to multiple concerns, including the operators having used resident trust funds to meet payroll expenses. The owner of the Pinnacle receivership properties had agreed to repay the approximately \$1.0 million paid by the Fund upon the sale of the properties. The Secretary provided information on the status of three additional receiverships (Fort Scott, Great Bend, and Westview of Derby) and indicated completion of the State's receivership was anticipated in the near future with nearly all of the moneys paid by the Fund to be returned.

### **Oversight of LTC Facilities**

At the February 16 meeting, the KDADS Commissioner of Survey, Certification, and Credentialing reviewed the LTC survey information, especially noting the need for more surveyors. The fines for non-compliance, the number of "immediate jeopardy" findings of surveyors, and the increase in criminal background checks as a result of a new law were noted. The Commissioner indicated the increase in penalties in 2016 for the first time since 1990 was due to inflation.

The Secretary for Aging and Disability Services updated the Committee on the LTC surveys at the April 23 meeting. The Secretary

noted CMS survey regulations were revised, and all KDADS surveyors have been trained on the new survey process, the new federal regulations, and the revised CMS interpretive guidelines. KDADS survey policies and procedures would be reviewed and revised to incorporate the CMS changes. The Secretary expressed concern for the delays in completing surveys within the time required. In an effort to address the survey delays, the agency planned to train licensed practical nurse surveyors to complete portions of the surveys, allowing the registered nurse (RN) surveyors to concentrate on those survey tasks that require their knowledge and skills. The Secretary stated KDADS planned to request enhanced funding from the Legislature to raise RN surveyor salaries sufficiently to attract applicants.

At the August 20-21 meeting, the Secretary for Aging and Disability Services reported that the vendor HMS was assisting with surveys and provided data updates on the annual and complaint surveys and the status of current surveyor positions. The Secretary stated the recent pay increases helped in recruiting and retaining survey staff. The Secretary also noted the increase in the number of criminal record background checks since 2015, a recent requirement for HCBS and behavioral health. In response to a Committee question, the Deputy Secretary replied when complaints about LTC facilities are received, they are prioritized by severity with responses within the time frames required by CMS criteria. The immediate jeopardy complaints and other more serious ones are responded to immediately. Separate staff are responsible for the complaint surveys, so response to those does not take staff away from the annual surveys.

The Secretary for Aging and Disability Services stated at the November 8-9 meeting CMS planned to withhold a \$1.0 million payment if the LTC survey backlog was not addressed. The Secretary reviewed data reflecting an increase in the number of LTC surveys completed since June 2018. The Secretary also provided data on the immediate jeopardy citations, which had decreased in 2018 relative to 2016 and 2017 due in part to a change in CMS interpretation and guidance and additional staff training. The surveyor vacancies were down from 17 to 8.

## State Hospitals

### *Electronic Medical Record System*

The Secretary for Aging and Disability Services commented at the August 20-21 meeting on a new contract with vendor Navigant Consulting to evaluate the disparate billing and electronic medical records (EMR) systems in place at each of the four state hospitals. At the November 8-9 meeting, the Secretary discussed the EMR assessment findings of the comprehensive review conducted by Navigant Consulting that identified core functionality gaps and support the need for KDADS and state hospitals to pursue strategic modernization of EMR system functionality, which will require procurement of a new EMR system. KDADS issued a request for information from potential vendors and hopes to have an RFP for the 2019 Legislature to consider. KDADS planned to submit a budget request for the initial implementation and annual ongoing support for a new EMR system.

### *Osawatomie State Hospital*

**Re-accreditation; vacancy and overtime rates.** At each Committee meeting, the Secretary for Aging and Disability Services reported on Osawatomie State Hospital (OSH). OSH has been re-accredited, with a follow-up survey by The Joint Commission and another by KDHE. Data on the newly certified Adair Acute Care at OSH, staff changes, and statistics identifying overtime trends and vacancies were provided. At the November 8-9 meeting, the Secretary stated vacancy rates and overtime at OSH were improving and provided supporting data.

**Privatization considerations.** At the February 16 meeting, the Secretary for Aging and Disability Services responded to members' questions, stating if CorrectCare would be the vendor to operate OSH if the hospital were privatized, then the Legislature's approval would be required before a contract could be signed. He stated two RFPs were submitted for privatization, and regional hospitals might be considered rather than moving Larned State Hospital (LSH) to a new location.

At the April 23 meeting, the Secretary for Aging and Disability Services stated KDADS is continuing to negotiate with a vendor to privatize

OSH, and an additional consideration is to issue a RFP for a regional model to add beds. Members were assured that any privatization proposal would be brought to the Legislature as required by statute and the proviso prohibiting privatization without legislative approval. The Secretary mentioned the Mental Health Task Force would continue to meet and assist in developing a strategic plan to address behavioral health needs.

The Secretary for Aging and Disability Services provided details at the August 20-21 meeting on the RFP to increase regional beds and the input being received from the Mental Health Task Force on the RFP and the regionalization process moving forward; the hope was to have the RFP out in September, bids back by the end of 2018, and the process to the Legislature in 2019.

**Structural integrity of buildings.** At the February 16 meeting, the Secretary for Aging and Disability Services outlined pending decisions regarding the lack of structural integrity of many of the buildings at OSH. The Secretary commented on two provisos in 2017 Senate Sub. for HB 2002. One proviso focused on the structural integrity of all the buildings and the second determined the cost of a 100-bed stand-alone facility. The Secretary identified the buildings that should be razed and those that could be renovated, and a sequential time line for the work. Estimates for a 100-bed hospital (\$40.2 million to \$52.3 million) and a 200-bed facility (\$58.3 million to \$75.7 million) were also provided.

### *Larned State Hospital*

At the February 16 meeting, the Secretary for Aging and Disability Services reported on LSH, including a review of the staff vacancy and overtime rates. The Secretary also addressed the certification of the units at LSH, whether any facility repairs were still required, and how incidents of abuse and neglect that were not reported were being addressed. At the November 8-9 meeting, the Secretary noted challenges remained at LSH related to vacancy rates and overtime.

At the November 8-9 meeting, the Secretary indicated a regional bed model might help alleviate the staffing and need for beds at both

OSH and LSH by spreading the state hospital population throughout the state to allow the patients to be closer to home and provide better care for the patients. The Secretary added KDADS prepared a RFP to develop a regional bed model, which was being reviewed by the Department of Administration

### ***Parsons State Hospital and Training Center***

The Secretary for Aging and Disability Services stated at the August 20-21 meeting PSHTC was out of CMS compliance with regard to facility staffing related to physical therapy during the May 2018 annual survey. The Secretary stated CAPs were in place to bring the hospital into compliance. The Superintendent of PSHTC discussed the CAPs for the annual and complaint surveys. The Superintendent noted an Administrative Executive Committee had been added to assist with the CAPs, as well as evaluate other areas for possible noncompliance. Regarding the July 2018 PSHTC complaint survey related to nursing and which resulted in an immediate jeopardy finding, the Superintendent said a new policy was being implemented to assist with documentation. The final survey reports for the annual and complaint surveys were expected to be available soon after that meeting.

At the November 8-9 meeting, the Secretary for Aging and Disability Services commented the deficiency cited during the PSHTC CMS/KDHE annual survey in May 2018 related to physical therapy staffing was corrected. The complaint survey related to nursing on July 2, 2018, that resulted in immediate jeopardy, was abated on July 17, 2018. On October 30, 2018, KDHE surveyors reported PSHTC was in compliance with all conditions related to the annual and complaint surveys.

### **Update on Renewal of HCBS Waivers**

At the August 20-21 meeting, the KDADS Commissioner of Community Services and Programs stated four HCBS waivers that expire in 2019 are scheduled for renewal: the I/DD, TBI, FE, and PD waivers. The Commissioner noted changes in the TBI waiver to include acquired brain injury as part of the waiver renewal process, the development of KanCare proposed HCBS and behavioral health network adequacy standards, the

data from the National Core Indicators survey, and the implementation and training on the Person-Centered Service Plan policy.

### **Program for All-Inclusive Care for the Elderly**

A Committee member requested information comparing the cost of treatment under PACE to the cost in an institutional setting. KDADS provided the 2013 PACE Medicaid Cost-Benefit Study conducted by the Office of Aging and Long Term Care of the University of Kansas School of Social Welfare.

### **Update on Kansas University School of Social Welfare Medicaid Contract**

The KDADS Commissioner of Financial and Information Services provided an update on the Kansas University School of Social Welfare Medicaid contract at the February 16 meeting. The Commissioner indicated the University self-reported the overpayment of federal Medicaid funds and had conducted due diligence in ensuring the audit was performed accurately.

**Telemonitoring.** At the November 8-9 meeting, a representative of Windsor Place reviewed an initiative to enable nursing home candidates to remain in their homes for an extended period of time through the use of self-managed medical technology. Windsor Place provides remote patient monitoring with software-driven devices placed in high-risk patients' homes and remote health coaching aimed at moderate-risk patients. The representative recommended broader adoption of remote patient monitoring for not only individuals on the FE waiver, but for all individuals on HCBS waivers, as a means of offering significant savings to KanCare MCOs and the state.

### **Presentation by Aetna Better Health of Kansas, Inc.**

Aetna is the new MCO awarded a KanCare managed care contract to begin January 1, 2019. A representative of Aetna reviewed the company's history and experience at the November 8-9 meeting. The representative noted the implementation status since the awarding of the KanCare contract was on track and outlined

Aetna's system of care. Aetna offers Medicare Advantage programs in Kansas and expanded options for dual-eligible Medicaid members with the addition of DSNP members in Johnson and Sedgwick counties in 2019 and plans to expand to more counties in 2020.

## Marketplace Update

The Director of Health and Life, Kansas Insurance Department, provided a written-only federal health insurance marketplace update at the February 16 meeting.

## CONCLUSIONS AND RECOMMENDATIONS

The Committee adopted the following recommendations:

- The KDADS RFP for high-touch administrative case management at the local level be monitored;
- A request be made for a report on progress made in nursing facility inspections toward compliance with federal and state law requiring inspections every 12 months;
- Recognizing suicide is the second leading cause of death among individuals ages 15-24 and ages 25-44 and the Kansas suicide rate in 2013 was 16.7 percent higher than the national average, according to the 2014 Kansas Annual Summary of Vital

Statistics from KDHE, the Committee expresses its concern to the Mental Health Task Force regarding the suicide rate and recommends the Task Force continue to study to identify causes and develop mitigating tools; and

- KDHE and KDADS continue to monitor and report to the legislative health and budget committees on the efforts to reduce the waiting lists for the PD and I/DD HCBS waivers and the KanCare Medicaid eligibility backlog.

The Committee expressed concerns about the lack of preventive dental care for adult Medicaid recipients.

The Committee proposed the following legislation:

- A Committee bill be drafted to lift the PIL cap. [*Note:* A Committee member noted the PIL had not been reviewed or updated in about 20 years and is one of the lowest in the country];
- A Committee bill be pre-filed to restore the TANF eligibility profile to its 2010 level; and
- The 2018 dental therapist bill (2018 SB 312, as it passed the Senate) be introduced as a Committee bill in the 2019 Legislative Session.



## **APPENDIX A**

### **ROBERT G. (BOB) BETHELL JOINT COMMITTEE ON HOME AND COMMUNITY BASED SERVICES AND KANCARE OVERSIGHT**

#### **ANNUAL REPORT FOR THE 2018 LEGISLATIVE SESSION**

The Robert G. (Bob) Bethell Joint Committee on Home and Community Based Services and KanCare Oversight is charged by statute to submit an annual written report on the statewide system for long-term care services to the President of the Senate and the Speaker of the House of Representatives at the start of each regular legislative session. The authorizing statute (KSA 2018 Supp. 39-7,159) creating a comprehensive and coordinated statewide system for long-term care services became effective July 1, 2008.

The Committee's annual report is to be based on information submitted quarterly to the Committee by the Secretary for Aging and Disability Services. The annual report is to provide:

- The number of individuals transferred from state or private institutions to home and community based services (HCBS), including the average daily census in state institutions and long-term care facilities;
- The savings resulting from the transfer of individuals to HCBS as certified by the Secretary for Aging and Disability Services; and
- The current balance in the Home and Community Based Services Savings Fund.

The following tables and accompanying explanations are provided in response to the Committee's statutory charge.

#### **Number of Individuals Transferred from State or Private Institutions to HCBS, Including the Average Daily Census in State Institutions and Long-term Care Facilities**

Number of Individuals Transferred—The following table provides a summary of the number of individuals transferred from intellectual/developmental disability (I/DD) institutional settings into HCBS during state fiscal year 2018, together with the number of individuals added to HCBS due to crisis or other eligible program movement during state fiscal year 2018. The following abbreviations are used in the table:

- ICF/MR — Intermediate Care Facility for the Mentally Retarded
- SMRH — State Mental Retardation Hospital
- MFP — Money Follows the Person program
- SFY — State Fiscal Year

<b>I/DD INSTITUTIONAL SETTINGS AND WAIVER SERVICES*</b>	
Private ICFs/MR: Average Monthly Caseload SFY 2018	137
State I/DD Hospitals – SMRH: Average Monthly Caseload SFY 2018	294
MFP I/DD: Number discharged into MFP program – I/DD SFY 2018	20
I/DD Waiver Community Services: Average Monthly Caseload SFY 2018	9,043
*Monthly averages are based upon program eligibility.	
Sources: SFY 2018—Medicaid eligibility data as of November 8, 2018. The data include people coded as eligible for services or temporarily eligible.	

The following table provides a summary of the number of individuals transferred from nursing facility institutional settings into HCBS during SFY 2018. The caseload has been decreasing in SFY 2018 as the MFP federal grant is winding down. Kansas stopped MFP transitions in July 2017; individuals transitioning by that time have 365 days of MFP, after which they are transitioned to the appropriate HCBS program. These additional abbreviations are used in the table:

- FE — Frail Elderly Waiver
- PD — Physical Disability Waiver
- TBI—Traumatic Brain Injury Waiver

<b>FE / PD / TBI INSTITUTIONAL SETTINGS AND WAIVER SERVICES*</b>	
Nursing Homes-Average Monthly Caseload SFY 2018	10,049
MFP FE: Number discharged into MFP program receiving FE Services	49
MFP PD: Number discharged into MFP program receiving PD Services	83
MFP TBI: Number discharged into MFP program receiving TBI Services	4
Head Injury Rehabilitation Facility	34
FE Waiver: Average Monthly Caseload SFY 2018	4,676
PD Waiver: Average Monthly Caseload SFY 2018	5,897
TBI Waiver: Average Monthly Caseload SFY 2018	434
*Monthly averages are based upon program eligibility.	
Sources: SFY 2018—Medicaid eligibility data as of November 8, 2018. The data include people coded as eligible for services or temporarily eligible.	

**AVERAGE DAILY CENSUS IN STATE INSTITUTIONS AND  
LONG-TERM CARE FACILITIES**

**Kansas Neurological Institute: Average Daily Census**

FY 2012 – 152  
FY 2013 – 145  
FY 2014 – 143  
FY 2015 – 144  
FY 2016 – 141  
FY 2017 – 142  
FY 2018 – 140

**Parsons State Hospital: Average Daily Census**

FY 2012 – 175  
FY 2013 – 176  
FY 2014 – 174  
FY 2015 – 173  
FY 2016 – 163  
FY 2017 – 160  
FY 2018 – 160

**Private ICFs/MR: Monthly Average\***

FY 2012 – 166  
FY 2013 – 155  
FY 2014 – 143  
FY 2015 – 140  
FY 2016 – 137  
FY 2017 – 133  
FY 2018 – 137

**Nursing Facilities: Monthly Average\***

FY 2012 – 10,761  
FY 2013 – 10,788  
FY 2014 – 10,783  
FY 2015 – 10,491  
FY 2016 – 10,235  
FY 2017 – 10,047  
FY 2018 – 10,049

\*Monthly averages are based upon Medicaid eligibility data.

## **Savings Resulting from the Transfer of Individuals to HCBS**

The “savings” through MFP are realized only if and when an individual is moved into a community setting from an institutional setting and the bed is closed. This process would result in a decreased budget for private ICFs/MR and an increase in the I/DD (HCBS I/DD) Waiver budget as a result of the transfers.

For nursing facilities and state ICFs/MR, the process is consistent with regard to individuals moving to the community. The difference is seen in “savings.” As stated above, savings are seen only if the bed is closed. In nursing facilities and state ICFs/MR, the beds may be refilled when there is a request by an individual for admission that requires the level of care provided by that facility. Therefore, the beds are not closed. Further, even when a bed is closed, only incremental savings are realized in the facility until an entire unit or wing of a facility can be closed.

As certified by the Secretary for Aging and Disability Services, despite individuals moving into community settings that does have the effect of cost avoidance, the savings resulting from moving the individuals to home and community based services, as of December 31, 2018, was \$0.

## **Balance in the KDADS Home and Community Based Services Savings Fund**

The balance in the Kansas Department for Aging and Disability Services Home and Community Based Services Savings Fund as of December 31, 2018, was \$0.

# Report of the Joint Legislative Transportation Vision Task Force to the 2019 Kansas Legislature

**CO-CHAIRPERSONS:** Senator Carolyn McGinn and Representative Richard Proehl

**LEGISLATIVE MEMBERS:** Senators Rick Billinger, Tom Hawk, Mike Petersen, Pat Pettey, and John Skubal; and Representatives J. R. Claeys, Shannon Francis, Henry Helgersen, Adam Lusker, and Troy Waymaster

**NON-LEGISLATIVE MEMBERS:** Jim Allen, Matt Allen, Mary Birch, Mike Brown, Jon Daveline, Max Dibble, Lindsey Douglas, Ty Dragoo, Chad Girard, Mike King, Kenzil Lynn, Alise Martiny, Cameron McGown, Donald Roberts, Andy Sanchez, Steve Sloan, Kip Spray, Bridgette Williams, and Jerry Younger

**EX OFFICIO MEMBERS:** Richard Carlson, Steve Hewitt, Jackie McClaskey, and Sam Williams

## CHARGE

The mission of the Task Force is as follows:

- Evaluate the progress of the 2010 Transportation Works for Kansas program to date;
- Evaluate the current system condition of the state transportation system, including roads and bridges;
- Solicit local input on existing uncompleted projects and future projects in each highway and metropolitan district;
- Evaluate current uses of the State Highway Fund dollars, including fund transfers for other purposes outside of infrastructure improvements;
- Evaluate current transportation funding in Kansas to determine whether it is sufficient to not only maintain the transportation system in its current state, but also to ensure it serves the future transportation needs of Kansas residents;
- Identify additional necessary transportation projects, especially projects with a direct effect on the economic health of the state and its residents;
- Make recommendations regarding the needs of the transportation system over the next ten years and beyond;
- Make recommendations on the future structure of the State Highway Fund as it relates to maintaining the state infrastructure system; and
- Make and submit reports to the Legislature concerning all such work and recommendations of the Task Force, on or before January 31, 2019.

January 2019

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# Joint Legislative Transportation Vision Task Force

## REPORT

### Conclusions and Recommendations

The Joint Legislative Transportation Vision Task Force finds it is imperative the State of Kansas provides consistent, stable funding in order to maintain a quality transportation system. The Task Force notes the negative impacts of transfers from the State Highway Fund (SHF), \$2.098 billion more since fiscal year 2011 than had been anticipated for the Transportation Works for Kansas (T-Works) program, on system quality and on the ability of the State to respond to economic development opportunities and system improvement needs.

### Preservation, Modernization, and Expansion of Highways

The Task Force recommends any new program authorize general transportation planning for at least ten years and include funding for preservation, modernization, and expansion and economic opportunity projects (further discussed below). The Task Force also recognizes a new program cannot maintain or enhance the current system unless dedicated funding for the program is left in the program and not transferred to other needs.

The Task Force finds the top transportation priority for the State must be to restore funding for preservation to protect the investment Kansans have made in their transportation system. It recommends the SHF receive and retain moneys sufficient to maintain or improve the health of the transportation system in Kansas at a steady state, assessing both surface and subsurface conditions. It notes Kansas Department of Transportation (KDOT) testimony indicated a combination of funding preservation at \$500.0 million annually plus funding modernization and expansion at \$100.0 million annually, or funding preservation at \$600.0 million annually, would begin to return the system to a steady state that serves Kansans in the most cost-effective way.

The Task Force recognizes the importance of expansion projects tied to economic development opportunities and modernization projects to improve system safety and made possible with funding in addition to that needed for preservation. It recommends the 21 modernization and expansion projects announced under T-Works, but delayed, be the top priority modernization and expansion projects and be let within four years, after consultation with local officials regarding each project's continuing priority. The Task Force understands, based on testimony, it will be difficult to garner support for a new program unless T-Works promises are fulfilled. It notes KDOT officials testified to costs of approximately \$500.0 million for the delayed T-Works projects if those projects are completed within the next four years, and it encourages faster completion of those projects if resources allow. The Task Force notes conferees in 2018 requested projects estimated to cost more than \$7.5 billion in total, including economic development projects, expansion projects, and modernization projects that improve safety in ways including widening shoulders. KDOT officials testified \$12.3 billion in needs identified prior to the T-Works program have not been constructed and total needs exceed \$18 billion. The Task Force notes economic opportunities and changing system demands will require additions to the current list of modernization and expansion projects and recommends KDOT plan for those additions by

reassessing the needs that have been identified, consulting with local officials, continually reviewing priorities, and completing such planning and design work as appropriate to ensure projects are ready for construction whenever funding becomes available.

The Task Force supports continuing emphasis on practical improvements to the state's transportation infrastructure.

## **Funding**

The Task Force notes sales tax revenues are statutorily directed to the SHF and recommends the Legislature review the role of the sales tax in transportation funding and examine additional sources of funding for transportation. It recommends the Legislature review potential sources of additional funding, including increasing registration fees, motor fuels taxes, and fees for oversize vehicles, and new fees specific to alternative-fuel vehicles, which should be commensurate with fuel-tax amounts paid to operate vehicles of similar weight.

The Task Force recommends statutes be amended to authorize KDOT, working with the Kansas Turnpike Authority (KTA), to collect tolls to offset a portion of the cost of construction, maintenance, or both of transportation infrastructure improvements that add capacity and remove requirements such tolls cover all costs. It further recommends tolling be considered for individual projects for which the Secretary of Transportation has determined, in consultation with local officials, that traffic volume, local contribution, or other relevant reasons make such tolling option worthwhile and such tolling is acceptable to the affected local communities. The Task Force suggests the Legislature consider authorizing the Secretary to proceed with specific tolling projects the Secretary determines to be feasible and acceptable to the affected local communities.

The Task Force recommends the Legislature consider removing the requirement in state law that each KTA toll expressway project be financed wholly through the investment of private funds in toll road revenue bonds.

The Task Force finds increasing vehicle fuel efficiency, alternative-fuel vehicles, and other factors have contributed to motor fuel tax revenues not keeping pace with transportation needs. It urges KDOT to partner with the Kansas Department of Revenue and other appropriate parties to investigate funding alternatives, including a fee based on vehicle miles traveled, drawing on the experiences of states at various stages of implementation of such a fee.

The Task Force finds geographic equity continues to be important in the distribution of state moneys spent on transportation in Kansas. It recommends, at a minimum, maintaining and fulfilling commitments to spend the \$8.0 million per county statutorily required before June 30, 2020. It further recommends the Legislature address geographic equity by requiring a minimum to be spent in each county in a specified period after the current T-Works statutory deadline for spending \$8.0 million in each county.

The Task Force urges pursuit of all federal funding opportunities available to advance transportation in the state, including funding opportunities linking KDOT with nontraditional partners, such as the U.S. Department of Agriculture.

## **Local Programs**

The Task Force affirms local transportation needs exceed available resources and some portion of



SHF moneys should be directed to local governments to meet those needs. It also notes increased local participation may be required for local projects, and it recommends the Legislature consider authorizing revenue-increasing options including, but not limited to, an exemption in the tax lid statute (KSA 2018 Supp. 79-2925c) for transportation purposes and modifications to demand transfers.

The Task Force recommends the Legislature review the statutory amounts for payments to cities for city connecting links maintenance, which have not increased since 1999.

The Task Force recommends reinstatement of the Kansas Local Bridge Improvement Program.

The Task Force recommends continuing the Federal Funds Exchange Program at its current rate of \$0.90 to the local entity for each \$1.00 in federal funds.

### **Modes of Transportation Other than Personal Vehicles**

The Task Force recognizes the increasing roles of transit, passenger rail, and active transportation in the overall Kansas transportation system and the continuing importance of aviation and freight railroads to the state. It notes increased demand for transit and active transportation infrastructure in both rural and urban areas to connect Kansans with work opportunities and to services needed by all Kansans. It recommends the Legislature and KDOT consider adding \$20.0 million to be allocated among these modes of transportation and encourages increased KDOT participation in these portions of the transportation system, including completion of an update to the 1995 Kansas Bicycle and Pedestrian Plan and consideration of a complete-streets policy.

To maintain and improve passenger rail service in Kansas, the Task Force recommends a separate statutory fund similar to the State Rail Service Improvement Fund but dedicated to passenger rail. It also urges KDOT to finalize its current study of passenger rail service between Newton and Oklahoma City to determine needs and potential costs and benefits to Kansas. The Task Force suggests light rail be investigated for the Kansas City metropolitan area.

### **Other Recommendations**

The Task Force recommends the Legislature consider regular oversight of state transportation needs and resources either by a standing committee or standing committees or by interim committees requested by the Chairperson of the House Committee on Transportation, the Chairperson of the Senate Committee on Transportation, or both. It recommends, at a minimum, any new plan expected to be in place for ten years or longer be thoroughly reviewed after five years.

The Task Force supports the KDOT project selection process for expansion and modernization projects but recommends additional priority for projects that incorporate practical improvements, offer opportunities to remove unnecessary transportation infrastructure from the system, identify priority corridors, and include local participation. It finds weighting for local participation should be based on equity of effort as measured by population, resources, or both. It notes tolling could be considered as a component of local participation.

The Task Force recommends KDOT be authorized to use alternative project delivery methods, perhaps such as those authorized under the State Educational Institution Project Delivery Construction Procurement Act (KSA 2018 Supp. 76-7,125 *et seq.*). The Task Force recommends

KDOT officials work with industry representatives to develop a mutually agreeable proposal for KDOT utilization of alternative project delivery methods to procure transportation projects and present that proposal, including any necessary statutory changes, to the 2020 Legislature.

The Task Force recommends the 2019 Legislature study possible statutory changes to authorize testing of automated vehicles, connected vehicles such as trucks operating in platoons, or both in Kansas and also review in-vehicle technology and traffic management systems. Related to implementation of these new technologies is broadband infrastructure across the state, and the Task Force recommends the Senate Committee on Utilities and the House Committee on Energy, Utilities and Telecommunications also review transportation needs related to broadband.

***Proposed Legislation:*** None

## BACKGROUND

The Joint Legislative Transportation Vision Task Force was created with enactment of 2018 House Sub. for SB 391.

**Mission.** The bill, placed into the statutes at KSA 68-185, established the mission of the Task Force:

- Evaluate the progress of the 2010 Transportation Works for Kansas (T-Works) program to date;
- Evaluate the current system condition of the state transportation system, including roads and bridges;
- Solicit local input on existing uncompleted projects and future projects in each highway and metropolitan district;
- Evaluate current uses of the State Highway Fund (SHF) dollars, including fund transfers for other purposes outside of infrastructure improvements;
- Evaluate current transportation funding in Kansas to determine whether it is sufficient to not only maintain the transportation system in its current state, but also to ensure it serves the future transportation needs of Kansas residents;
- Identify additional necessary transportation projects, especially projects

with a direct effect on the economic health of the state and its residents;

- Make recommendations regarding the needs of the transportation system over the next ten years and beyond;
- Make recommendations on the future structure of the SHF as it relates to maintaining the state infrastructure system; and
- Report to the Legislature on its work and recommendations by January 31, 2019.

**Membership.** The Task Force includes both legislative and non-legislative members. The legislative members by virtue of office are these:

- The chairperson and ranking minority member of the House Committee on Transportation;
- The chairperson of the House Committee on Transportation and Public Safety Budget;
- The chairperson of the House Committee on Appropriations, or the chairperson's designee from the House Committee on Appropriations;
- The chairperson and ranking minority member of the Senate Committee on Transportation;

- The chairperson of the Senate Committee on Ways and Means Subcommittee on Transportation; and
- The chairperson of the Senate Committee on Ways and Means, or the chairperson's designee from the Senate Committee on Ways and Means.

The Chairperson of the House Committee on Transportation and the Chairperson of the Senate Committee on Ways and Means were selected as co-chairpersons of the Task Force by the Speaker of the House of Representatives (Speaker) and the President of the Senate (President), respectively.

Ex officio non-voting members are the Chief Executive Officer of the Kansas Turnpike Authority (KTA) and the Secretaries of Transportation, Revenue, and Agriculture. Other members were appointed by the Speaker, the President, the Minority Leaders of the House and the Senate, Kansas Economic Lifelines, the League of Kansas Municipalities, and the Kansas Association of Counties. The statute requires most non-legislative appointees to represent the following organizations or classifications named in the bill: the Kansas Contractors Association; the Heavy Constructors Association; the Kansas Aggregate Producers' Association; the Kansas Ready Mix Association; the Greater Kansas City Building and Construction Trades Council; the American Council of Engineering Companies of Kansas; the Kansas Public Transit Association; a class I railroad company; a short line railroad company; the Kansas Motor Carriers Association; the Portland Cement Association; the Petroleum Marketers and Convenience Store Association of Kansas; the Kansas Asphalt Pavement Association; the International Association of Sheet Metal, Air, Rail and Transportation Workers; a Kansas aerospace company; the Kansas Grain and Feed Association; the Kansas Economic Development Alliance; and the AFL-CIO.

The statute further specified all members be residents of Kansas and at least two members be from each district of the Kansas Department of Transportation (KDOT).

**Meetings.** The statute required the Task Force to hold at least one meeting in each of the six KDOT districts and in the Wichita and Kansas City metropolitan areas. The Legislative Coordinating Council approved 12 meeting days for the Task Force. The Task Force met 11 times, including a final 2-day meeting, as specified in the next section of this report.

**Report organization.** In addition to presenting Task Force findings and recommendations, this report summarizes presentations at informational sessions. It also summarizes local input testimony in two categories: policy recommendations and requests for specific projects.

## TASK FORCE ACTIVITIES

### Informational Sessions

This portion of the report summarizes Task Force discussion and informational sessions of Task Force meetings. Consultants to KDOT, from the firm Burns & McDonnell, facilitated discussion and coordinated informational presentations. Referenced illustrations are provided in Appendix A to this report.

#### *August 6, Topeka*

At the meeting August 6 in Topeka, Task Force members introduced themselves and identified their goals for the Task Force and their concerns about transportation in the state. They also discussed topics to be covered in future informational sessions. The statutory mission was reviewed, as was the schedule for nine regional meetings and directions for local input testimony. An Assistant Revisor of Statutes reviewed Kansas Open Meetings Act provisions relevant to the Task Force. Informational sessions also were presented on the history of Kansas transportation programs, building a vision for transportation in Kansas, KDOT operations, projects planned for completion under the T-Works program but delayed, and SHF cash flow.

**History of Kansas transportation programs.** The former State Transportation Engineer, a member of the Task Force, provided an overview of the Comprehensive Highway Program (CHP)

enacted in 1989, the Comprehensive Transportation Program (CTP) enacted in 1999, and T-Works enacted in 2010. He stated CHP and CTP project categories included substantial maintenance, major modification, system enhancement, and priority bridge. He described the roles of priority formulas, KDOT staff input, and local participation in choosing projects under the CHP and CTP.

The T-Works bill (2010 Senate Sub. for Senate Sub. for HB 2650) changed the categories to preservation, modernization (actions such as correcting horizontal or vertical curves and correcting shoulder slopes), and expansion (actions such as adding a lane or an interchange). The former State Transportation Engineer stated modernization projects have been chosen based 80 percent on engineering data and 20 percent on local input, and expansion projects have been selected based 50 percent on engineering data, 25 percent on local input, and 25 percent on economic impact.

**Building a vision.** A representative of High Street Consulting stated building a vision for transportation requires obtaining input from transportation stakeholders, using data and information systems to evaluate current conditions and investments needed, determining the funding already in place and what would be required, and selecting and prioritizing projects with views toward transparency, geographic equity, and aligning with local and regional goals.

**KDOT operations.** The Secretary of Transportation (Secretary) provided an update on KDOT operations. He stated Kansas has 140,000 miles of state and local roads, the fourth highest total in the nation, over which \$603 million of freight is transported each day. He described pavement conditions, how those are determined, and how federal calculations of pavement and bridge conditions have changed. Under T-Works to date, 12,871 miles and 846 bridges had been improved, and at least \$8 million had been spent in 102 of the 105 Kansas counties for preservation and other projects. He also discussed transit, aviation, and rail projects. He noted authorized positions at KDOT have been reduced by approximately 25 percent since 1998 and the engineering staff is nearly 40 percent smaller than during the CTP; he stated the agency has difficulty

in attracting engineering staff. The Secretary stated there has been a slight increase in traffic fatalities in the previous few years, in line with a national trend and reflecting more miles driven.

**Delayed T-Works projects.** The current State Transportation Engineer reviewed modernization and expansion projects announced under T-Works but delayed. She stated the estimated cost of those delayed projects, if they are completed over the next five years, would be approximately \$600 million. She also stated approximately \$1 billion has been reduced from anticipated preservation work; she discussed the implications of falling further behind with preservation and increased costs associated with delaying preservation work.

**SHF cash flow.** The Director of Planning and Development and Interim Director of Fiscal and Asset Management (Director of Planning and Fiscal Management), KDOT, stated the T-Works program had anticipated total revenues to the SHF for 2010 through 2020 to be \$14.2 billion, but the agency now expects \$12.2 billion. Transfers from the SHF through T-Works had been anticipated to average \$105 million a year, but have averaged more than \$493 million a year since 2015 (Appendix A, Illustration 1). He stated anticipated total SHF expenditures of \$14.3 billion were reduced to \$11.8 billion by cutting the budget for preservation, delaying some modernization and expansion projects, and cutting KDOT's operating budget. He also noted the T-Works bill capped bonding at 18.0 percent of specified revenues, but amendments have allowed that percentage to exceed 18.0 percent starting in fiscal year (FY) 2016.

### *September 6, Salina*

The September 6 meeting featured informational presentations on T-Works progress, highway system and traffic conditions, and system preservation and KDOT operations, as well as discussion of Task Force members' goals for the highway system.

**T-Works progress.** The current State Transportation Engineer stated T-Works expenditures are half of total KDOT expenditures of approximately \$14.0 billion over the years 2011 through 2020, with 38 percent for highway expansion, modernization, and preservation; 11

percent to the Special City and County Highway Fund (SCCHF); and 1 percent for aviation, rail, and transit. Debt service (14 percent); local support, administration, and transportation planning (12 percent); maintenance and buildings (10 percent); preliminary and construction engineering (7 percent); Federal Highway Administration local projects (5 percent); and other (2 percent) make up the rest. She reviewed the T-Works projects completed as described by the Secretary at the August 6 meeting.

The State Transportation Engineer also discussed various aspects of the T-Works program. She stated the public has been supportive of the program, in large part because projects were selected through a transparent, merit-based process. She noted bids for 25 expansion and modernization projects were \$133 million lower than anticipated, allowing moneys to be used on other projects. She requested consideration of providing KDOT authority for using alternative project delivery methods when appropriate for the project. She stated flexibility in the T-Works program was important to successful economic development projects, a 2016 example being \$7 million for a high-capacity intersection important to the Amazon distribution center in Kansas City, and the Federal Fund Exchange Program worked well for both local governments and the State. She stated transfers from the SHF have caused delays, overall pavement health to decline, accelerated bridge deterioration, and reduced performance and opportunities.

(Note: At the November 8 meeting, a representative of Burns & McDonnell reported the National Highway Construction Cost Index increased by 21 percent from 2010 to 2018, not the 41 percent anticipated when T-Works was enacted.)

**Highway system and traffic conditions.** The Asset Management and Performance Measures Manager, KDOT, discussed the proportionality of public road miles in the categories of the Kansas Turnpike (Turnpike), municipal roads, county or township roads, and the state highway system, and the vehicle miles traveled on each system (Appendix A, Illustration 2). He stated of the 24,833 total bridges in Kansas, 5,121 are under KDOT jurisdiction and 2,825 are on the National Highway System and are subject to federal

requirements. He noted interstate and urban-area traffic is heavy overall, but heavy truck traffic occurs across the state. He described the system KDOT uses to place routes into classes A through E, a system in place for many years that uses average trip lengths and other factors. He described KDOT procedures for collecting data to measure pavement smoothness and bridge condition and data KDOT uses to determine preservation priorities for the succeeding construction season; both pavements and bridges may be rated as good, fair, or poor. He reported 66 percent of interstate highway miles, 63 percent of non-interstate highway miles, and 74 percent of bridges on the state system were in good condition. He explained pavement rating is only for the surface and does not account for subsurface conditions, and he noted budget constraints have led to lighter preservation projects than otherwise would have been done; an average of 440 miles of heavy preservation work was completed under the CTP and 345 miles of heavy preservation work under T-Works.

**System preservation and KDOT operations.** The Director of Operations, KDOT, provided an overview of system preservation and KDOT operations. He described preservation work performed by contractors and maintenance performed by KDOT staff, which includes snow and ice removal that cost \$14.6 million during the winter of 2017-2018 and is important to preserving pavements as well as for passenger and freight movements. He noted 66 percent of T-Works project lettings have been for preservation projects, 30 percent for expansion, and 4 percent for modernization. He noted \$400.0 million in bonds were authorized for FY 2018 and FY 2019, with the proceeds used for preservation projects. He stated approximately \$600 million is needed annually for construction, reconstruction, contract preservation, and maintenance to maintain current conditions on the system of roads and bridges. The Director of Operations illustrated the numbers of bridges and miles of preservation work completed under T-Works (Appendix A, Illustration 3) and noted several costly bridge replacement projects are needed and being planned for FY 2019 and FY 2020. He stated all new, full-depth highway pavements are designed for 40-year life cycles; costs are based on the life-cycle maintenance actions anticipated over 40 years.

## ***September 12, Kansas City***

Informational topics for this meeting were the economic importance of transportation to the Kansas City metropolitan area, Kansas demographic and economic trends, and what are described collectively along with rail as “modes”: aviation, transit, and bicycle and pedestrian (active transportation). In opening remarks, a representative of Burns & McDonnell noted the top ten business site selection factors include highway accessibility and proximity to major markets, as well as such factors as the availability of skilled labor and quality of life.

### **Economic importance of transportation.**

The President and Chief Executive Officer (CEO) of the Greater Kansas City Chamber of Commerce (KC Chamber) stated Kansas City grew because of its investments in transportation and KC Chamber members rely on transportation for the viability of their companies. He reported a survey of KC Chamber members found 63.5 percent said it is moderately or very challenging for employees to get to their businesses using public transportation, and the KC Chamber found fewer than 10.0 percent of jobs in the Kansas City metropolitan area are accessible by public transit. He stated local transit agencies were responding in direct ways, such as special services for the Amazon Fulfillment Center, but much work remains; he reported recruiters cite transportation as a barrier for getting workers in Kansas City to areas such as southern Johnson County and development near I-70 and I-435. He also described congestion on I-35.

The KC Chamber President and CEO also stated the KC Chamber survey found members concerned with congestion and the costs to business associated with potholes; 36.2 percent of survey respondents said they would be willing to pay additional fees or taxes to improve the transportation system and another 51.5 percent would consider it; and motor vehicle tax, tax on vehicle miles traveled, toll roads, and increased public transit fares were perceived as the fairest and best sources of revenues for transportation. He also stated innovation is important for the transportation system, such as infrastructure for autonomous vehicles and high speed rail service.

### **Kansas demographic and economic trends.**

The Asset Management and Performance Measures Manager stated 80.8 percent of population growth in Kansas from 1960 to 2016 was in urban areas. He noted population and high traffic routes are concentrated in northeast Kansas and in the Wichita metropolitan area, but freight networks span the state. He stated rural areas struggle with paying for transportation infrastructure as population shrinks, but roads and bridges remain critical to getting crops to markets. He noted the funding formula for the SCCHF remained unchanged from the CTP to T-Works.

The Asset Management and Performance Measures Manager addressed poorer health outcomes in rural Kansas. He noted T-Works helped to improve access to health care, such as expanding air ambulance access and regional transit routes. Another demographic trend is the aging of the population, which could reduce miles traveled, increase demand for transit, and require additional safety modifications to signs and pavement markings.

Seven key Kansas industries are transportation dependent, the Asset Management and Performance Measures Manager stated: advanced manufacturing, agriculture, bioscience, logistics distribution, value-added food processing, wind energy, and renewable fuels and bioenergy. The other key industry is professional services. He noted the Kansas Freight Advisory Committee had prioritized “corridors of significance.”

**Aviation.** The Director of Aviation, KDOT, reported Kansas aviation supports 91,300 jobs; the Kansas Airport Improvement Program (KAIP) has made grants to support projects at 138 local airports, with an average grant amount of \$147,587; air ambulance coverage has increased so that 94 percent of the Kansas population lives within 30 minutes of an airport that is accessible to air ambulance service; and unmanned aerial systems (UAS) are increasingly important to the state. Local match is required for KAIP grants.

The Director of Aviation noted Kansas was selected to participate in the U.S. Department of Transportation’s UAS Integration Pilot Program and UAS are used for purposes including inspections of infrastructure, such as highways and

railroads, and in precision agriculture. The Director of Aviation stated 154 recommendations were made at 50 Federal Aviation Administration National Plan of Integrated Airport Systems airports in Kansas for projects totaling \$67 million, based on facility and service benchmarks. He noted no direct revenue stream is tied to aviation.

**Transit.** The Public Transportation Manager, KDOT, reported 147 agencies, using more than 800 vehicles, provide 10 million rides annually, 2.5 million of those in rural areas. He stated total annual funding of \$26.2 million comes from local (\$2.2 million), state (\$11.0 million), and federal (\$13.0 million) sources; 83 percent of Kansas counties have some transit service; and 11 percent of rural providers were using coordinated scheduling in 2018. The majority of the 27 counties where no service originates are in the southwest Kansas transit region.

The Public Transportation Manager described the role of public transit in connecting Kansans with jobs, health care, school, and other activities of daily living. He discussed efforts under way to extend coordinated services to provide better access to regional health care services in north central Kansas, to connect employees to jobs in areas, such as southern Johnson County, that have little regular transit service, and to find “first-mile, last-mile” solutions.

**Active transportation.** The State Bicycle and Pedestrian Coordinator, KDOT, stated more than 61,000 households in Kansas do not have access to a personal vehicle; a significant proportion of Kansans are unable to drive due to physical, financial, or other limitations; walking and cycling increase mobility options and accessibility to services; and active transportation has positive effects on health and environmental quality. He noted the Dirty Kanza gravel road cycling event generates approximately \$2.2 million a year for the Emporia area, the state has more opportunities for bicycle tourism, and the average annual cost of operating a bicycle is \$390 versus \$12,000 for a car.

The State Bicycle and Pedestrian Coordinator stated most funding for active transportation projects comes from the federal Transportation

Alternatives (TA) Program (approximately \$11 million a year) and from local taxes and private moneys. He noted approximately \$64.4 million was requested from the TA Program for FY 2016 through FY 2019, and \$34.3 million was awarded, which funded 100 projects over 4 years; projects require a minimum 20 percent local match. Federal FY 2018 moneys of \$10.8 million were divided \$1.4 million to the recreational trails program administered by the Kansas Department of Wildlife, Parks and Tourism; \$1.9 million administered by metropolitan planning organizations; and \$7.6 million administered by KDOT, approximately half for statewide projects and half to communities. Of the \$3.8 million to communities, half was for communities of fewer than 5,000 residents.

The State Bicycle and Pedestrian Coordinator explained projects eligible for TA funding include a variety of bicycle and pedestrian facilities, Safe Routes to School projects and programs, historic preservation, and stormwater mitigation. He noted moneys are used to improve safety for pedestrians and cyclists and pedestrians and cyclists accounted for nearly 12 percent of all traffic fatalities in Kansas in 2016. He also stated the League of American Bicyclists rated Kansas 47<sup>th</sup> in the country in terms of being bike-friendly and had suggestions for the state, including updating the 1995 state Pedestrian and Bicycle Transportation Plan, adopting a statewide complete-streets policy, spending 2 percent or more of federal funds on pedestrian and bicycle projects, and establishing a pedestrian and bicycle safety emphasis area within the state’s Strategic Highway Safety Plan.

### ***September 20, Pittsburg***

Project needs, funding, and financing; an overview of the KTA and tolling; and other states’ approaches to system conditions, funding, and financing were the informational topics for this meeting. In opening remarks, a representative of Burns & McDonnell noted estimated sales tax deposits to the SHF under law enacted with the T-Works bill (2010 Senate Sub. for HB 2360) are \$533 million for FY 2019, \$543 million for FY 2020, \$553 million for FY 2021, and \$564 million for FY 2022.

**Funding and financing.** The Director of Planning and Fiscal Management reported primary

state sources of moneys into the SHF are state motor fuel taxes; vehicle registration, driver's license, and related fees; bond proceeds; local funding; and state sales taxes (after transfers to the State General Fund [SGF]). Moneys into the federal Highway Trust Fund distributed to states are primarily from federal fuel taxes. Kansas receives approximately \$370 million annually in federal funds, primarily from the National Highway Performance Program, the Surface Transportation Block Grant Program, the Highway Safety Improvement Program, the Congestion Mitigation and Air Quality Improvement Program, metropolitan planning programs, and the National Highway Freight Program. The Director of Planning and Fiscal Management stated, for FY 2011 through FY 2018, 54 percent of funds have been used for construction and local modes, 15 percent for local support, 13 percent for debt service, 10 percent for maintenance, and 8 percent for administration, planning, and support for modes. Approximately \$307.5 million annually is directed to local partners for all programs, including SCCHF distributions.

The Director of Planning and Fiscal Management noted the State has \$2.13 billion in outstanding transportation debt and debt service for the CTP of approximately \$40 million a year will end in FY 2025; he discussed the effects of sales tax transfers to the SGF on the bonding cap. He noted the Legislature approved \$400 million in bonding for FY 2018 and FY 2019 for preservation projects.

Three investment scenarios were offered for 2021 through 2030: \$11.3 billion to preserve, operate, and maintain the current system; \$11.9 billion to add completing T-Works projects; and \$14.3 billion if \$2.4 billion in new improvements are added (Appendix A, Illustration 4). Under those scenarios, \$400 million in new revenues would be needed to complete new improvements in the third scenario if transfers are \$105 million a year, but none of the scenarios could be completed without new revenues if transfers are \$506.5 million annually. (*Note:* At the November 8 meeting, a representative of Burns & McDonnell reported, if KDOT retains only \$59 million in sales tax, not matching federal aid becomes a risk around federal FY 2024 and KDOT likely would not be able to issue more bonds until FY 2029.)

The Director of Planning and Fiscal Management reported KDOT and the KTA studied tolls in 2008 and found tolls would not cover all construction and maintenance costs for any new four-lane freeway projects, based on traffic projections.

**Turnpike overview and tolling.** The CEO of the KTA, a member of the Task Force, provided historical information about the Turnpike, its relationship with KDOT, and its governance by a five-member board. He noted the Turnpike has been self-funding since its inception in 1954. He stated the KTA's current long-term plan outlines more than \$700 million in projects and, since 2016, the KTA has invested more than \$158 million in projects and enhancements, such as open road tolling at certain Turnpike exits and raising heights of bridges to enhance freight movement. He noted state law requires any new toll road project study to find such project to be entirely self-funding, but the trend nationally is to require tolls to cover at least 25.0 percent of construction and maintenance and joint DOT and toll authority projects are in 12 states, including Colorado.

**Other states' approaches.** A representative of Burns & McDonnell stated Kansas ranked 34<sup>th</sup> in revenues per capita used for highways (\$449), Nebraska ranked 4<sup>th</sup> (\$895), Oklahoma ranked 5<sup>th</sup> (\$868), Iowa ranked 12<sup>th</sup> (\$710), and Missouri ranked 46<sup>th</sup> (\$373), as of 2016. Disbursements in 2016 for highways per total lane miles were \$5,426 for Kansas, \$8,131 for Missouri, \$9,156 for Nebraska, \$9,269 for Iowa, and \$14,127 for Oklahoma. She noted Oklahoma is addressing a backlog of bridge replacements. A comparison of per capita debt obligations as of 2016 found the Kansas number to be more than \$700 as compared with approximately \$400 in Missouri and \$300 in Oklahoma; Iowa and Nebraska do not use bonding, she stated. (*Note:* Colorado was excluded from these comparisons because of its topographical differences.)

The Burns & McDonnell representative noted a 2016 study found all states use fuel taxes for transportation funding; nearly all use vehicle registration fees; most use state bonding, federal financing, and tolls; and fewer than half use general funds, public-private partnerships, and general sales taxes; Kansas uses all those listed



except general funds and public-private partnerships. She provided information on states that had enacted increases in revenues for transportation in 2012 through 2017, and she stated revenue-raising initiatives were pending in 21 states.

The Burns & McDonnell representative stated estimates of increases in electric vehicles expected to be registered in the future vary, but a fee of \$150 for each electric vehicle could increase SHF revenues by approximately \$381,000 per year in the near term. She noted ten states have completed or are planning pilot projects on road usage charges, and she briefly reviewed managed lanes, congestion pricing, and public-private partnerships.

### ***October 4, Newton***

At this meeting, the main informational topics were freight and rail and KDOT local programs. A representative of Burns & McDonnell also reviewed recent transportation lockbox legislation in other states. A representative of High Street Consulting demonstrated an online calculator Task Force members could use to test various scenarios for SHF revenues and expenditures; a copy of calculator assumptions was provided.

**Freight and rail.** The Program Manager, Office of Freight and Rail, Bureau of Transportation Planning, KDOT (Freight and Rail Program Manager) noted Kansas is a hub of freight accessibility; all of the country except the West Coast is accessible within 24 hours. Freight travels on highways (mostly interstate and US routes), on 4 Class 1 railroads, on 11 short line railroads, *via* air cargo facilities, including at Dwight D. Eisenhower National Airport in Wichita, and through pipelines; and freight reaches the U.S. Marine Highway System *via* the Missouri River and the Port of Catoosa, Oklahoma. He reviewed Kansas economic measures and the share attributed to freight in 2014, from the 2017 Kansas Freight Plan (Appendix A, Illustration 5).

The Freight and Rail Program Manager stated truck tonnage is expected to increase by 34 percent by 2040, with inbound traffic increasing more than outbound or intrastate truck movement. He reviewed the Kansas Truck Routing and Intelligent Permitting System (KTRIPS), which has been

used since 2014 to issue approximately 243,000 permits for oversize and overweight loads, such as construction equipment, general freight, wind energy components, oil and gas equipment, and agricultural equipment, as required by state law. He stated KDOT issues more than 90,000 permits annually, 79 percent of which are self-issued using KTRIPS, and the 8-state Truck Parking Information System will launch in early 2019.

Regarding transport of freight by rail, the Freight and Rail Program Manager stated rail tonnage is expected to increase by approximately 11.6 percent through 2040, and carloading on short line railroads is increasing. He noted 41 miles of track of the Nebraska Kansas Colorado Railway has been abandoned since T-Works began. He stated the State Rail Service Improvement Fund (SRSIF), which receives \$5.0 million a year from the SHF, has been used to complete 67 projects since 2000. Examples of the projects include rail rehabilitation, switch installation, and bridge repair. He also reviewed developments at Logistics Park Kansas City, Edgerton, and federal grant funds used to rehabilitate BNSF Railway line used by Amtrak's Southwest Chief in Kansas, Colorado, and New Mexico.

**Local programs.** The Director of Engineering and Design, KDOT, stated the local road system—93 percent of Kansas roads—includes 115,000 miles of county roads, 17,000 miles of city streets, and 19,712 (79 percent) of Kansas bridges. The local system carries 42 percent of vehicle miles traveled, but also accounts for 48 percent of fatalities and 54 percent of disabling injuries associated with vehicle crashes. He noted because of the rural to urban population shift since this system was put in place, 69 counties have fewer than 10 people per road mile, and the number of farms has decreased substantially but farm production has increased significantly. Approximately half of all local bridges are 50 or more years old; 2,955 are rated deficient, but about 15 per year are replaced with federal aid and an unknown number are replaced with local funds.

Funding for county roads and bridges in 2016 came 74 percent from local funds, 19 percent from the SCCHF, and 7 percent from federal funds, including the State's Federal Fund Exchange Program on average, the Director of Engineering and Design reported. Approximately \$150 million

annually in motor fuel taxes (33.63 percent, per KSA 2018 Supp. 79-34,142) is distributed through the SCCHE, 57 percent to counties and 43 percent to cities. City connecting link maintenance payments (for state highways within cities) total approximately \$3 million annually, an amount that would need to be increased to about \$5 million annually to have the same purchasing power as in 1999 when the current rate was established. He stated the Federal Fund Exchange Program has provided more than \$260 million in federal funds since T-Works was enacted; the exchange rate currently is \$0.90 in state funds for each \$1.00 in federal funds.

The Director of Engineering and Design also reviewed other programs and their annual expenditures: Economic Development Program (\$20 million); City Connecting Link Improvement Program (\$12 million); Off-system Bridge Program (\$8 million); Highway Safety Improvement Program Intersection Improvement Program (\$3 million to \$4 million); and the High Risk Rural Roads Program (\$3.5 million). He also referenced the Kansas Local Bridge Improvement Program, a one-year program of \$10.5 million KDOT would like to reinstate (project awards were announced in October 2014), and he stated the Transportation Revolving Fund is inactive.

### ***October 11, Garden City***

Safety was the focus of the informational portion of the meeting in Garden City. A representative of Burns & McDonnell also provided information on budget scenarios and transportation calculator scenarios saved to date and led discussion about calculator scenarios.

**Safety.** The State Highway Safety Engineer, KDOT, stated KDOT's Traffic Safety Office improves safety in two key ways: behavioral programs to make drivers safer and engineering programs to make roads safer. The former is supported by \$7 million annually from the National Highway Traffic Safety Administration and \$800,000 from a portion of district court fines; the latter is supported with \$19 million annually from the Federal Highway Administration and \$3 million in state set-aside moneys (except those state funds were not available in 2016 and 2017).

The State Highway Safety Engineer reported the number of fatalities has remained near 400 since 2007, but increased in 2016 and 2017; the fatality rate on rural roads is 1.97 per 100 million vehicle miles traveled, but 0.51 on urban roads (1.22 overall); and five-year average fatalities for 2012-2016 were 126 in urban areas, but 252 in rural areas (defined as areas with fewer than 5,000 people). He reported fatalities are higher in rural areas because crashes typically occur at higher speeds, discovery and emergency response time is slower, the patient's needs may exceed the capabilities of the local hospital, and many rural roads were built before implementation of modern safety standards. He noted almost half of the fatalities involved unbelted vehicle occupants and Kansans' rates of using seat belts have improved, but still lag behind the national average of 90 percent. On average, 240 fatalities a year result from roadway departures. He also noted Kansas State University research has found an association between speed limits increased to 75 miles per hour and increased fatalities and national research on that topic is under way.

He stated Kansas is generally improving in seat belt usage overall, teen crashes and fatalities, alcohol-related fatalities, and preparing for older drivers. Challenges include the low rate of rural seat belt usage, drunk driving, drugged driving, and distracted driving.

The State Highway Safety Engineer stated rumble strips, guardrail replacements, and improved skid resistance on pavements can be included in preservation projects; improved interchanges, passing lanes, and lane additions in expansion projects; and wider shoulders, flattened curves, and improved sight distances in modernization projects. He also stated roundabouts have been shown to reduce serious injuries by 80 percent and crashes by 50 percent. He also discussed programs to improve safety on local roads and for pedestrians and bicyclists.

A Kansas Highway Patrol (KHP) Technical Trooper stated his agency's efforts to improve safety include programs provided to schools and community groups. He emphasized the Seatbelts Are For Everyone (SAFE) program for teenagers and proper child restraint device use.

## ***October 18, Wichita***

Intelligent transportation systems, autonomous and connected vehicles, and electric vehicles were the informational topics for this meeting. The Mayor of Wichita also provided an update on economic development in Wichita and discussed the economic development importance of investments, including nearly \$1 billion from all sources on US-54/400 in Wichita.

**Intelligent transportation systems (ITS).** The Director of Innovative Technologies, KDOT, stated ITS are tools to assist with infrastructure challenges and are used to reduce crashes and improve efficiency. Ramp meters have reduced crashes by 64 percent and improved freeway speeds in 12 of 24 segments on which they were added, at a cost of approximately \$150,000 per meter, he said. ITS on the freight network and in rural areas include dynamic message signs (\$125,000 per sign), closed-circuit cameras (\$125,000 per camera), vehicle detection, traveler information, and incident management. He noted WICHway, Kansas City (KC) Scout, and Topeka Metro information is available regarding traffic and roadway conditions.

The Director of Innovative Technologies stated ITS investment in the country has increased to \$39 billion in 2018; annual spending in Kansas is approximately \$7 million, but \$10 million in Nebraska and \$15 million in Missouri. Statewide, 150 message boards and 15 ramp meters have been installed; expansion projects continue through 2019, but then the emphasis will shift to maintenance. He noted maintenance expenses will continue and KDOT works to leverage its relationships with the KHP, counties, and other public and private entities.

**Autonomous and connected vehicles.** The Director of Innovative Technologies provided an overview of autonomous vehicles (driven by a system or several systems) and connected vehicles (using sensors that interact between vehicles). He described the levels of autonomous vehicles, noting vehicles on the market provide assistance features but require continuous driver engagement. He noted that in addition to traffic management systems available in the metropolitan areas, Kansas has the KDOT ITS Network, KDOT's 800 megahertz radio network (also used by public

safety and other emergency responder agencies), and a Statewide Autonomous Vehicles Task Force made up of representatives of state agencies and private industry and legislators.

Human error causes 94 percent of crashes in Kansas, the Director of Innovative Technologies reported. Although these technologies have the potential to reduce numbers and severity of crashes, he stated safety concerns remain, such as the performance of new technologies in weather extremes and what happens when autonomous and human-driven vehicles share highways. He noted highway signs and pavement markings likely will need improvements and regular maintenance to be useful to these systems.

The Director of Innovative Technologies stated Kansas is one of a minority of states without pending or enacted legislation on autonomous vehicle testing. He stated Kansas also must consider expanding communications systems and review the use of data from connected vehicles.

**Electric vehicles.** A representative of Burns & McDonnell stated 279,000 electric vehicles are used in the United States and 1,556 of the approximately 1.5 million vehicles registered in Kansas operate solely on electric power, with rates of ownership per 1,000 people about the same as in Missouri, greater than in Nebraska and Oklahoma, and less than in Colorado. He noted national and international trends related to electric vehicles, such as Volvo announcing it will produce only hybrid or fully electric vehicles and countries including France and Great Britain announcing plans to end sales of gasoline- and diesel-using vehicles by 2040. He noted freight and passenger vehicles using electricity and other alternative fuels, such as hydrogen, will require charging stations and refueling options in Kansas for the state to remain a major transportation corridor.

## ***October 24, Hays***

Informational topics for this meeting were alternative delivery of construction projects and county transportation. Improvements to the transportation calculator also were reviewed.

**Alternative project delivery.** The Design-Build Coordinator for the Missouri Department of Transportation (MoDOT) described alternative

procurement used by that agency as a “two step” competitive negotiation in which contractors must qualify in order to bid on projects, MoDOT officials choose a short list of contractors, the chosen contractors put together proposals based on project performance, and a contract is awarded based on best value. He stated MoDOT has awarded 13 design-build projects since 2005 for projects ranging from \$17.5 million to \$420 million in cost, a total of \$1.6 billion in projects, including the kcICON bridge and a bridge over the Missouri River on US-69; the target is using this process for 10 percent of the construction program. He stated MoDOT has also used design-build for bundled projects, including 554 bridge replacements and certain safety improvements.

The MoDOT Design-Build Coordinator stated the agency evaluates projects to determine whether they would be good candidates for design-build. Factors to be considered are the complexity of the project, to take advantage of contractor innovation; whether the project needs to be completed quickly; whether MoDOT staff can manage risks associated, such as for conflicts with utilities and environmental protection; and whether industry supports design-build for the project. Contractors are instructed to bring innovation, for example, to provide the most safety improvements or the biggest reduction in crashes for a certain amount of money. The Design-Build Coordinator said contractor innovation is key, and lessons learned from the contractors can be incorporated into more traditional design-bid-build projects. He also stated in-state contractors at first were at a disadvantage because they were not experienced with design-build, but that has changed over time. He recommended consulting with the Design-Build Institute of America, the Federal Highway Administration, and states with mature design-build programs.

The Director of Engineering and Design, KDOT, reviewed KDOT and KTA experience with alternative procurement: the use of engineer-procure-construct on the KTA’s project to increase the heights of various bridges and design-build on the Johnson County Gateway at the intersections of K-10, I-435, and I-35. He described the Gateway project as one in which the fixed-price design-build process reduced the time to project delivery and reduced lane closures; KDOT

accepted 14 of 22 alternative technical concepts offered by the contractors. He noted design-build is fully authorized in a majority of states, but was authorized for only one project in Kansas, as part of T-Works. He stated the Kansas Department of Administration uses alternative procurement for facility infrastructure. If authorized, KDOT would contemplate using alternative procurement for projects for which reduced project development time is important, such as emergencies, economic development opportunities, and projects in high traffic or freight-intensive locations, but not for routine projects with little or no potential for innovation. The Director of Engineering and Design stated potential barriers are that funding commitments happen early in the process, unstable funding sources limit an agency’s ability to make such commitments, and a limited number of firms have the ability to take the lead on alternative procurement projects.

**County roads.** The Local Road Engineer with the Kansas Association of Counties stated, as of 2016, KDOT was responsible for 10,200 miles of roads and 5,100 bridges, counties were responsible for 115,000 miles and 18,050 bridges, and cities were responsible for 17,000 miles and 1,250 bridges; 62 percent of vehicle miles traveled are on the local systems; and almost every trip begins and ends on a local road or street. He noted county roads are essential to agriculture, rural residents, oil and gas, aggregate production, and wind power and each of the 105 counties is unique in its mix of population, industry, and terrain. He also noted, since local roads were established, the Kansas population has shifted, farm and agricultural equipment size have increased substantially, and federal funding has shifted away from local roads. He stated the American Society of Civil Engineers in 2013 found 62 percent of Kansas roads were in poor or mediocre condition and TRIP, a national transportation research group, reported that at least 30 percent of Kansas major rural roads were in poor condition in 2013.

The Local Road Engineer stated road maintenance challenges include static budgets but higher costs, which have led to reduced staff; asphalt roads converted to gravel; gravel roads converted to dirt; closed bridges; and reduced mowing and maintenance. He noted most roads cannot be closed because they are necessary to access property. He discussed reliance on property

tax, but statutory limits on local ability to tax, the percentage of fuel tax revenue directed to the SCCHF and its proportionality to road miles and vehicle miles traveled, and how the population shift from farm to town within rural counties affects local property tax. He noted the SCCHF provides approximately 19 percent of funding for county roads and bridges, but the rate of 33.63 percent of fuel tax revenues to the SCCHF is historically low. He proposed consideration of a county option for a special county road fund financed by a mill levy on property in unincorporated areas and other options to fund rural roads. He also noted the importance of the Federal Fund Exchange Program to counties.

The Local Road Engineer stated 257 local bridge replacements are needed each year, but 115 bridges are being replaced, with an average replacement value of \$417,000, leaving a need for approximately \$60 million total each year. He requested reinstatement of the Kansas Local Bridge Improvement Program, through which 77 bridges were replaced, and noted state programs for rail, transit, and aviation.

### ***November 8, Olathe***

Future preservation funding needs, transportation development districts and cost-share programs in Missouri, the economic development program, and the economic impact of transportation on Johnson County were the informational topics for this meeting.

**Preservation funding needs.** The Director of Operations, KDOT, stated projected preservation investment for T-Works exceeded actual preservation spending in 2011, 2013, 2016, 2017, and 2018 and is expected to be less in 2019 and 2020. As a result, the system needs annual spending of \$375 million on pavement preservation, \$125 million on bridge repair and replacement, and \$100 million for modernization and expansion work, a total of \$600 million. He explained the system loses approximately 10,000 mile years per year of pavement health, and preservation projects must add that number of mile years per year to keep the system in its current condition; he stated the T-Works program slightly improved road conditions until 2016, but conditions have declined since then. He also explained pavement condition, or smoothness, is

not the same as pavement health, a measurement of subsurface conditions that accounts for the service life of the road (Appendix A, Illustration 6). He noted conditions of bridge decks also have declined.

The Director of Operations stated “heavy” treatment options last approximately 15 years, “light” options approximately 6 years, and “very light” options approximately 2 years, and compared the average annual miles of pavement treatment programs by category and by program: CTP, T-Works 2011-2015, and T-Works 2016-2017. During 2016-2017, there was much less heavy and light work than on average during the earlier periods, he continued. He noted modernization and expansion projects improve system health, but average modernization and expansion investments dropped significantly in recent years. He also noted the system has increased in size through the CTP and T-Works, increasing preservation costs, and approximately 2.6 million more trucks a day use the system than at the start of T-Works, which is an increase of nearly 31 percent.

To improve pavement health back to recommended levels would require an annual investment of \$342 million in 2018 and 2019 to slow decline and \$600 million for 2020-2024 to begin to improve pavement health and continuing to 2028 to return pavements to recommended levels, the Director of Operations stated. He also stated the T-Works bill requires \$8.0 million be spent in each county by June 30, 2020, and at least that much has been spent in 102 of the 105 counties. He added the goal would be met for Greeley and Stanton counties by 2020, and design is under way for a project in Chautauqua County for construction in 2022.

**Transportation development districts and cost-share programs in Missouri.** The District Engineer for the Northeast District, MoDOT, described the 17-county Northeast District as encompassing rural and suburban counties, and Missouri’s highway system as the seventh largest in the country. Partnership programs in Missouri include cost sharing (amounts set by the Missouri Highway Commission), cost participation, the Missouri Transportation Finance Corporation (MTFC), transportation development districts, and transportation corporations. She also described the

roles of Missouri's regional planning commissions in determining which projects go forward.

The MoDOT District Engineer reviewed several case studies involving local partnerships. In Kirksville, safety concerns on US-63 prompted local citizens to dedicate sales taxes to widening US-63 south of the city and later to provide a US-63 bypass; the MTFC allowed the local portion to be financed. Four of five counties along a two-lane section of US-36, from Macon to Hannibal, approved a half-cent sales tax to complete four lanes on US-36 across Missouri. Those counties were able to use transportation financing, but paid off the amount two years early (in part because implementation of practical designs reduced costs), stopped collecting the tax, and disbanded that transportation development district. A transportation development district in Troy, Lincoln County, did not get community buy-in for plans to upgrade MO Route 47, a commuter route to St. Louis, and had to disband.

The MoDOT District Engineer noted the importance of local buy-in to any project with local support and stated her agency has developed a citizens guide to transportation; the guide reviews personal costs for transportation, explains how Missouri uses transportation moneys, describes current conditions, and describes high-priority funding needs. She also recommended fostering collaboration among the DOT, local officials, and planning partners and offering a variety of partnership options. She noted the MTFC, set up as a finance corporation, has been well utilized.

**Economic development program.** The Bureau Chief of Transportation Planning, KDOT, stated the goal of the economic development program is to create jobs and capital investment in Kansas by making transportation improvements that recruit new businesses or help existing businesses expand. Approximately \$100 million in economic development projects were identified for T-Works, but \$70 million was available, and all of that has been invested or committed for approximately 40 projects. He stated typical projects have been turning lanes, access roads, and rail spurs, at costs of \$500,000 to \$2 million, noting projects can be on or off the state system and for any mode of transportation. Two of the examples he cited were a replacement interchange

for the Amazon fulfillment center in Wyandotte County and paving of a county road used by a large dairy in Thomas County.

The Bureau Chief explained projects are selected based on applications from cities and counties and referrals from the Department of Commerce. He noted the Department of Commerce uses the economic development program as a tool to recruit businesses to Kansas and program dollars could be used as match for federal funding opportunities.

The Bureau Chief stated the program cannot be reinstated if the transfers from the SHF continue at the current rate, and requests for more than a dozen projects have been submitted.

**Economic impact of transportation on Johnson County.** The chairman of the Johnson County Board of County Commissioners stated Johnson County understands the importance of transportation to further business growth and the links between well-planned infrastructure, population growth, and economic development. He stated the county cooperates regionally on transportation and economic development, working with KDOT as a partner. He noted approximately 23,000 businesses, 25 percent of Kansas jobs, and a larger percentage of payroll are in Johnson County, with professional services, logistics, manufacturing, agriculture, and oil and gas all present. He discussed expansion of Logistics Park Kansas City, as well as additional business and the importance of maintaining infrastructure. The chairman requested the Legislature recommit itself to keeping transportation funds in the SHF and available for local programs. He stated Johnson County cannot add sales tax, has limited capacity to respond locally to transportation needs if that need would exceed the property tax lid, and holding a tax lid election would cost the county between \$800,000 and \$1 million.

### ***November 9, Manhattan***

The informational topics for this meeting were city streets, project selection, and KDOT initiatives and innovations.

**City streets.** The City Engineer and Director of Public Works for the City of Newton and the

General Counsel for the League of Kansas Municipalities noted the diversity among Kansas cities, with populations ranging from 24 to 382,368, but only 60 of the 625 cities exceeding 5,000 in population. They noted municipal transportation systems include bike paths, sidewalks, airports, railroads and crossings, and transit as well as roadways; 27 percent of vehicle miles traveled are on city streets, which are 12 percent of total road miles; maintenance includes street cleaning to protect storm sewers and waterways; and construction materials costs have increased. They noted increased demand for infrastructure to improve safety related to active transportation and requested a study of this type of infrastructure in the state.

The conferees described KDOT local programs. They noted the State has \$8 million a year available to cities and counties to maintain and replace bridges and more than half of local bridges are 50 or more years old; payments for city connecting links have not increased since 1999; and SCCHF revenues from motor fuel taxes grow at less than the rate of inflation. The City Engineer provided examples of successful economic development projects in Newton.

The conferees described the state property tax lid as limiting local options and stated cities have few options, as some have little retail and bonding costs more in the long run, leaving only property tax. They noted the lid does not take into account increases in costs for construction materials and labor.

The conferees listed as priorities for cities protection of SHF moneys for transportation, completing T-Works projects, increasing state funding for the preservation and expansion of local systems, more control for cities over how to spend transportation program moneys, and attention to alternate modes of transportation.

**Priority formula and selection criteria.** The Director of Planning and Fiscal Management described selecting highway projects as like building a professional sports team in that it requires selecting the right mix to get the most improvement for the entire system with a specific amount of money. He reviewed the bases for T-Works selection processes by type of project. He

stated Kansans have been supportive of KDOT's selection processes overall.

He explained engineering data reflect geometrics, capacity, surface conditions, and structural conditions and are adjusted based on route classification, overall and commercial traffic volume, crash rates, and, for non-interstate highways, whether the roadway is divided and whether the shoulders are stabilized. He noted the priority formula does not consider project cost.

The Director of Planning and Fiscal Management stated, to determine where new projects are needed and their economic impact, KDOT measures economic impact using a modeling tool, the Transportation Economic Development Impact System. The tool estimates changes in long-term jobs, income, and economic impact; rural and urban projects are scored separately, he said. He stated all T-Works modernization and expansion projects were chosen at the start of the program, but most preservation projects are chosen only for the upcoming year. He noted many projects have been requested during Task Force meetings. He noted expansion projects may take five years to complete preliminary engineering, purchase right-of-way, and move utilities before the project can be let. He stated KDOT plans to consult with local officials on remaining T-Works and any new modernization or expansion projects. He stated \$12.3 billion in needs identified during local consultation before the T-Works program have not been constructed and the costs of projects requested this year during local input testimony to date reached \$5.6 billion; with approximately \$600 million to complete delayed T-Works projects, the total for modernization and expansion project needs reached \$18.5 billion.

**KDOT initiatives and innovations.** The Director of Operations reviewed recent KDOT initiatives, including partnering with KTA on a field office, certain projects and engineering services, and maintenance on ITS equipment in Wichita and a partnership with Douglas County to share winter maintenance and fueling infrastructure. In exchange for allowing fiber installation in a right of way, companies provide KDOT with access to data services. He described cost-saving improvements, such as site-specific practical improvements, passing lanes rather than

four lanes, and low-cost safety improvements, such as rumble strips.

The Director of Operations noted the role of real-time message boards at work zones in improving traveler safety and that KTRIPS reduces paperwork and wait time for truck routing and permitting. He described KDOT as a leader in pavement preservation techniques, noting surface recycling and cold in-place recycling were developed in Kansas and are now used across the country. He also described innovations in responses to winter weather and use of drone technology for tasks such as light tower inspections and project documentation that save time and money and improve employee safety.

The Director of Operations noted a challenge for the agency is recruiting and retaining personnel for engineering and road maintenance positions. He stated the number of engineers is down 40 percent since the start of T-Works and, of the 211 current engineers, 30 are eligible to retire now and another 24 within 3 years; 17 engineering positions were being advertised as of the date of the meeting, but are not competitive in terms of salary. He also described 100 percent turnover in equipment operator trainees, who are paid \$12.66 per hour and can take their commercial driver's licenses to other, better-paying jobs.

### ***November 28-29, Topeka***

The work for the Task Force at this meeting was to discuss and reach consensus on conclusions and recommendations to be included in this report. A representative of Burns & McDonnell facilitated that discussion. She also reviewed findings from a survey sent to Task Force members for return the previous week, which indicated some areas in which Task Force members were in agreement. She reviewed the three scenarios presented for 2021 through 2030 and the ending balances associated with each depending on assumptions made about transfers from the SHF (Appendix A, Illustration 7). She also presented phased scenarios that assumed increasing portions of sales tax moneys would remain in the SHF.

### ***Additional Sources of Information to the Task Force***

To respond to specific questions posed by Task Force members, KDOT consultant staff, in consultation with KDOT and Kansas Legislative Research Department (KLRD) staff on certain topics, prepared a document titled "Information Requests: Tracking & Resources." Cumulative versions were distributed at Task Force meetings including the November 28-29 meeting.

KLRD staff prepared and distributed memoranda on topics including protections in state law for transportation funding (including constitutional amendments in other states to protect moneys for transportation), fees for electric and hybrid vehicles in other states, payments to cities for highway connecting links, state revenues used for transportation purposes, SCCHF distributions, the relationship between KDOT and the KTA, SHF receipts and transfers, and the history of and trends in state motor fuel taxes. All are available on the KLRD website, [www.kslegresearch.org](http://www.kslegresearch.org).

KDOT held stakeholder meetings before Task Force meetings, on freight and rail in Newton on October 4; on transit, bicycling and pedestrian concerns, and aviation in Wichita on October 18; on local programs and rural mobility in Hays on October 24, and on urban mobility in Olathe on November 8. Oral reports of those stakeholder meetings were presented during meetings and written discussion summaries were distributed to Task Force members at the November 28-29 meeting.

### ***Local Input Testimony***

At its meetings at which local input testimony was received, Task Force members received testimony from 319 individuals or groups—approximately 400 local officials and other members of the public in total—regarding policy considerations or changes and requesting specific projects. Those conferees came from or represented at least 60 counties (Appendix A, Illustration 8). In the following section of this report, the numbers in parentheses indicate the number of individuals who presented testimony—oral, written, or both—that, at least in part, related to that category. Because not all conferee



comments could be categorized, the numbers in parentheses should not be considered to be absolute.

### ***Policy Recommendations***

Conferees expressed their views on multiple transportation-related topics and requested the Task Force and other decision makers take those views into consideration. While conferees provided testimony on a wide range of transportation-related topics, the vast majority fell into one of the categories included in this section. Main topics are presented in alphabetical order.

**Agriculture and rural roads (13).** Conferees stated more than 45 percent of the state's economy and more than 12 percent of Kansas jobs depend on agriculture and, therefore, properly maintained and improved rural roads are vital to the entire state and should remain a funding priority. They noted agricultural production has increased significantly, and increased production in terms of bushels and pounds of animal protein has increased demand on rural roads and bridges and the amount of maintenance and improvements needed. They also noted farms have increased in size and sizes of farm equipment, including trucks, have increased correspondingly; farm trucks now are likely to be tractor-trailer combinations weighing up to 85,500 pounds.

**Aviation (19).** Conferees noted the impact of aviation on the Kansas economy and on quality of life. As an example of direct impact, a conferee stated a grant of \$350,000 to resurface a taxiway led to placement of a commercial facility in Salina with a direct economic impact of \$4 million. Sales taxes paid on aviation fuels were referenced. Another conferee noted opportunities to develop UAS applications in Kansas. Also mentioned were improvements to encourage cross-country planes to stop in Kansas for fuel and other services and the importance of airport improvements in training workers who are in high demand for the aviation industry. They stated improvements to date have decreased the time it takes to get critically ill or injured patients to medical services. Conferees discussed the impact of regional access *via* aviation on other types of economic development, as well as increasing use by regional residents and visitors. A conferee also noted uses for aviation in modern agriculture.

Conferees noted state investments in aviation lag those of other states and requested increased investment in the KAIP. Conferees stated increasing the \$5.0 million designated for the KAIP would increase Federal Aviation Administration (FAA) funds available to airports, and municipal airports need both state and FAA moneys for improvements to enhance safety and otherwise improve infrastructure. It was noted an automated weather observation system costs approximately \$150,000 and \$20,000 to \$30,000 to maintain.

**Active transportation (26).** Conferees stated some Kansans have no means of transportation other than walking or cycling, but those Kansans also must access jobs, medical care, healthy food, and other services. Conferees also noted constituents in all circumstances ask for improvements for active transportation. Improving the safety of walking and cycling encourages more people to walk and cycle, conferees said. It was noted electric bicycles are becoming more popular and increase the range in which a person can travel by bicycle. Several described a lack of safe places where pedestrians can cross state highways within cities, and it was noted seniors and people of color are over-represented among pedestrian fatalities.

Conferees noted economic benefits of investment in infrastructure for use by pedestrians and bicyclists, directly and indirectly. Direct economic benefits include amounts spent by cycling tourists, including more than 2,000 participants in the Dirty Kanza gravel ride near Emporia. Indirect benefits cited included recruiting and retaining younger people in local jobs and reducing congestion and related pressure on vehicle infrastructure. Safety for pedestrians crossing state highways also was cited as a reason for increased attention to infrastructure for active transportation.

Health benefits of active transportation and linked reductions in health care costs also were discussed, such as preventing and treating chronic diseases, including cardiovascular disease, diabetes, and high blood pressure. Other benefits cited included decreased depression and anxiety and improved learning. Conferees stated 81 percent of Kansans did not meet recommended levels of physical activity in 2017, and also stated lack of physical activity costs Americans an

estimated \$177 billion a year. KDOT coordination with health agencies was requested.

Conferees described community uses of moneys made available *via* state programs; requested increased funding for active transportation, including dedicated state funding; and noted the needs and requests far exceed moneys available through the State.

**Economic development (36).** In addition to describing economic development benefits of specific projects, conferees addressed economic development in general. Conferees noted Kansas economic development depends on the state's access to other states and the rest of the world *via* highways, train, and air, and companies choose Kansas because of its transportation resources. They stated public investments in highway, rail, and airport infrastructure attract private investment and pay for themselves in taxes paid. Conferees provided examples, such as Logistics Park Kansas City, the transload facility in Garden City, and an industrial area in El Dorado.

Conferees noted multi-modal transportation resources also are key to recruiting and retaining talent. Several noted concern for Kansans who commute over roads in need of modernization or additional lanes.

Conferees stated congestion and highways in need of modernization hinder economic development (*e.g.*, businesses can lose efficiency due to delays and will locate elsewhere).

**Effects on construction-related companies (9).** Company representatives and other conferees stated the instability in transportation funding negatively affected Kansas businesses not only in terms of work not done in Kansas but also in recruiting and retaining talent. Conferees also said delays and uncertainty have delayed investments in equipment to make future work better and more cost-effective. They noted many Kansans and Kansas companies have been working outside of Kansas and described that workforce as an asset to the state. They requested funding stability and a new program that will provide well-paying jobs.

The conferees also noted direct economic benefits of construction, such as the payroll of

more than \$70 million for the nearly 1,000 workers employed on the Johnson County Gateway and amounts spent with materials suppliers. Conferees stated \$1 spent on transportation is \$5 to the economy, and the economic impact of the CHP was found in 1997 to have had an economic impact of \$7.4 billion, not including lower congestion and accident costs.

**Ending transfers from the SHF (21).** Conferees called for an end to transfers from the SHF, stating the transfers have delayed projects on which communities were depending and have reduced public trust. Conferees stated the T-Works program worked well when it was adequately funded, meaning funding for preservation, modernization, and expansion projects, and an underfunded highway program jeopardizes economic development. Conferees requested stable funding and rebuilding of essential services and suggested using constitutionally protected sources of revenue to prevent transfers.

**Finishing T-Works (24).** Conferees requested KDOT complete projects that had been expected to be completed during the T-Works program and asked that those projects have high priority. They stated the projects are important to economic development and the safety of those using these roadways. Several conferees noted private and local government investments had been made in anticipation of these projects, such as \$5 million for streets in Newton, and KDOT has already invested in designs and right of way for the unfinished projects. Conferees also emphasized the importance of the State fulfilling commitments made to communities.

**Funding in a new transportation plan (29).** Conferees expressed support for dedicated and protected revenues that sustainably fund infrastructure and support economic growth and increasing population. Among revenues suggested were new motor fuel taxes; taxes on alternative-fuel vehicles (at parity with taxes paid for gasoline and diesel); new fees for driver's licenses, vehicle registrations, or both; toll revenues and user fees; congestion fees; vehicle weight fees; and revenue increases resulting from economic development and capacity projects. It was noted gasoline taxes have recently been increased in nearby states. A production tax was suggested, as certain industries use heavy vehicles that result in high road

maintenance costs, but was opposed by another conferee, as was a special county road fund financed by a mill levy on property in unincorporated areas to be added with voter approval. It was noted the trucking industry pays 43 percent of taxes and fees owed by Kansas motorists but accounts for 13 percent of the vehicle miles traveled, an average paid to the State of \$6,635 annually as of January 2017.

Conferees also discussed the distribution of funding in a new plan. The comments included these: current state funding structures are heavily slanted away from multi-modal networks; any support for increased fuel taxes in the conferee's area would depend on plans to return the increased tax revenues to that area; new revenues should be shared with local governments using a formula; and projects should be prioritized based on the willingness of local jurisdictions to partner in some way. Speaking directly to formulas used to distribute funding to cities and counties, conferees requested consideration of population growth and the number of bridges as well as of road miles, vehicle registrations, and vehicle miles traveled. Conferees also requested any new plan guarantee a specific amount be spent in each county or transportation district.

**Local funding (15).** Conferees described funding their communities provide for transportation, such as overall amounts dedicated to and sales taxes earmarked for transportation. A city representative stated more local revenues go to transportation than to any other city budget category.

Conferees noted challenges related to the lid on property tax increases and indicated property tax is the primary source of local transportation funding (approximately 71 percent of transportation budgets for counties collectively). Among the comments were that the property tax lid forces more reliance on KDOT programs, makes it difficult for local communities to respond to emerging economic development opportunities, has meant a county's bridge program was not funded, and limits the ability of local governments to keep pace with community demand for services. Several stated rural areas are losing residents and, with larger proportions of in-town residents, fewer county residents use rural roads and will vote to increase property taxes to improve rural roads, but

those roads remain important to the local economy. A conferee also noted lower state sales taxes in Missouri and Oklahoma make raising local sales taxes difficult.

**Local programs (36).** Conferees expressed appreciation for KDOT's local programs but requested additions and changes. One noted, without the local programs, his community would need to raise property taxes by at least 6.4 mills to provide the same level of service. They also noted programs have not been consistent and amounts available have not addressed growth of needs or costs to address preservation, maintenance, and safety.

*Bridge replacement (12).* Conferees reported their counties cannot keep up with needs for bridge replacement and requested restoring the Kansas Local Bridge Improvement Program; it was suggested the program become statutory. The bridge program was successful in eliminating deficient bridges, according to county representatives. Conferees stated bridge replacement is a statewide issue, and counties may have to close half of their bridges over the next 50 years.

*Connecting links (14).* Payments for maintenance of and improvements to city connecting links were among programs called critical to cities. Conferees noted applicants requested multiples of amounts available, indicating an increase in funding is needed. They noted the portion of cost share depends on community population. Conferees noted the amount to cities per lane mile has not changed since 1999 and should be increased, and deferred maintenance because of low payments increases long-term costs. Conferees expressed support for the Geometric Improvement Program to improve intersections, widen narrow roadways, and add lanes.

*Economic development (4).* Conferees requested KDOT fund and allow use of economic development programs, such as the Economic Development Program and the Transportation Revolving Fund.

*Federal fund exchange (12).* Conferees described this program as critical to local

infrastructure preservation and maintenance and asked the exchange rate remain at 90 percent for each \$1.00 in federal funding.

*Safety programs* (4). Conferees expressed support for programs that improve safety on rural roads. One encouraged distribution based on cost-benefit analysis, taking into consideration reduced costs of crashes and reduced numbers of fatalities. Also suggested for safety reasons was expanding intelligent transportation systems and offering ITS funding to local governments.

*SCCHF* (17). Conferees noted the SCCHF is, for many counties, the largest single source of funding for county road and bridge departments, and a representative of one city stated the city would need to raise property taxes by at least 15 mills without it. Conferees urged increases in the percentage of state fuel tax revenues directed to the SCCHF to reflect vehicle miles traveled on the local system. Conferees also requested commercial vehicle property taxes or fee moneys be directed to the SCCHF; these moneys are statutorily directed to the SHF but have not been transferred to the SHF since FY 2010.

*Transportation alternatives* (3). Conferees stated transportation alternative grants increase transportation choices and improve safety and quality of life. It was suggested a grant remain in place even if a project is delayed.

**Multi-modal transportation (17).** Conferees expressed support for a multi-modal transportation plan that includes funding for passenger and freight rail, commercial and general aviation, transit, and bicycle and pedestrian projects, as well as highway and bridge projects for both safety and economic development reasons, to create an integrated system that serves the needs of people. They described connected travel options as a catalyst to economic development. Conferees stated demand is increasing in all sizes of communities and across the demographic spectrum for approaches to transportation that combine modes of transportation, and they also noted efficient freight operations also need to move smoothly from one form of transportation to another. They stated multi-modal transportation is increasingly important to attracting and retaining

employees and has been a component of successful in-city redevelopment.

**New transportation plan, overall (31).** Conferees provided suggestions for ideas to be included in a new comprehensive transportation plan as well as expressed support for a long-term plan in general. The points they made include these:

- A new plan should address the split of tax revenues between the state and local governments. Conferees stated the proportions of vehicle miles traveled, total road miles, and numbers of bridges on local roads are not reflected in the proportion of motor fuel taxes distributed to local governments *via* the SCCHF (33.63 percent) and requested an increase in that percentage. They also requested sales tax be shared with cities and counties. They noted increased numbers and weights of vehicles on rural roads, including vehicles used in agriculture, oil and gas, wind power generation, and other expanding industries in the state. It also was noted more than half of vehicle crash fatalities are on rural roads, but local governments get less than half of safety funds. (11)
- Modernization is needed on many highways to reduce accidents and fatalities. Driver inattention and wider farm vehicles and commercial loads have decreased safety, and safety should be a priority. Safety improvements a new plan should support also include intersection improvements, turning lanes, traffic studies, and the use of ITS. (4)
- Technology changes will be disruptive and affect transportation planning, which elevates the importance of data and data sharing. Additional funding should be provided for ITS and cooperative partnerships should be allowed. Support for adequate alternative fuel corridor infrastructure should be included. (3)
- KDOT and local governments should have greater authority to use alternative

delivery methods and innovative construction tools where such use adds value and can be overseen effectively. (2)

- A new plan should prioritize major regional projects with significant impact on the state and both intrastate and interstate connections. Predictable future needs should be addressed, beyond what is funded, and the plan should not just focus on high-priority problem areas. (4)
- Continue to educate public officials about transportation, but require qualified people to carry out a transportation plan. When engineers outside of KDOT are involved, qualification-based selection ensures the most qualified firm is engaged in design and engineering. (2)
- Local transportation should be addressed in any new plan. (1)

**Preservation (26).** Preservation of roadways and bridges was a priority for conferees for reasons of cost effectiveness, economic development, and safety. Points made regarding cost effectiveness included prolonging the system's useful life, deferred maintenance increases costs and decreases the reliability of the transportation system, system health is reaching a critical point, reconstruction costs three- to eight-times more than preservation, KDOT's "right action at the right time" approach should be continued and preservation fully funded, a sustainable quality standard should be determined, roadways should be constructed to a standard that requires minimal maintenance, and preservation actions increase safety. Conferees stated poorly maintained infrastructure is a disincentive for businesses to invest, and negative impressions of the state's transportation system could have economic development repercussions. It was noted surface preservation projects on city connecting links have not been approved for the past two years. KDOT was commended for a standard of excellence in road quality and for its preparation for winter storms.

**Rail (30).** Both freight and passenger rail received conferee support, as did intermodal

facilities and the SRSIF. Conferees also stated Kansas must have a plan to address current and forecast rail deficiencies.

*Freight rail (7).* Conferees described the importance and value of both short line and class 1 freight rail to agriculture and industry. They stated one rail car holds the volume of four trucks, so use of rail reduces the number of trucks on roads and reduces highway maintenance costs. Representatives of short line railroads described investments they have made in Kansas rail.

*Passenger rail (16).* Conferees requested continuation of the Amtrak Southwest Chief route through Kansas and extension of the Heartland Flyer (which currently runs from Dallas-Fort Worth to Oklahoma City) from Oklahoma City to Newton to connect with the Southwest Chief. They cited economic development reasons and increasing demand for travel alternatives; they also noted significant investment has been made to keep the Southwest Chief on its current route.

*Intermodal facilities (6).* Conferees stated intermodal projects have been successful economic development projects and additional opportunities for successful intermodal projects are available in Kansas, opening rail access to more customers.

*SRSIF (7).* Conferees described the SRSIF as a public-private partnership vital to Kansas agriculture, industry, and commerce as well as to the railroads themselves, that should be continued and its amount increased. They noted the SRSIF is 40 percent loan, 30 percent match, and 30 percent grant. They stated the short line railroads took over line that had been abandoned by class 1 railroads and it has needed significant investment. Of particular interest is authorizing use of the SRSIF to assist railroads with replacing rail in order to handle cars engineered for the Association of American Railroads maximum gross rail load of 286,000 pounds (effective since 1995); conferees stated customers require the heavier rail cars.

**Regional planning (25).** Conferees emphasized the importance of intrastate and interstate regional planning for transportation. They described their own regional organizations and planning and how they built consensus on

regional transportation priorities. They stated lack of four-lane highway access slows economic development in the southeast and southwest regions of the state. They noted, for example, the conditions of highways in south central Kansas affect traffic and conditions in southwest Kansas. They noted increased efficiency from regional coordination and dispatch for rural transit. Among regional concerns are safety for commuters; in some areas, commutes of 50 miles each way are common. Conferees urged prioritizing major regional projects.

**Transit (17).** Conferees cited increased demand for transit and the need to provide transportation alternatives for Kansans to access work, services, groceries, and schools. They noted an objective is to connect workers and people seeking work with jobs and described initiatives to address those needs, such as partnerships with specific employers. They also requested flexibility for pilot programs to test new mobility options. They noted, in many areas, there are few transportation options to get low-wage workers to available jobs and not every person can, or wants to, drive. Connecting residents with regional health care also was described as in demand.

While expressing appreciation for current KDOT efforts, conferees stated state support for transit should increase; state support for transit in the Kansas City metropolitan area is much less than for peer areas, conferees said. They noted transit is not available in any form in some areas of the state. Conferees also requested more support for regional dispatch and more regional mobility managers to help reduce costs and duplication.

Conferees also noted transit can reduce congestion, integrated transportation systems contribute to economic development, and improvements are needed to improve the safety of transit users.

### ***Specific Projects***

Conferees requested projects to address needs for bridge decking, interchanges, roadway expansion, and route modernization. Locations of requested projects are illustrated in Appendix B to this report.

**Modernization.** Proponents for route modernization overwhelmingly cited safety as the reason for their requests. The term “modernization” for purposes of this report refers to projects to widen roadways, add or widen shoulders sufficient to allow a vehicle leaving the roadway to easily re-enter the roadway and to allow a disabled vehicle to pull over, increase line-of-sight distances, and flatten curves.

*(Note: Usage of terms such as “modernization” in this report may not reflect how those terms are used by KDOT. In some cases, conferees requested improvements in more than one category, such as a project with both modernization and expansion components.)*

*(Note: The number in parentheses is the number of conferees requesting this particular project.)*

## **Northeast Kansas (KDOT District 1)**

### ***Modernization***

**Polk-Quincy Viaduct (I-70, in Topeka) (8).** Conferees stated economic development in that area of Topeka is stymied by lack of certainty on the route of the viaduct’s replacement. They also cited safety concerns, noting the corridor does not meet current design standards regarding the angle of the curve in the viaduct, shoulder width, placement of exits, and lengths of acceleration and deceleration lanes. The deceleration required by the curve and serious crashes on the viaduct slow I-70 freight movement, they stated.

**K-31, US-56 to US-75 (2).** Conferees cited safety concerns and economic development as reasons for the project. They noted the route is a connector between major highways; its narrow width and lack of shoulders create hazards; it was a T-Works project; it is used by vehicles as varied as horse-drawn buggies and heavy commercial vehicles; and its importance to commuters, emergency services, and school buses. Safety concerns block economic development, they stated. They noted the City of Osage City’s willingness to partner with KDOT on the project.

**K-68, I-35 to the Missouri line (9).** Conferees noted recent significant increases in use of this route by heavy commercial vehicles and

commuters and its potential as part of an outer loop around the Kansas City metropolitan area. They stated improvements between US-69 and US-169 had been expected under T-Works, and development in the area would increase the cost of right-of-way (ROW) acquisition. Another conferee noted a need for a connector between I-70 and I-49 without specifying K-68. Also requested was reconstruction of US-68 within the Gardner city limits.

**K-7 north of I-70 (1).** The conferee requested solutions to improve safety and travel times, including upgrades regarding turning movements.

### ***Expansion***

**K-7 to I-435 (1).** The conferee requested KDOT study and advance a new corridor to connect K-7 to I-435 at the existing Wolcott interchange.

**K-7 and Prairie Star Parkway bridge (1).** The conferee stated the bridge has insufficient capacity and no service for pedestrians or cyclists.

**K-7, 79<sup>th</sup> Street north to the Kansas River (1).** The conferee urged completion of this urban project.

**K-10, South Lawrence Trafficway (SLT) (3).** Conferees from Lawrence and Douglas County requested completing to four lanes the western section of the SLT portion of K-10. They noted the opening of the eastern leg of the SLT had greatly increased traffic, creating significant congestion on the two-lane western leg at peak times and an increasing number of crashes. They also discussed economic development associated with the SLT and opportunities to be created by expansion.

**US-69 south of I-435, in Johnson County (24).** Conferees cited congestion from high traffic volumes and its related negative effects on highway-user safety and on economic development as reasons for requesting an increase from four to six lanes on this portion of highway. They noted the congestion and safety issues are detrimental to the area's ability to attract and keep employees, access businesses along that commercial corridor, and attract additional economic development, and the area has become a

bottleneck for efficient freight movement. Conferees also noted the existing roadway has increasing maintenance issues and cited as reasons for advancing this project tourism, K-12 enrollment, its use by higher education students, and local investment already made in projects anticipating this improvement.

**I-35 at 75<sup>th</sup> Street in Shawnee (1).** The conferee requested additional lanes for I-35 at 75<sup>th</sup> Street.

### ***Interchanges***

#### ***KC Metro***

I-35, I-435, and K-10 (next phase of the Gateway Project) (2).

I-35 at 75<sup>th</sup>, Gardner Road, 119<sup>th</sup>, 183<sup>rd</sup> (Moonlight), US-56 (to an urban diamond) (2).

I-435 at I-70, Johnson Drive, Parallel Parkway, State Avenue (2).

I-435 at 95<sup>th</sup> (1).

I-70 and the Turner Diagonal (1).

K-7 at Hollingsworth Road and at additional unspecified intersections in Wyandotte County (2).

K-10 and Lone Elm Road (1).

US-56 at Waverly Road (1).

A grade separation on 207<sup>th</sup> Street, near Logistics Park Kansas City (2).

#### ***Elsewhere***

K-10 at US-59 (1).

KTA interchange at I-470 and SE 29<sup>th</sup> Street, Topeka (1).

Conferees cited safety, congestion, and economic development reasons for those interchange improvements. They specified concerns about the safety of employees using those interchanges and positive effects on economic development when employees,

commercial vehicles, and others move safely through those corridors and access the local routes.

**Local roads.** 207<sup>th</sup> Street east of Waverly Road, the entrance to Logistics Park Kansas City Phase II, was noted as a significant project (2).

**Connecting link.** US-56 through Gardner (1). The conferee requested reconstruction of this city connecting link.

### ***Corridor Studies***

**K-113 (1).** The conferee requested a study of the K-113 corridor, to determine enhancements and to address safety and capacity concerns.

**I-70 and US-75 (1).** The conferee stated modeling shows this to be the most congested portion of the region's highway system by 2040.

**Preservation work** on I-70, I-470, I-335, US-24, and US 75 in Shawnee County was requested (1).

## **North Central Kansas (KDOT District 2)**

### ***Modernization***

**K-4, at Lindsborg (1).** The conferee requested demolition of an overpass on K-4, which would allow the expansion of Bethany College and offer additional economic development options as well as improving bicycle and pedestrian connections.

**K-4 in southern Saline County (1).** The conferee requested completion of this roadway project, which had been expected to be a T-Works project.

**K-177, I-70 to Council Grove (65).** Conferees focused on safety problems with this route, stating safety concerns may limit economic development in tourism, new residents, and industry; their safety concerns included lack of shoulders, steep drop-offs, blind spots, and dangerous curves. They noted the route is very scenic, increasing numbers of tourists visit the Flint Hills, and the route is used frequently for transporting students, with very few places for stopped buses to leave the lane of traffic. Conferees stated they expect increasing residential

development along the corridor, mainly associated with the National Bio and Agro-defense Facility in Manhattan and developments at Fort Riley. They noted agricultural equipment much wider than half the roadway must use the route, which also is used to transport oversize loads, and detours add a number of miles, on county roads.

### ***Interchanges***

**I-135 at Wells Fargo Road in McPherson County (5).** Conferees stated the project would open developable land to commercial and residential development, as well as ease commercial and commuter traffic concerns. Widening the current road and widening a bridge would be included in the project.

**US-81 at 1<sup>st</sup> Street in Concordia (1).** The conferee stated current traffic patterns create a safety hazard, as the intersection is frequently used by large trucks, particularly during harvest seasons.

### ***Local Road***

**Magnolia Road, Salina (1).** The conferee cited capacity and safety concerns on this main route from I-135 to higher education facilities and stated the route is key to airport and other industrial development.

## **Northwest Kansas (KDOT District 3)**

### ***Modernization***

**K-23, I-70 to Gove (1).** The conferee requested this road be widened and stated it is heavily used by large agriculture-related trucks and other vehicles.

**K-181, Downs to the Osborne-Mitchell County line (1).** The conferee stated the route has minimal shoulders, has a narrow roadbed, and was built for 48,000-pound loads.

**K-383 in Phillips and Norton counties (6).** Conferees cited safety concerns for this route and its use by heavy commercial vehicles, stating traffic volumes, particularly of heavy trucks and oversize loads, have increased significantly in recent years as it is used to link I-70 to I-80 and also as a route to southwest Kansas. The route's narrowness, lack of passing opportunities, and



outdated design also contribute to safety concerns, they stated. They noted portions in an adjoining county have been improved and that reduction in rail service in the area has contributed to increasing truck traffic.

**US-281, Osborne to Russell (2).** The conferees cited safety and congestion issues, some attributable to a roadbed 24 feet wide used by agricultural equipment 18 feet wide in folded-up position. They described guardrails too low to be effective and county costs and safety issues related to a portion of the roadway sloughing to one side. The portion from Russell to K-18 was on the T-Works list.

### ***Interchange***

**I-70 and 230<sup>th</sup> Avenue, Hays (1).** The conferee requested KDOT flexibility in use of economic development funds that have been tied to development of a truck stop at this location. The truck stop remains unbuilt after five years, but the area has otherwise been developed.

### ***Local Projects***

**230<sup>th</sup> Avenue, Hays (1).** The conferee stated 230<sup>th</sup> Avenue has become a *de facto* bypass for US-183, in part because it has no height restrictions, and development has taken place along the route. The conferee reviewed state and federal as well as local moneys available to improve and pave this route.

**County Road 388, Osborne County (1).** The conferee said this route links Osborne with Downs and Tipton and has no shoulders and a narrow roadbed.

## **Southeast Kansas (KDOT District 4)**

### ***Expansion***

**US-69, Crawford and Cherokee counties (27, plus a resolution from the Crawford County Board of County Commissioners).** Conferees referenced primarily economic development and safety reasons for completing four lanes of US-69 south to the Oklahoma line. They stated access to a four-lane highway is often a determining factor in business location, cities along the entire route of US-69 would benefit from this link to I-44 in Oklahoma, Kansas is competing

with Missouri for benefits associated with north-south transportation routes, and studies show the completion would lead to an additional 4,000 jobs for the area. Those who focused on safety noted a history of and continuing high numbers of crashes on two-lane portions of US-69, the increasing number of heavy commercial vehicles, lack of passing opportunities, and the safety of students traveling to Pittsburg State University (including the impact of those students on the local economy). Two conferees also requested a bypass at Arma to improve safety by providing an option for heavy commercial vehicles.

**US-75, Caney to Oklahoma line (1).** The conferee requested KDOT expand US-75 south of Caney, citing its importance to economic development, and stated this improvement had been included as a T-Works project.

**US-169 (2).** Conferees urged purchase of ROW to allow this highway to eventually be expanded to four lanes along its route.

**US-400 (2).** Conferees cited economic development and increased traffic between US-69 and US-169 as reasons for expanding this route to four lanes. (This also was supported by resolutions from the governing bodies of the City of Parsons and Labette County.)

### ***Modernization***

**K-31 in Coffey County (1).** The conferee cited safety concerns and requested gravel shoulders.

**K-68, I-35 to the Missouri line (9, plus a resolution from the governing body of the City of Paola).** Conferees noted recent significant increases in use of this route by heavy commercial vehicles and commuters and its potential as part of an outer loop around the Kansas City metropolitan area. They stated improvements between US-69 and US-169 had been expected under T-Works, and development in the area would increase the cost of ROW acquisition. Another conferee noted a need for a connector between I-70 and I-49 without specifying K-68. Also requested was reconstruction of US-68 within the Gardner city limits.

**K-99 in Chautauqua County (13, plus a resolution from the Chautauqua County Board of County Commissioners).** Conferees cited safety and economic development reasons. They pointed to a high crash rate and their safety concerns include a narrow roadbed, a lack of shoulders, and the route's use by oversize loads due to the absence of overpasses. They stated the roadway is too narrow to allow two oversize vehicles to pass each other going opposite directions, described steep drop-offs, and noted the route's use by school buses and users of a Boy Scout facility. The conferees stated some businesses no longer allow their commercial vehicles to travel on the route due to the safety issues. They noted portions in an adjoining county have been improved.

**US-59 in Garnett (1).** The conferee requested adding left-turn lanes, which had been scheduled as a T-Works modernization project.

**US-160 in Elk County (2).** The conferees cited safety concerns related to the roadway's narrow width and lack of shoulders, particularly as the route is heavily used for school transportation. They noted portions in an adjoining county have been improved.

**US-169 (13).** Conferees cited economic development and safety reasons. They noted the route's use as a freight corridor between Kansas City and the Tulsa/Port of Catoosa area leads to congestion and requested passing lanes. They noted the area has industry and is heavily dependent on exporting its products. Portions particularly noted are through Thayer and Coffeyville (9) and between Welda and Garnett (11), the latter primarily for safety reasons due to a narrow roadway and steep drop-offs. (Resolutions from the cities of Coffeyville, Garnett, Humboldt, and Chanute and Allen County support improvements on US-169 plus related interchange improvements.)

**US-400 (2).** Conferees thanked KDOT for adding some passing lanes on the route to Wichita but requested more, citing results of a study, to decrease travel times and reduce the number of crashes on that route.

## ***Interchanges***

**K-126 at Free King Highway, Pittsburg (1).** The conferee requested a roundabout at this intersection next to the high school due to safety concerns and stated the project is among the city's top unfunded local projects, which also include drainage, shoulder, geometric improvement, traffic sign replacement, and pedestrian crossing projects.

**US-69 at 640 Avenue, Arma (1, plus resolution from the Crawford County Board of County Commissioners).** The conferee requested lowering the speed limit and taking additional steps to improve safety at this intersection.

**US-75 at 8<sup>th</sup>, 15<sup>th</sup>, and 22<sup>nd</sup> Roads, Coffey County (1).** The conferee requested asphalt shoulders along this route and turning lanes at these intersections to improve safety.

**US-169 at K-47 (8).** Conferees requested redesign of the intersection or an overpass for safety reasons.

**US-169 at US-160 (9).** Conferees requested an overpass at this intersection, for safety reasons.

## ***Preservation***

**Resurfacing of US-169 in northern Allen County (3).** Conferees requested priority for this preservation project.

## **South Central Kansas (KDOT District 5)**

### ***Expansion***

**K-96, Hillside to Greenwich (5).** Conferees stated this four-lane section has reached capacity due to considerable growth along the corridor, and development is continuing.

**K-254, Northwest Expressway, Wichita (6).** Conferees stated this project, planned for more than 20 years, is important for economic development and safety and urged a timeline for its completion. They stated governmental and private decisions have been based on those plans and the project would open opportunities for economic development, provide more efficient freight flows, allow more efficient access to a major medical facility built in the area because of

plans for the project, and improve safety for commuters.

**US-54 across Kansas, four lanes (1).** The conferee stated, without a major east-west route, Wichita is at a disadvantage in attracting and retaining companies.

**US-54, east of Wichita to Prairie Creek Road in Andover (1).** The conferee urged this expansion to alleviate congestion for commuters and accommodate freight movement into southeast Kansas and western Missouri.

**US-54, east of Wichita to Augusta (2).** The conferees stated this expansion is necessary to avoid a bottleneck in Butler County after improvements in eastern Wichita are completed.

**US-54, 119<sup>th</sup> Street West to 135<sup>th</sup> Street West (5).** The conferees requested expansion of this highway and construction of new interchanges at 119<sup>th</sup> Street West and 135<sup>th</sup> Street West. They stated the projects are necessary to meet the demands of growth in that area and to close the gap with a future interchange for a Northwest Expressway.

**US-54/400, Kingman Bypass (4).** Conferees included this as a regional priority and stated delays in completing this bypass are disincentives to new development in the city's business district. They also noted safety concerns and congestion related to heavy truck traffic through the city. A representative of the City of Kingman requested consideration of a different entrance to the city than previously planned.

**US-54, Pratt Bypass (4).** Conferees described this portion of US-54 as a major freight route needing improvement. They noted safety and congestion issues related to the large number and proportion of heavy trucks and oversize loads traveling through the city. They stated ROW has been acquired.

### ***Modernization***

**K-14/96 in Reno and Rice counties (18, plus a resolution from the governing body of the City of Lyons).** Conferees stated the Northwest Passage, Wichita to Hays, has been planned for

many years and improvements to a super-two highway on approximately 18 miles of the most dangerous section had been listed as a T-Works project. They cited safety concerns, including a narrow roadway, inadequate shoulders, train crossings, and heavy truck traffic. They stated the highway is important to industry, commuters, students, and those seeking health care at regional centers. They described efforts by local governments to advance this project and stated the project will assist economic development efforts in the region. A direct connection to the City of Lyons was requested.

**K-254 (3).** Conferees cited safety concerns for commuters and students using this route and noted its increasing industrial, commercial, residential, and entertainment development. They noted high crash rates, particularly as vehicles exit and enter at interchanges without acceleration or deceleration lanes. They also requested additional safety features, such as rumble strips, lighted stop signs, and overpasses.

**US-50 (2).** Conferees stated the route should be recognized as a major intrastate and interstate freight route, with high numbers of oversize loads, harvest vehicles, commuters, and other industrial traffic in Harvey County, and they requested safety improvements, including passing lanes, along the entire route in Kansas.

**US-54, Kingman County (1).** The Board of Commissioners stated completion of improvements is critical to the economy. They noted safety issues related to its design and its use by oversize freight and slow-moving agricultural vehicles.

**95<sup>th</sup> Street South, Woodlawn Boulevard to US-81, Wichita (3).** The conferees expressed support for development of a parkway system in this area as a loop road for Wichita, based on expected congestion. Their requests included a new bridge over the Arkansas River, grade separation at a railroad crossing, and a new turnpike interchange.

### ***Interchanges***

**North Junction, Wichita: I-135, I-235, K-96, and K-254 (11).** Conferees stated this interchange is the highest priority project for the Wichita

metropolitan area because of its impact on local, area, state, and interstate transportation. They stated the area handles more than four times as much traffic as it was designed to carry, and daily traffic and the numbers of crashes are increasing. They described steps local governments have taken to advance this project.

**I-135 at 36<sup>th</sup> Street, Newton (2).** Conferees noted this intersection is on the designated freight route to Logistics Park Kansas City and the Newton Industrial Park. They stated the project is shovel-ready and described local contributions to it.

**I-135 and US-50 (1).** The conferee stated trucks used by two of the largest businesses in Harvey County must use a different exit and negotiate roundabouts because of the outdated design of this interchange.

**K-96 at Sterling (1).** The conferee urged a single interchange on a modernized K-96 as close to Sterling as possible.

**K-254 at Rock, Webb, and Greenwich roads and other intersections (6).** Conferees stated traffic volumes are increasing on this corridor and crash rates are high, and they requested safety improvements, including interchange redesign at Greenwich Road, acceleration and deceleration lanes, and pedestrian overpasses. They cited safety concerns of businesses for their employees and customers.

**US-50 and Meridian, Newton (2).** Conferees stated the design of the current intersection is outdated and unsafe. They noted its use by industry in the area.

**US-54 at 143<sup>rd</sup> Street East, Wichita (2).** Conferees cited congestion at this intersection, particularly as improvements to US-54 in eastern Wichita are being completed.

**US-54 and I-235 (3).** Conferees requested replacement of two cloverleaf interchanges with flyover ramps, citing congestion problems related to the current design.

**US-54, Goddard (1).** The conferee stated the highway carries more than 20,000 vehicles a day

through the city and there are very few places where pedestrians and cyclists may safely cross the highway.

**US-54 at 100<sup>th</sup> Avenue, Pratt (1).** The conferee stated this intersection, where four lanes decrease to two, has no acceleration or deceleration lanes and the area is used by an increasing number of trucks.

## **Southwest Kansas (KDOT District 6)**

### ***Expansion***

**US-50/400, Dodge City to Cimarron (2).** The conferees requested completion of this T-Works four-lane expressway project.

**US-54 (9).** Conferees requested four lanes for US-54, ultimately its entire length west of Wichita but including segments between Wichita and Mullinville and from Liberal to Mullinville, and smaller projects, including segments between Liberal and Kismet. Widening US-83 to three lanes between Liberal and Mullinville also was suggested. Conferees listed safety issues related to congestion as their major concern, noting crash rates were reduced on current four-lane segments and the crashes on the four-lane segments were less severe. Conferees noted US-54 is heavily used by local industrial and agricultural businesses and is a major freight corridor between Kansas City and the ports of Los Angeles and Long Beach. Commuters and tourists also use the route. One conferee suggested an interim step would be continuous three lanes for passing. They stated improvements are critical to current businesses and to economic development in the area.

**US-83, at Garden City (1).** The conferee requested bypasses to the northeast and southwest of Garden City, stating the current bypass now serves as a city street.

**US-83, Liberal to Garden City (1).** The conferee requested continued planning for and development of four lanes from Liberal to Garden City.

**US-400, Dodge City to Mullinville (1).** The conferee requested continued planning and development of four lanes for this portion and ultimately Dodge City to Wichita.

## ***Modernization***

**K-156 (3).** The conferees requested improvements for safety. They stated this route is used as a freight route, including by oversized loads such as wind turbine components, and by oversized agricultural equipment, and the roadway is narrow and lacks shoulders vehicles can use to pull to the side. They noted it is the main route over which area students are transported.

**US-83 (12).** Conferees requested safety improvements, primarily passing lanes, from I-70 to the Oklahoma state line. They described its use by large numbers of commercial vehicles, slow-moving agricultural equipment, school buses, commuters, and area residents accessing regional health services. They stated congestion delays commercial vehicles and deters economic development. The specific requests included reconstruction from Liberal to Sublette and expanding passing lanes and shoulders between Garden City and Scott City. Also requested was acquisition of ROW for future expansion to four lanes.

## ***Interchanges***

**US-50/56 and 126 Road, Spearville (3).** Conferees stated improvements to this intersection are needed for reasons of safety and traffic flow. They noted school and truck stop traffic use the intersection.

**US-50/400 and K-25, Lakin (1).** The conferee requested a traffic light at this intersection, stating traffic counts have significantly increased in recent years due to new agricultural facilities in the area and stop times for those wishing to cross K-25 can range up to eight minutes. He noted children use the intersection to access school and an aquatic center and Lakin is the only county seat with no traffic control light at an intersection with a state highway.

**US-54 at Salley Road and US-83, Liberal (1).** The conferee noted Salley Road connects US-83 to US-54 and stated the lack of a turning lane for northbound traffic creates a hazard.

**US-54 at US-83, Liberal (1).** The conferee cited congestion at this “six-points” intersection,

stating it is not uncommon to wait for four or five light changes to get across.

**US-54 at Copeland Road, near Plains (1).** The conferee requested a left-turn lane and an acceleration lane onto US-54 westbound, noting the intersection’s use for vehicles transporting students.

**US-54, Liberal to Kismet (1).** The conferee requested dedicated left-turn lanes, deceleration lanes, and acceleration lanes at intersections along this segment, as well as passing lanes, for safety reasons.

## **CONCLUSIONS AND RECOMMENDATIONS**

The Joint Legislative Transportation Vision Task Force finds it is imperative the State of Kansas provides consistent, stable funding in order to maintain a quality transportation system. The Task Force notes the negative impacts of transfers from the SHF on system quality and on the ability of the State to respond to economic development opportunities and system improvement needs.

### **Preservation, Modernization, and Expansion of Highways**

The Task Force recommends any new program authorize general transportation planning for at least ten years and include funding for preservation, modernization, and expansion and economic opportunity projects (further discussed below). The Task Force also recognizes a new program cannot maintain or enhance the current system unless dedicated funding for the program is left in the program and not transferred to other needs.

The Task Force finds the top transportation priority for the State must be to restore funding for preservation to protect the investment Kansans have made in their transportation system. It recommends the SHF receive and retain moneys sufficient to maintain or improve the health of the transportation system in Kansas at a steady state, looking at subsurface as well as surface quality. It notes KDOT testimony indicated a combination of funding preservation at \$500.0 million annually plus funding modernization and expansion at \$100.0 million annually, or funding preservation at

\$600.0 million annually, would begin to return the system to a steady state.

The Task Force recognizes the importance of expansion projects tied to economic development opportunities and modernization projects to improve system safety and made possible with funding in addition to that needed for preservation. It recommends the 21 modernization and expansion projects announced under T-Works but delayed be the top priority modernization and expansion projects and be let within 4 years, after consultation with local officials regarding each project's continuing priority. The Task Force understands, based on testimony, that it will be difficult to garner support for a new program unless T-Works promises are fulfilled. It notes KDOT officials testified to costs of approximately \$500.0 million for the delayed T-Works projects if those projects are completed within the next four years, and it encourages faster completion of those projects if resources allow. The Task Force notes conferees in 2018 requested projects estimated to cost more than \$7.5 billion in total, including economic development projects, expansion projects, and modernization projects that improve safety in ways including widening shoulders. It notes economic opportunities and changing system demands will require additions to the current list of modernization and expansion projects and recommends KDOT plan for those additions by consulting with local officials, continually reviewing priorities, and completing such planning and design work as appropriate to ensure a continuous list of projects.

The Task Force supports continuing emphasis on practical improvements to the state's transportation infrastructure.

## **Funding**

The Task Force notes sales tax revenues are statutorily directed to the SHF and recommends the Legislature review the role of the sales tax in transportation funding and examine additional sources of funding for transportation. It recommends the Legislature review potential sources of additional funding, including increasing registration fees, motor fuels taxes, and fees for oversize vehicles, and new fees specific to alternative-fuel vehicles, which should be

commensurate with fuel-tax amounts paid to operate vehicles of similar weight.

The Task Force recommends statutes be amended to authorize KDOT, working with the KTA, to collect tolls to offset a portion of the cost of construction, maintenance, or both of transportation infrastructure improvements that add capacity and remove requirements such tolls cover all costs. It further recommends tolling be considered for individual projects for which the Secretary of Transportation has determined, in consultation with local officials, that traffic volume, local contribution, or other relevant reasons make such tolling option worthwhile and such tolling is acceptable to the affected local communities. The Task Force suggests the Legislature consider authorizing the Secretary to proceed with specific tolling projects the Secretary determines to be feasible and acceptable to the affected local communities.

The Task Force recommends the Legislature consider removing the requirement in state law that each KTA toll expressway project be financed wholly through the investment of private funds in toll road revenue bonds.

The Task Force finds increasing vehicle fuel efficiency, alternative-fuel vehicles, and other factors have contributed to motor fuel tax revenues not keeping pace with transportation needs. It urges KDOT to partner with the Kansas Department of Revenue and other appropriate parties to investigate funding alternatives, including a fee based on vehicle miles traveled, drawing on the experiences of states at various stages of implementation of such a fee.

The Task Force finds geographic equity continues to be important in the distribution of state moneys spent on transportation in Kansas. It recommends, at a minimum, maintaining and fulfilling commitments to spend the \$8.0 million per county statutorily required before June 30, 2020. It further recommends the Legislature address geographic equity by requiring a minimum to be spent in each county in a specified period after the current T-Works statutory deadline for spending \$8.0 million in each county.

The Task Force urges pursuit of all federal funding opportunities available to advance transportation in the state, including funding opportunities linking KDOT with nontraditional partners, such as the U.S. Department of Agriculture.

### **Local Programs**

The Task Force affirms local transportation needs exceed available resources and some portion of SHF moneys should be directed to local governments to meet those needs. It also notes increased local participation may be required for local projects, and it recommends the Legislature consider authorizing revenue-increasing options including, but not limited to, an exemption in the tax lid statute (KSA 2018 Supp. 79-2925c) for transportation purposes and modifications to demand transfers.

The Task Force supports the KDOT project selection process for expansion and modernization projects but recommends additional priority for projects that incorporate practical improvements, offer opportunities to remove unnecessary transportation infrastructure from the system, identify priority corridors, and include local participation. It finds weighting for local participation should be based on equity of effort as measured by population, resources, or both. It notes tolling could be considered as a component of local participation.

The Task Force recommends the Legislature review the statutory amounts for payments to cities for city connecting links maintenance, which have not increased since 1999.

The Task Force recommends reinstatement of the Kansas Local Bridge Improvement Program.

The Task Force recommends continuing the Federal Funds Exchange Program at its current rate of \$0.90 to the local entity for each \$1.00 in federal funds.

### **Modes of Transportation Other than Personal Vehicles**

The Task Force recognizes the increasing roles of transit, passenger rail, and active transportation in the overall Kansas transportation system and the

continuing importance of aviation and freight railroads to the state. It notes increased demand for transit and active transportation infrastructure in both rural and urban areas to connect Kansans with work opportunities and to services needed by all Kansans. It recommends the Legislature and KDOT consider increasing amounts to these transportation modes by a total of an additional \$20.0 million and encourages increased KDOT participation in these portions of the transportation system, including completion of an update to the 1995 Kansas Bicycle and Pedestrian Plan and consideration of a complete-streets policy.

To maintain and improve passenger rail service in Kansas, the Task Force recommends a separate statutory fund similar to the State Rail Service Improvement Fund but dedicated to passenger rail. It also urges KDOT to finalize its current study of passenger rail service between Newton and Oklahoma City to determine needs and potential costs and benefits to Kansas. The Task Force suggests light rail be investigated for the Kansas City metropolitan area.

### **Other Recommendations**

The Task Force recommends the Legislature consider regular oversight of state transportation needs and resources either by a standing committee or standing committees or by interim committees requested by the Chairperson of the House Committee on Transportation, the Chairperson of the Senate Committee on Transportation, or both. It recommends, at a minimum, any new plan expected to be in place for ten years or longer be thoroughly reviewed after five years.

The Task Force recommends KDOT be authorized to use alternative project delivery methods, perhaps such as those authorized under the State Educational Institution Project Delivery Construction Procurement Act (KSA 2018 Supp. 76-7,125 *et seq.*). The Task Force recommends KDOT officials work with industry representatives to develop a mutually agreeable proposal for KDOT utilization of alternative project delivery methods to procure transportation projects and present that proposal, including any necessary statutory changes, to the 2020 Legislature.

The Task Force recommends the 2019 Legislature study possible statutory changes to authorize testing of automated vehicles, connected vehicles such as trucks operating in platoons, or both in Kansas and also review in-vehicle technology and traffic management systems.

Related to implementation of these new technologies is broadband infrastructure across the state, and the Task Force recommends the Senate Committee on Utilities and the House Committee on Energy, Utilities and Telecommunications also review transportation needs related to broadband.

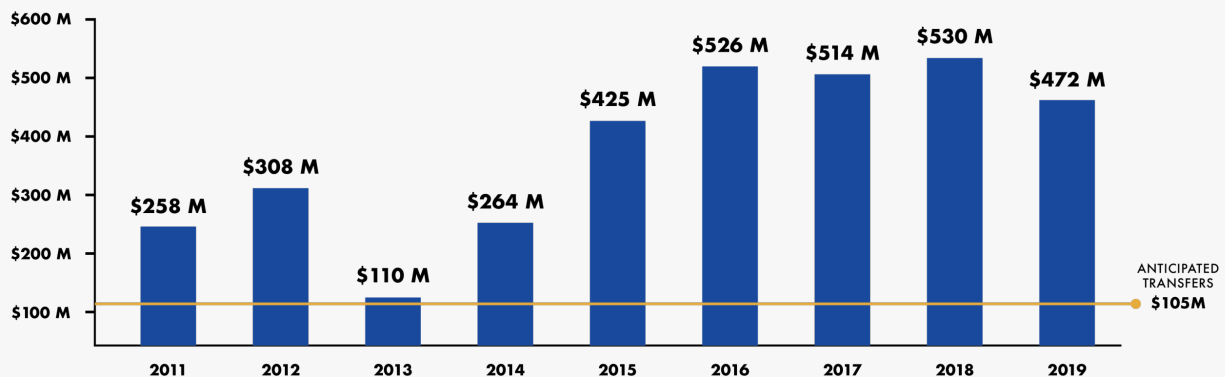


## APPENDIX A

All illustrations included in this appendix were presented in testimony from Kansas Department of Transportation (KDOT) officials except Illustration 7, which was presented by a representative of Burns & McDonnell, and Illustration 8, which was provided by Burns & McDonnell staff following the November 28-29 Task Force meeting.

Illustration 1

### State Highway Fund Transfers

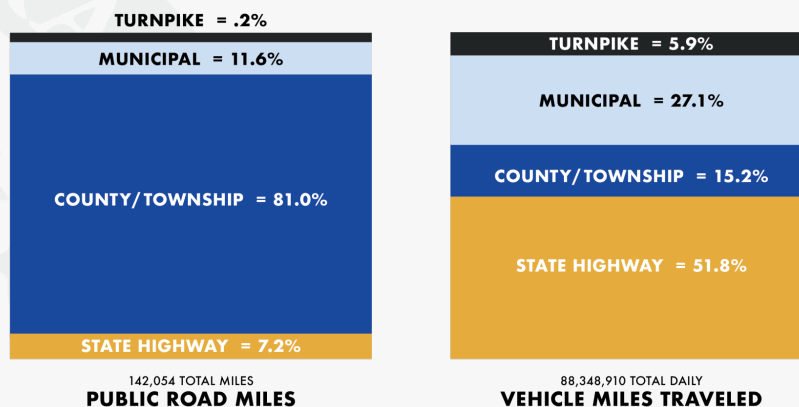


★ JOINT LEGISLATIVE TRANSPORTATION VISION TASK FORCE

Source: Presented by Director of Planning and Development, KDOT

Illustration 2

### Traffic Disproportionate to System Size



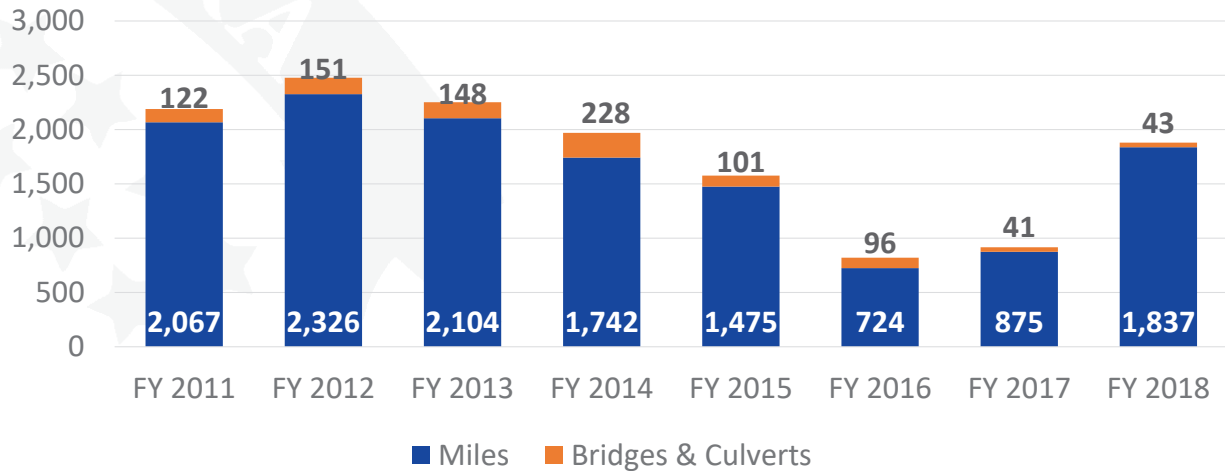
2017 Mileage and Travel (State Highway includes City Connecting Links)

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Source: Presented by Asset Management and Performance Measures Manager, KDOT

Illustration 3

### T-WORKS Preservation Work Completed

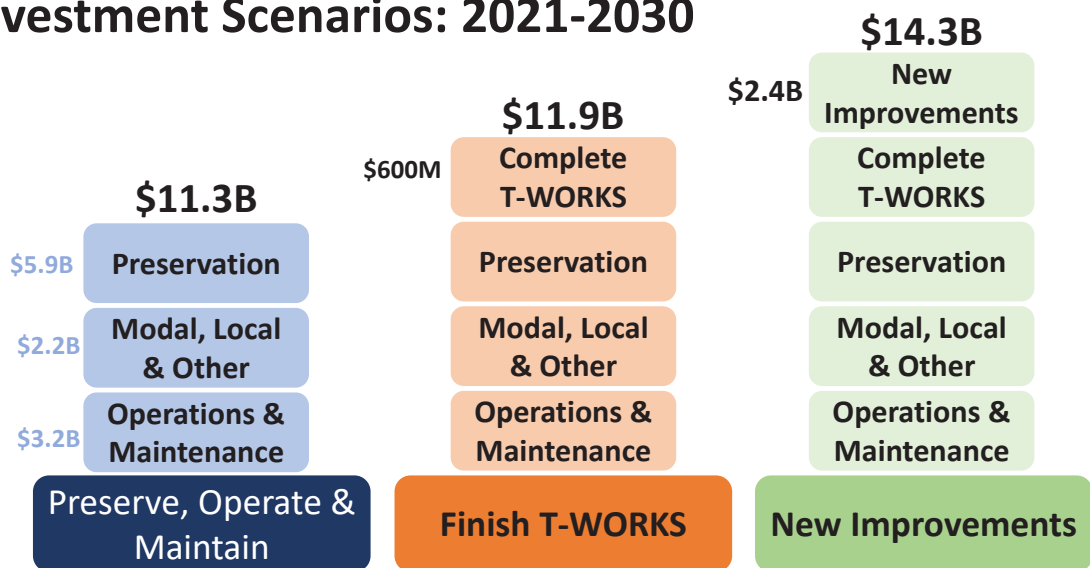


★ JOINT LEGISLATIVE TRANSPORTATION VISION TASK FORCE

Source: Presented by Director of Operations, KDOT

Illustration 4

### Investment Scenarios: 2021-2030



★ JOINT LEGISLATIVE TRANSPORTATION VISION TASK FORCE

Source: Presented by Director of Planning and Development, KDOT

## Illustration 5



### How is Freight Moving in Kansas Today?

#### Kansas Economic Measures Share Attributed to Freight, 2014

- Highways
- Rail
- Air Cargo
- Waterway
- Pipeline
- Intermodal
- Transload

Measure	Statewide Value	Attributable to Freight	Freight Share of Total
Employment	1,883,641	819,230	43.5%
Income *	\$95,166	\$44,191	46.4%
Gross State Product *	\$150,764	\$70,969	47.1%
Output *	\$329,432	\$179,925	54.6%
Tax Revenues *	\$9,829	\$5,142	52.3%

Source: IMPLAN

Kansas Statewide Freight Plan, 2017

\*in millions of 2014 dollars

KANSAS DEPARTMENT OF TRANSPORTATION

(785) 296-3566

www.ksdot.org

Source: Presented by Program Manager, Office of Freight and Rail, Bureau of Transportation Planning, KDOT

## Illustration 6

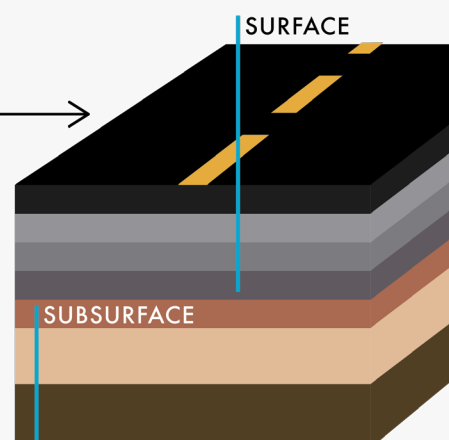
### PAVEMENT RATING ≠ PAVEMENT HEALTH

#### RATING

- Evaluates the pavement surface
- Does not account for service life
- Calculation & reporting changed in 2018 due to federal standards.

#### HEALTH

- Measures subsurface conditions
- Accounts for service life
- Calculation remained the same



Source: Presented by Director of Operations, KDOT

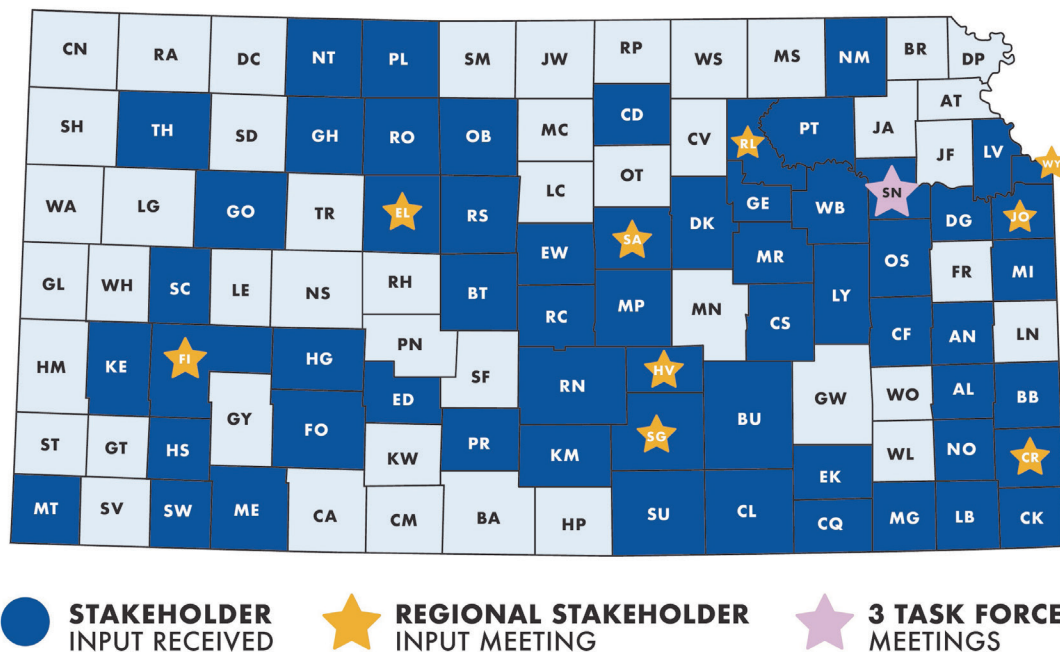
Illustration 7

Gap/Surplus for Scenarios by Transfer Amount			
	Revenue required for FY 2021 to 2030	Ending Balance with Routine Transfers (\$105M)	Ending Balance with \$506.5 M transfers annually
Preserve, Operate & Maintain	\$11.3 Billion	\$1.6 billion	-\$2.4 billion
Finish T-WORKS	\$11.9 Billion	\$1.0 billion	-\$3.0 billion
New Improvements	\$14.3 Billion	-\$0.4 billion	-\$4.9 billion

★ JOINT LEGISLATIVE TRANSPORTATION VISION TASK FORCE

Source: Presented by representative of Burns & McDonnell

Illustration 8



Source: Updated graphic provided by Burns & McDonnell

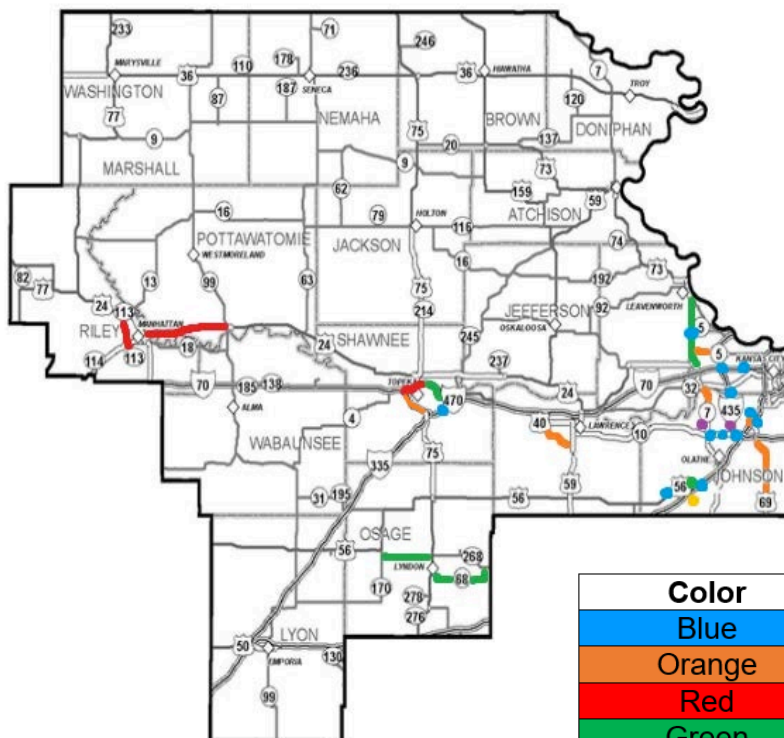
## APPENDIX B

### Projects Requested by Conferees by KDOT District



Image source: KDOT, <https://www.ksdot.org/bureaus/burrow/Propman/default.asp>

### KDOT District 1



Map source: KDOT, <https://www.ksdot.org/bureaus/divoperat/district1.asp>

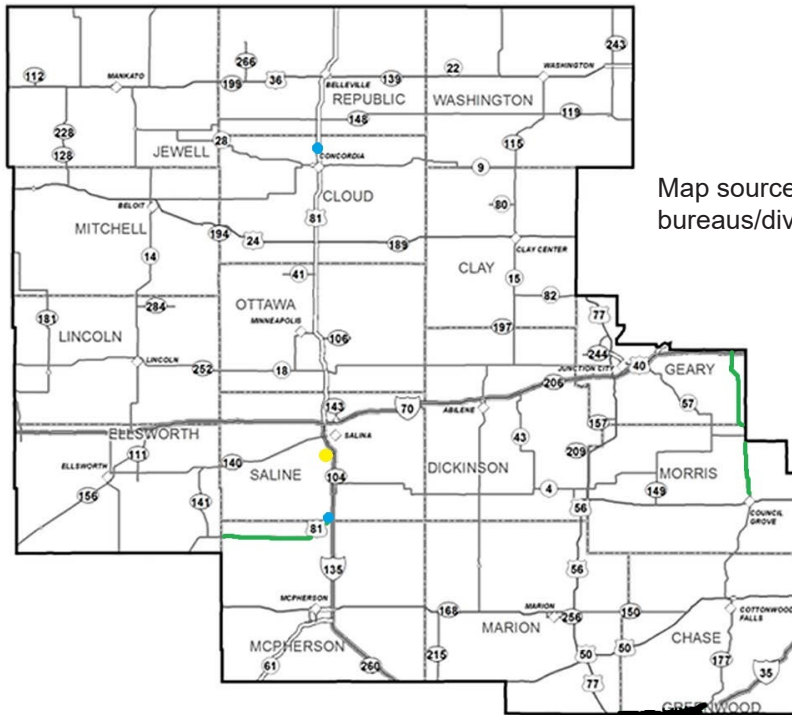
Color	Type of Project
Blue	Interchange
Orange	Expansion
Red	Corridor Study
Green	Modernization
Yellow	Local Project
Purple	Bridge

\*Preservation projects are not displayed on the map as these projects concern multiple sections of I-70, I-335, I-470, US-24, and US-75.

\*\*Some dots represent more than one project.

Project locations added by KLRD staff.

## KDOT District 2



Map source: KDOT, <https://www.ksdot.org/bureaus/divoperat/district2.asp>

Color	Type of Project
Blue	Interchange
Orange	Expansion
Red	Corridor Study
Green	Modernization
Yellow	Local Project
Purple	Bridge

Project locations added by KLRD staff.

## KDOT District 3

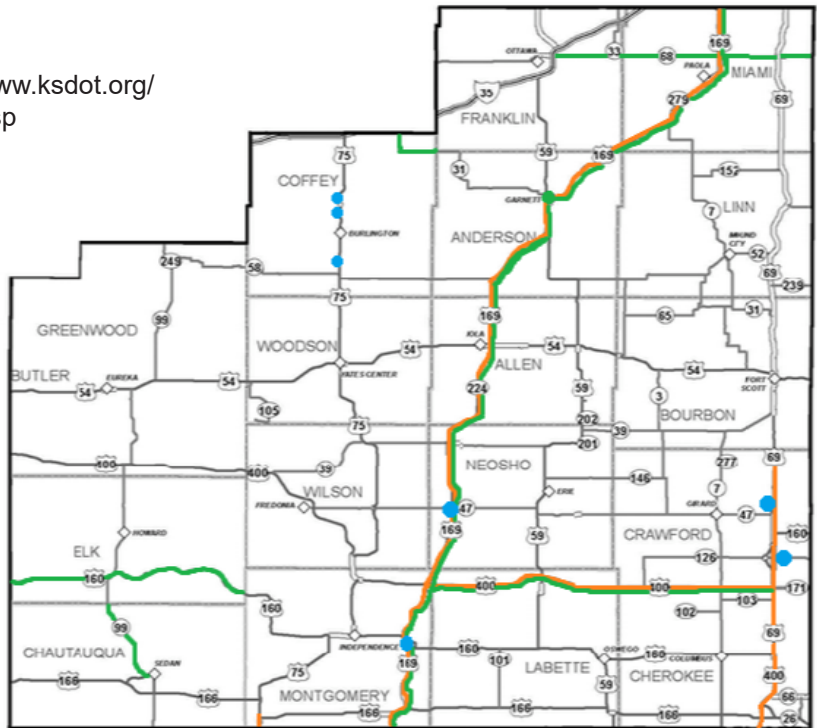


Map source: KDOT, <https://www.ksdot.org/bureaus/divoperat/district3.asp>



## KDOT District 4

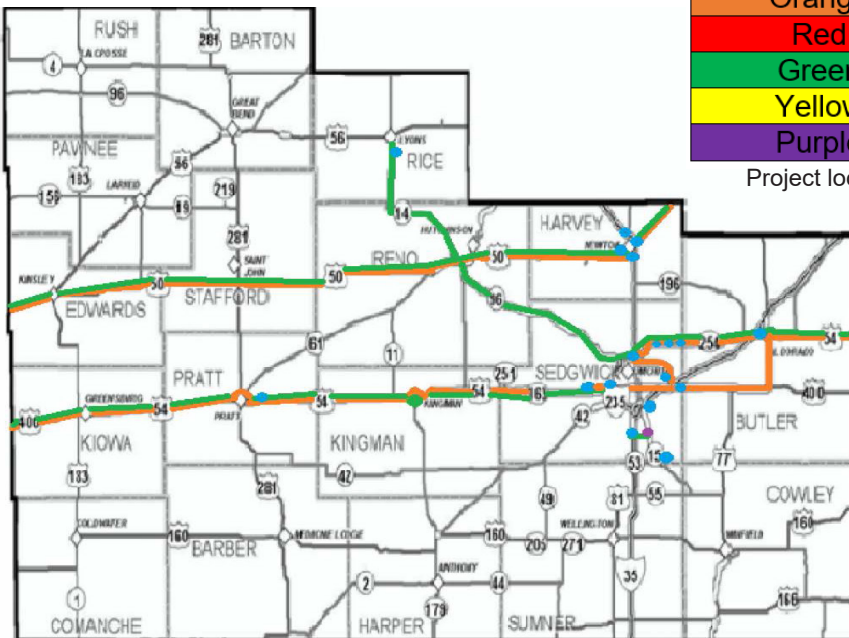
Map source: KDOT, <https://www.ksdot.org/bureaus/divoperat/district4.asp>



## KDOT District 5

Color	Type of Project
Blue	Interchange
Orange	Expansion
Red	Corridor Study
Green	Modernization
Yellow	Local Project
Purple	Bridge

Project locations added by KLRD staff.



Map source: KDOT, <https://www.ksdot.org/bureaus/divoperat/district5.asp>

## KDOT District 6



Map source: KDOT, <https://www.ksdot.org/bureaus/divoperat/district6.asp>

Color	Type of Project
Blue	Interchange
Orange	Expansion
Red	Corridor Study
Green	Modernization
Yellow	Local Project
Purple	Bridge

Project locations added by KLRD staff.



# Report of the Legislative Task Force on Dyslexia to the 2019 Kansas Legislature

**CHAIRPERSON:** Jim Porter

**VICE-CHAIRPERSON:** Representative Brenda Dietrich

**LEGISLATIVE MEMBERS:** Senators Bruce Givens and Ty Masterson

**NON-LEGISLATIVE MEMBERS:** Jennifer Bettles, Sarah Brinkley, Jaime Callaghan, Tally Fleming, David Hurford, Jennifer Knight, Alisa Matteoni, Christina Middleton, Jeanine Phillips, Jeri Powers, Angie Schreiber, and Sonja Watkins

**EX OFFICIO MEMBERS:** Mike Burgess, Laura Jurgensen, and Lori McMillan

## CHARGE

Pursuant to 2018 Sub. for HB 2602, the Task Force is to advise and make recommendations to the Governor, the Legislature, and the State Board of Education regarding matters concerning the use of evidence-based practices for students with dyslexia. Specifically, the bill provides the Task Force's recommendations and resource materials shall:

- Research and recommend evidence-based reading practices to address dyslexia or characteristics of dyslexia for use by schools;
- Research and recommend high-quality pre-service and in-service professional development activities to address reading difficulties like dyslexia, including identification of dyslexia and effective reading interventions to be used in schools and within degree programs, such as education, reading, special education, speech-language pathology, and psychology;
- Study and examine current state and federal laws and rules and regulations, and the implementation of such laws and rules and regulations that affect students with dyslexia; and
- Identify valid and reliable screening and evaluation assessments and protocols that can be used and the appropriate personnel to administer such assessments in order to identify children with reading difficulties, such as dyslexia or the characteristics of dyslexia as part of an ongoing reading progress monitoring system, multi-tiered system of supports, and Child Find special education eligibility for students.

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# Legislative Task Force on Dyslexia

## REPORT

### Conclusions and Recommendations

The Task Force largely organized its recommendations around the structure of its subcommittees on Pre-service and In-service Professional Development, Screening and Evaluation Process, and Evidence-based Reading Practices. The Subcommittee on Current State and Federal Law recommended the Task Force target all recommendations to the appropriate audience and request necessary resources for the implementation of all Task Force recommendations.

#### Pre-service:

- The Kansas State Board of Education (KSBE) should modify the Educator Preparation Program Standards to include the International Dyslexia Association's (IDA) Knowledge and Practice Standards for Teachers of Reading;
- KSBE should require candidates for K-6 teaching licenses, English Language Arts endorsements, reading specialist teaching licenses, and special education teaching licenses to pass an examination of their knowledge of the science of reading. KSBE should study and approve a test or multiple tests to satisfy this requirement; and
- The Legislature should provide funding to train college of education professors who teach reading to become cognizant in the science of reading. Training could include conference participation, educational experiences, webinars, and relevant education materials.

#### Professional Learning:

- KSBE should require school systems to provide evidence-based and consistent professional development opportunities consisting of training regarding the nature of dyslexia, an introduction in procedures to identify students who are struggling in reading, and an introduction to intervention strategies and procedures. The content of the professional development should include those areas listed in Appendix A;
- KSBE should encourage colleges of education in Kansas to develop a course of study with a specialization in dyslexia and dyslexia-like characteristics. This course should be geared toward a Science of Reading endorsement (English for Speakers of Other Languages endorsement could be used as a model for the structure of this endorsement). This course of study should align with the IDA Knowledge and Practice Standards. This course of study should include practica experiences working with students with dyslexia or characteristics of dyslexia with appropriate supervision and leadership development skills such that the person who graduates with this endorsement can train other classroom teachers and reading specialists within their school district. The training for classroom teachers should be consistent with the IDA document, *Dyslexia in the Classroom: What Every Teacher Needs to Know* (Appendix B); and
- The Legislature should provide funding for school districts to train appropriate staff on dyslexia and recognizing dyslexia and the use of screening, diagnostic, and progress monitoring tools that are sensitive to the characteristics of dyslexia.

#### Screening and Evaluation Process:

- KSBE should require every accredited school district to screen and identify students at risk of dyslexia or demonstrating the characteristics of dyslexia;
- KSBE should amend the Kansas Education Systems Accreditation model to require districts to implement a rigorous tiered system of supports subject to external review;
- KSBE should develop and provide to school districts criteria for vetting and approving tools and materials for screening and assessing students for characteristics of dyslexia; and
- The Legislature should provide additional funding to districts for the purpose of acquiring screening, diagnostic, and progress monitoring tools that are sensitive to the characteristics of dyslexia. KSBE should provide recommendations to districts on appropriate screening, diagnostic, and progress monitoring tools.

#### Evidence-based Reading Practices:

- KSBE should require each accredited school district to utilize structured literacy as the evidence-based approach to teaching literacy skills to all students and promote early intervention for students with characteristics of dyslexia. KSBE should utilize the “Components of Structured Literacy Checklist” from *The New Jersey Dyslexia Handbook* (Appendix C) to evaluate structured literacy programs for accreditation purposes. KSBE should ensure school districts are made aware of information concerning structured literacy training and information currently available from the Kansas Technical Assistance System Network (Appendix D);
- KSBE should direct the creation of a dyslexia handbook for use by schools in Kansas. The creation of the handbook should involve input from a broad array of stakeholders; and
- KSBE should identify a dyslexia coordinator within the Kansas State Department of Education.

#### Other:

- **Task Force continuation.** The Legislature should reappoint the Legislative Task Force on Dyslexia (Task Force) to meet once per year for three years to monitor progress of implementation of the recommendations. The reappointed Task Force should include the same members and also include the consulting conferees participating in the November 28, 2018, and January 10, 2019, meetings of the Task Force; and
- **Dyslexia definition.** The Task Force concluded the definition of “dyslexia” used by schools and policymakers should be the definition provided by the IDA, which states dyslexia is “a specific learning disability that is neurobiological in origin. It is characterized by difficulties with accurate and/or fluent word recognition and by poor spelling and decoding abilities. These difficulties typically result from a deficit in the phonological component of language that is often unexpected in relation to other cognitive abilities and the provision of effective classroom instruction. Secondary consequences may include problems in reading comprehension and reduced reading experience that can impede growth of vocabulary and background knowledge.”

**Proposed Legislation:** None

## BACKGROUND

The Task Force was created by 2018 Sub. for HB 2602, codified at KSA 72-8193, to advise and make recommendations to the Governor, Legislature, and Kansas State Board of Education (KSBE) on or before January 30, 2019, regarding matters concerning the use of evidence-based practices for students with dyslexia. The Task Force was specifically required to:

- Research and recommend evidence-based reading practices to address dyslexia or characteristics of dyslexia for use by schools;
- Research and recommend high quality pre-service and in-service professional development activities to address reading difficulties like dyslexia, including identification of dyslexia and effective reading interventions to be used in schools and applicable degree programs;
- Study and examine state and federal law, rules and regulations, and the implementation of such laws and rules and regulations that affect students with dyslexia; and
- Identify valid and reliable screening and evaluation assessments and protocols that can be used, as well as the appropriate personnel to administer such assessments, in order to identify children with reading difficulties, such as dyslexia or the characteristics of dyslexia.

The Task Force is composed of the following 16 voting members:

- One Senate member and one elementary school classroom teacher appointed jointly by the chairperson and ranking minority member of the Senate Committee on Education;
- One House member and one elementary school classroom teacher appointed jointly

by the chairperson and ranking minority member of the House Committee on Education;

- One member from the KSBE appointed by the KSBE, who will serve as the Task Force chairperson;
- One professor employed by a state educational institution with specialized expertise in effective evidence-based reading practices for dyslexia appointed by the President of the Kansas Board of Regents;
- One public school principal appointed by the United School Administrators of Kansas;
- Four parents of children with a diagnosis of dyslexia to be individually appointed by Keys for Networking, Inc.; Families Together, Inc.; Decoding Dyslexia Johnson County; and the International Dyslexia Association Kansas Missouri Branch, who should be appointed with an effort to provide statewide representation, if possible;
- One member appointed by the Kansas Association of Special Education Administrators;
- One elementary school building-level reading specialist appointed by the KSBE;
- One elementary school special education teacher appointed by the KSBE;
- One licensed psychologist or speech-language pathologist who diagnoses dyslexia as a part of such person's practice appointed by the Task Force chairperson; and
- One member identified as a non-profit service provider for children diagnosed

with dyslexia appointed by the chairperson of the Task Force.

The Task Force also includes the following three ex officio, non-voting members:

- One Kansas State Department of Education (KSDE) licensed attorney appointed by the KSDE;
- One licensed attorney familiar with dyslexia appointed jointly by the chairpersons of the House Committee on Education and Senate Committee on Education; and
- One member appointed by the Disability Rights Center of Kansas.

The statute allowed the Task Force to meet up to six times and meet at any time and at any place within Kansas on the call of the Chairperson and, if approved by the Legislative Coordinating Council, members would be paid for expenses, mileage, and subsistence.

The Task Force chairperson was required to call an organizational meeting of the Task Force on or before July 15, 2018.

Further information concerning the Task Force, including the minutes of its meetings, documents presented to the Task Force, and Subcommittee reports, may be found at [http://www.kslegislature.org/li\\_2018/b2017\\_18/committees/ctte\\_tf\\_dyslexia\\_1/documents/](http://www.kslegislature.org/li_2018/b2017_18/committees/ctte_tf_dyslexia_1/documents/).

## **COMMITTEE ACTIVITIES**

The Task Force met five times during the 2018 Interim: July 12, 2018; September 13, 2018; November 9, 2018; November 28, 2018; and January 10, 2019. In accordance with its statutory charge, the Task Force's work focused on matters concerning the use of evidence-based practices for students with dyslexia.

### **July 12, 2018**

The Task Force Chairperson, appointed by the

KSBE, accepted nominations from the body for a vice-chairperson as required by statute. The body elected Representative Dietrich. The Chairperson asked Task Force members to describe the basis for their appointment to the Task Force and their own experiences with dyslexia.

Upon receiving input from the Task Force members, the Chairperson created four subcommittees and assigned members to the subcommittees. Subcommittees included Current State and Federal Law, Evidence-based Reading Practices, Pre-service and In-service Professional Development, and Screening and Evaluation Process. Chairpersons were appointed for the subcommittees and the subcommittees were instructed to meet upon the call of their chairpersons and make recommendations to the Task Force in their respective areas.

### **September 13, 2018**

The Task Force received a presentation from Dr. David Hurford on the nature of dyslexia and the science of reading. A representative of KSDE presented the agency's recommendations in reference to dyslexia and information on the agency's comprehensive strategy for teaching reading and intervening when reading struggles emerge.

The Task Force also received status updates and initial draft recommendations from the four subcommittees created at the July 12 meeting of the Task Force.

### **November 9, 2018**

The Task Force met at the offices of the Kansas Association of School Boards to receive a presentation from Dr. Jack Fletcher, the Hugh Roy and Lillie Cranz Cullen Distinguished University Chair of Psychology at the University of Houston, on his own work studying dyslexia and the education of children with dyslexia. Dr. Fletcher stated the quality of core reading skills for all children must be the central focus, the brain's neural systems must be programmed in order to read, and explicit phonics (building from the part to the whole) is the answer. He further provided a review of the recommendations of the subcommittees of the Task Force and recommended specific changes to some of those

recommendations.

## **November 28, 2018**

At the Task Force's fourth meeting, the Chairperson introduced individuals who participated in the Task Force's final two meetings to provide additional perspectives that were not included in the Task Force membership. The individuals included Dr. Barbara Bradley, representing colleges of education at Kansas Board of Regents universities; Lynette Cross, representing the Kansas Independent College Association; Deb Farr, representing the Kansas National Education Association; Heath Peine, representing Kansas Multi-Tiered System of Supports and Alignment; and Dr. Joan Robbins, a retired Special Education Director.

Mr. Peine, Assistant Superintendent of USD 353 Wellington, presented information on Kansas Multi-Tiered System of Supports and Alignment as administered by the Kansas Technical Assistance System Network. Mr. Peine presented information on how that system could be effective for serving students indicating characteristics of dyslexia.

The Task Force also received final recommendations from each subcommittee and discussed converting those recommendations into Task Force recommendations.

## **January 10, 2019**

At the final meeting of the Task Force, the Chairperson presented a set of draft recommendations for the Task Force assembled by the Chairperson and the chairpersons of the subcommittees. The Task Force debated and amended those recommendations before unanimously approving the amended recommendations. The Task Force also unanimously approved a definition of dyslexia used by the International Dyslexia Association (IDA).

### **Subcommittee Activities**

#### ***Current State and Federal Law***

The Subcommittee on Current State and Federal Law met on August 15, September 11, October 4, October 11, October 25, and November

5 to examine and review current laws and consider the fit of recommendations of other subcommittees into the existing legal framework.

**August 15.** The Subcommittee members discussed their individual prior research in the area and requested Kansas Legislative Research Department (KLRD) staff update a 50-state survey on laws concerning education of students with dyslexia. The Subcommittee also discussed the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act, the Kansas Act for Exceptional Children, and Kansas special education regulations.

**September 11.** The Subcommittee reviewed the updated 50-state survey provided by KLRD staff of laws concerning education of students with dyslexia. The Subcommittee also discussed possible future meeting topics.

**October 4.** The Subcommittee heard from representatives of KSDE concerning teacher licensure and teacher education program standards. The Subcommittee discussed possible changes to these standards to achieve recommendations of other subcommittees. The Subcommittee specifically noted careful consideration of the appropriate standards to adjust and which licensees should have standards adjusted must be given by the Task Force.

**October 11.** The Subcommittee heard from representatives of KSDE concerning various state and federal funding options for general and special education. The representatives informed the Subcommittee existing funding sources are currently fully allocated to other educational efforts and any new legislation would require new funding or stripping funding from other educational efforts. They also noted even using existing training resources, such as the Technical Assistance System Network, may require a new appropriation of state funds.

**October 25.** The Subcommittee met with representatives of teacher preparation programs at Kansas public and private institutions of higher education. The representatives expressed frustration they had not been included in the Task Force's work. They indicated a framework already exists into which improvements to teacher

preparation for dyslexia education could be placed. They further indicated much work is already being done to train teachers to educate students with dyslexia, but more could be done within the existing framework. The Subcommittee also reviewed the option of using the Early and Periodic Screening, Diagnostic and Treatment component of Medicaid as an avenue for dyslexia screening and services.

**November 5.** The Subcommittee discussed its report to the Task Force.

### ***Evidence-based Reading Practices***

The Subcommittee on Evidence-based Reading Practices met on September 5 and October 5 to review the reading practices of other states and make recommendations for Kansas.

**September 5.** The Subcommittee discussed evidence-based practices adopted by other states, as well as possible recommendations to the Task Force.

**October 5.** The Subcommittee adopted tentative recommendations to the Task Force.

### ***Pre-service and In-service Professional Development***

The Subcommittee on Pre-service and In-service Professional Development met four times *via* an online program that allowed sharing of materials and interaction between the members. The dates of the meetings were July 27, August 13, August 27, and September 7.

The Subcommittee discussed what aspects of the knowledge base of the science of reading should be covered in pre-service training and what the ramifications of implementing potential suggestions would be for institutions of higher education, particularly for colleges of education and teacher preparation programs. The Subcommittee discovered some in-service teachers' lack of training at the pre-service level resulted in a continued lack of understanding of the science of reading and how to implement appropriate science-based identification and intervention strategies.

### ***Screening and Evaluation Process***

The Subcommittee on Screening and Evaluation Process met on August 21, October 24, and January 3 to consider screening and evaluation processes currently used by Kansas schools and possible alternatives.

**August 21.** The Subcommittee met and discussed various dyslexia screening tools and protocols, as well as possible recommendations to the Task Force.

**October 24.** The Subcommittee met and discussed the use of multi-tiered system of support for screening for dyslexia and adopted tentative recommendations to the Task Force.

**January 3.** The Subcommittee met and revised its recommendations to the Task Force.

## **CONCLUSIONS AND RECOMMENDATIONS**

Prior to the January 10, 2019, meeting of the Task Force, the Chairperson and the chairpersons of the Subcommittees met and formulated draft recommendations for the Task Force. The Task Force modified those recommendations at the January 10 meeting and adopted the following modified recommendations, largely organized around the structure of the subcommittees.

### **Pre-service**

KSBE should modify the Educator Preparation Program Standards to include the IDA's Knowledge and Practice Standards for Teachers of Reading.

KSBE should require candidates for K-6 teaching licenses, English Language Arts endorsements, reading specialist teaching licenses, and special education teaching licenses to pass an examination of their knowledge of the science of reading. KSBE should study and approve a test or multiple tests to satisfy this requirement.

The Legislature should provide funding to train college of education professors who teach reading to become cognizant in the science of reading. Training could include conference participation, educational experiences, webinars,



and relevant education materials.

## Professional Learning

KSBE should require school systems to provide evidence-based and consistent professional development opportunities consisting of training regarding the nature of dyslexia, an introduction in procedures to identify students who are struggling in reading, and an introduction to intervention strategies and procedures. The content of the professional development should include those areas listed in Appendix A.

KSBE should encourage colleges of education in Kansas to develop a course of study with a specialization in dyslexia and dyslexia-like characteristics. This course should be geared toward a Science of Reading endorsement (English for Students of Other Languages endorsement could be used as a model for the structure of this endorsement). This course of study should align with the IDA Knowledge and Practice Standards. This course of study should include practica experiences working with students with dyslexia or characteristics of dyslexia with appropriate supervision and leadership development skills such that the person who graduates with this endorsement can train other classroom teachers and reading specialists within their school district. The training for classroom teachers should be consistent with the IDA document, *Dyslexia in the Classroom: What Every Teacher Needs to Know* (Appendix B).

The Legislature should provide funding for school districts to train appropriate staff on dyslexia and recognizing dyslexia and the use of screening, diagnostic, and progress monitoring tools that are sensitive to the characteristics of dyslexia.

## Screening and Evaluation Process

KSBE should require every accredited school district to screen and identify students at risk of dyslexia or demonstrating the characteristics of dyslexia.

KSBE should amend the Kansas Education Systems Accreditation model to require districts to implement a rigorous tiered system of supports subject to external review.

KSBE should develop and provide to school districts criteria for vetting and approving tools and materials for screening and assessing students for characteristics of dyslexia.

The Legislature should provide additional funding to districts for the purpose of acquiring screening, diagnostic, and progress monitoring tools that are sensitive to the characteristics of dyslexia. KSBE should provide recommendations to districts on appropriate screening, diagnostic, and progress monitoring tools.

## Evidence-based Reading Practices

KSBE should require each accredited school district to utilize structured literacy as the evidence-based approach to teaching literacy skills to all students and promote early intervention for students with characteristics of dyslexia. KSBE should utilize the “Components of Structured Literacy Checklist” from *The New Jersey Dyslexia Handbook* (Appendix C). For information concerning structured literacy training and information currently available from the Kansas Technical Assistance System Network (Appendix D).

KSBE should direct the creation of a dyslexia handbook for use by schools in Kansas. The creation of the handbook should involve input from a broad array of stakeholders.

KSBE should identify a dyslexia coordinator within the KSDE.

## Other

**Task Force continuation.** The Legislature should reappoint the Task Force to meet once per year for three years to monitor progress of implementation of the recommendations. The reappointed Task Force should include the same members and also include the consulting conferees participating in the November 28, 2018, and January 10, 2019, meetings of the Task Force.

**Dyslexia definition.** The Task Force concluded the definition of “dyslexia” used by schools and policymakers should be the definition provided by the IDA, which states dyslexia is “a specific learning disability that is neurobiological in origin. It is characterized by difficulties with

accurate and/or fluent word recognition and by poor spelling and decoding abilities. These difficulties typically result from a deficit in the phonological component of language that is often unexpected in relation to other cognitive abilities

and the provision of effective classroom instruction. Secondary consequences may include problems in reading comprehension and reduced reading experience that can impede growth of vocabulary and background knowledge.”

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Appendix B – Dyslexia in the Classroom: What Every Teacher Needs to Know,  
International Dyslexia Association

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Handbook

Appendix D – Kansas Technical Assistance System Network – Kansas LETRS Training  
Guide

## **Appendix A**

### **Professional Learning Content**

- a. Overview of science and how science works to solve problems and create solutions, including the scientific method.
- b. Information concerning the meaning of the terms research-based and science-based and how to identify programs that are science-based.
- c. Definition of dyslexia.
- d. Characteristics of dyslexia.
- e. Potential outcomes if students are not taught explicitly to become competent readers, including results of additional socio-emotional difficulties.
- f. Information regarding writing systems, including the differences between transparent and opaque writing systems.
- g. Information concerning how the English writing system contributes to reading failure.
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# Dyslexia In the Classroom

## What Every Teacher Needs to Know

International  
**DYSLEXIA**  
Association

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40 York Road, 4th Floor • Baltimore, MD 21204

[Info@DyslexiaIDA.org](mailto:Info@DyslexiaIDA.org)

[www.DyslexiaIDA.org](http://www.DyslexiaIDA.org)

## INTRODUCTION

The degree of difficulty a child with dyslexia has with reading, spelling, and/or speaking varies from person to person due to inherited differences in brain development, as well as the type of teaching the person receives. The brain is normal, often very “intelligent,” but with strengths in areas other than the language area.

This “difference” goes undetected until the person finds difficulty when learning to read and write. Each individual with dyslexia is unique, but the multisensory approach is flexible enough to serve a wide range of ages and learning differences. A multisensory approach can be valuable to many; to the dyslexic child it is essential. The expertise of the teacher is the key.

The intent of this toolkit is to provide classroom teachers with basic information about dyslexia, dispel some of the myths and misconception surrounding it and be a resource that will increase their capacity to ensure the success of the diverse group of learners in their classrooms.

## ABOUT IDA

The International Dyslexia Association (IDA) was founded in 1949 as The Orton Society to honor and further the work and passion of Dr. Samuel Torrey Orton. IDA serves individuals with dyslexia, their families, and professionals in the field. We have more than 9,000 members, 42 branches throughout the United States and Canada and have 27 global partners in 23 countries. Together we are working to help those with and affected by dyslexia.

We believe that all individuals have the right to achieve their potential, that individual learning abilities can be strengthened, and that social, educational and barriers to language acquisition and use must be removed.

IDA actively promotes effective teaching approaches and related clinical educational intervention strategies for individuals with dyslexia. We support and encourage interdisciplinary research. We facilitate the exploration of the causes and early identification of dyslexia and are committed to the responsible and wide dissemination of research and evidence based knowledge.

The purpose of IDA is to pursue and provide the most comprehensive range of information and services that address the full scope of dyslexia and related difficulties in learning to read and write...in a way that creates hope, possibility, and partnership, so that every individual has the opportunity to lead a productive and fulfilling life, and society benefits from the resource that is liberated.

## WHAT IS DYSLLEXIA?

The formal definition of dyslexia is:

*Dyslexia is a specific learning disability that is neurological in origin. It is characterized by difficulties with accurate and/or fluent word recognition and by poor spelling and decoding abilities. These difficulties typically result from a deficit in the phonological component of language that is often unexpected in relation to other cognitive abilities and the provision of effective classroom instruction. Secondary consequences may include problems in reading comprehension and reduced reading experience that can impede the growth of vocabulary and background knowledge.*

### **But what does that mean exactly?**

Dyslexia is a language-based learning disability. Dyslexia refers to a cluster of symptoms, which result in people having difficulties with specific language skills, particularly reading. Students with dyslexia usually experience difficulties with other language skills, such as spelling, writing, and pronouncing words. Dyslexia affects individuals throughout their lives; however, its impact can change at different stages in a person's life. It is referred to as a learning disability because dyslexia can make it very difficult for a student to succeed academically in the typical instructional environment, and in its more severe forms, will qualify a student for special education, special accommodations, and/or extra support services.

### **What causes dyslexia?**

The exact causes of dyslexia are still not completely clear, but anatomical and brain imagery studies show differences in the way the brain of a person with dyslexia develops and functions. Moreover, most people with dyslexia have been found to have problems with identifying the separate speech sounds within a word and/or learning how letters represent those sounds, a key factor in their reading difficulties. Dyslexia is not due to either lack of intelligence or desire to learn; with appropriate teaching methods, students with dyslexia can learn successfully.

Dyslexia occurs in people of all backgrounds and intellectual levels. People with dyslexia can be very bright. They are often capable or even gifted in areas such as art, computer science, design, drama, electronics, math, mechanics, music, physics, sales, and sports. In addition, dyslexia runs in families; having a parent or sibling with dyslexia increases the probability that you will also have dyslexia. For some people, their dyslexia is identified early in their lives, but for others, their dyslexia goes unidentified until they get older.

### **What are the effects of dyslexia?**

The impact that dyslexia has is different for each person and depends on the severity of the condition and the timeliness and effectiveness of instruction or remediation. The core difficulty involves word recognition and reading fluency, spelling, and writing. Some individuals with dyslexia manage to learn early reading and spelling tasks, especially with excellent instruction, but later experience their most debilitating problems when more complex language skills are required, such as grammar, understanding textbook material, and writing essays.

People with dyslexia can also have problems with spoken language, even after they have been exposed to excellent language models in their homes and high quality language instruction in school. They may find it difficult to express



themselves clearly, or to fully comprehend what others mean when they speak. Such language problems are often difficult to recognize, but they can lead to major problems in school, in the workplace, and in relating to other people. The effects of dyslexia reach well beyond the classroom.

### **What misconceptions exist regarding dyslexia?**

It is equally important to understand what dyslexia isn't. There are great misconceptions and myths about dyslexia which make it that much more difficult for someone with dyslexia to receive help and generally be understood.

It is a myth that individuals with dyslexia "read backwards." Their spelling can look quite jumbled at times not because they read or see words backwards, but because students have trouble remembering letter symbols for sounds and letter patterns in words.

Dyslexia is not a disease and, therefore, there is no cure. With proper diagnosis, appropriate and timely instruction, hard work, and support from family, teachers, friends, and others, individuals who have dyslexia can succeed in school and later as adults.

Individuals with dyslexia do not have a lower level of intelligence. In fact, more often than not, the complete opposite is true.

## **SIGNS AND SYMPTOMS OF DYSLEXIA**

It is crucial to be able to recognize the signs of symptoms of dyslexia. The earlier a child is evaluated, the sooner he or she can obtain the appropriate instruction and accommodations he or she needs to succeed in school.

General problems experienced by people with dyslexia include the following:

- Learning to speak
- Learning letters and their sounds
- Organizing written and spoken language
- Memorizing number facts
- Reading quickly enough to comprehend
- Keeping up with and comprehending longer reading assignments
- Spelling
- Learning a foreign language
- Correctly doing math operations

Some specific signs for elementary aged children may include:

- Difficulty with remembering simple sequences such as counting to 20, naming the days of the week, or reciting the alphabet
- Difficulty understanding the rhyming of words, such as knowing that *fat* rhymes with *cat*
- Trouble recognizing words that begin with the same sound (for example, that *bird*, *baby*", and *big* all start with *b*)
- Pronunciation difficulties

- Trouble easily clapping hands to the rhythm of a song
- Difficulty with word retrieval (frequently uses words like “stuff” and “that thing” rather than specific words to name objects)
- Trouble remembering names of places and people
- Difficulty remembering spoken directions

It is important to note that not all students who have difficulties with these skills have dyslexia. Formal testing of reading, language, and writing skills is the only way to confirm a diagnosis of suspected dyslexia.

An individual can have more than one learning or behavioral disability. For example, in various studies as many as 30% of those diagnosed with a learning or reading difference have also been diagnosed with ADHD. Although disabilities may co-occur, one is not the cause of the other.

## SOCIAL AND EMOTIONAL CONNECTION

Samuel T. Orton, M.D., was one of the first researchers to describe the emotional aspects of dyslexia. According to his research, the majority of preschoolers who were later diagnosed as having dyslexia are happy and well adjusted. Their emotional problems begin to develop when early reading instruction does not match their learning needs. Over the years, the frustration mounts as classmates surpass the student with dyslexia in reading skills.

### Stress and Anxiety

Jerome J. Schultz’s informative IDA fact sheet “[The Dyslexia-Stress-Anxiety Connection](#)” is a must read for those wanting guidance on understanding the relationship between dyslexia and emotional and social difficulties, as well as the implications for academic performance and social interactions. Dr. Schultz explains his DE-STRESS model in a step-by-step guide for addressing stress, anxiety, and dyslexia.

Stress and anxiety increase when we’re in situations over which we have little or no control (e.g., a car going off the road, tripping on the stairs, reading in public). All people, young and old, can experience overwhelming stress and exhibit signs of anxiety, but children, adolescents, and adults with dyslexia are particularly vulnerable. That’s because many individuals do not fully understand the nature of their learning disability, and as a result, tend to blame themselves for their own difficulties. Years of self-doubt and self-recrimination may erode a person’s self-esteem, making them less able to tolerate the challenges of school, work, or social interactions and more stressed and anxious.

Many individuals with dyslexia have experienced years of frustration and limited success, despite countless hours spent in special programs or working with specialists. Their progress may have been agonizingly slow and frustrating, rendering them emotionally fragile and vulnerable. Some have been subjected to excessive pressure to succeed (or excel) without the proper support or training. Others have been continuously compared to siblings, classmates, or co-workers, making them embarrassed, cautious, and defensive.

Individuals with dyslexia may have learned that being in the company of others places them at risk for making public mistakes and the inevitable negative reactions that may ensue. It makes sense, then, that many people

with dyslexia have become withdrawn, sought the company of younger people, or become social isolates. (Schultz, 2013, p. 2)

This fact sheet can be found on the IDA website, [www.DyslexiaIDA.org](http://www.DyslexiaIDA.org).

### **Self-Image**

Dyslexia can also affect a person's self-image. Students with dyslexia often end up feeling "dumb" and less capable than they actually are. After experiencing a great deal of stress due to academic problems, a student may become discouraged about continuing in school.

If children succeed in school, they will develop positive feelings about themselves and believe that they can succeed in life. If children meet failure and frustration, they learn that they are inferior to others, and that their effort makes very little difference. Instead of feeling powerful and productive, they learn that their environment controls them. They feel powerless and incompetent.

Researchers have learned that when typical learners succeed, they credit their own efforts for their success. When they fail, they tell themselves to try harder. However, when learners with dyslexia succeed, they are likely to attribute their success to luck. When they fail, they simply see themselves as stupid.

Research also suggests that these feelings of inferiority develop by the age of 10. After this age, it becomes extremely difficult to help the child develop a positive self-image. This is a powerful argument for early intervention.

### **Depression**

Depression is also a frequent complication in dyslexia. Depressed children and adolescents often have different symptoms than do depressed adults. The depressed child is unlikely to be lethargic or to talk about feeling sad. Instead he or she may become more active or misbehave to cover up the painful feelings. In the case of masked depression, the child may not seem obviously unhappy. However, both children and adults who are depressed tend to have three similar characteristics:

- They tend to have negative thoughts about themselves, that is, a negative self- image.
- They tend to view the world negatively. They are less likely to enjoy the positive experiences in life. This makes it difficult for them to have fun.
- Most depressed youngsters have great trouble imagining anything positive about the future. The depressed child with dyslexia not only experiences great pain in his present experiences, but also foresees a life of continuing failure.

### **So how can you help?**

Children are more successful when early in their lives someone has been extremely supportive and encouraging, and when they have found an area in which they can succeed. Teachers can create an incredible support system by:

- Listening to children's feelings. Anxiety, anger and depression can be daily companions for children with dyslexia. However, their language problems often make it difficult for them to express their feelings. Therefore, adults must help them learn to talk about their feelings.
- Rewarding effort, not just "the product." For students with dyslexia, grades should be less important than progress.

- When confronting unacceptable behavior, do not inadvertently discourage the child with dyslexia. Words such as “lazy” or “incorrigible” can seriously damage the child’s self-image.
- Helping students set realistic goals for themselves. Many students with dyslexia set perfectionistic and unattainable goals. By helping the child set an attainable goal, teachers can change the cycle of failure.

Above all, it is critical that school personnel, parents, and outside professionals working with the child with dyslexia communicate on an on-going basis to provide the support needed, so he or she can become a happy and successful student, and eventually, a happy and successful adult.

## CLASSROOM STRATEGIES, TIPS AND TOOLS

Schools can implement academic accommodations and modifications to help students with dyslexia succeed. For example, a student with dyslexia can be given extra time to complete tasks, help with taking notes, and work assignments that are modified appropriately. Teachers can give taped tests or allow students with dyslexia to use alternative means of assessment. Students can benefit from listening to books on tape and using text reading and word processing computer programs.

Teaching students with dyslexia across settings is challenging. Both general education and special education teachers seek accommodations that foster the learning and management of a class of heterogeneous learners. It is important to identify accommodations that are reasonable to ask of teachers in all classroom settings. The following accommodations provide a framework for helping students with learning problems achieve in general education and special education classrooms. They are organized according to accommodations involving materials, interactive instruction, and student performance.

### Accommodations Involving Materials

Students spend a large portion of the school day interacting with materials. Most instructional materials give teachers few activities or directions for teaching a large class of students who learn at different rates and in various ways. This section provides material accommodations that enhance the learning of diverse students. Frequently, paraprofessionals, volunteers, and students can help develop and implement various accommodations. Material accommodations include the following:

- **Clarify or simplify written directions.** Some directions are written in paragraph form and contain many units of information. These can be overwhelming to some students. The teacher can help by underlining or highlighting the significant parts of the directions. Rewriting the directions is often helpful.
- **Present a small amount of work.** The teacher can tear pages from workbooks and materials to present small assignments to students who are anxious about the amount of work to be done. This technique prevents students from examining an entire workbook, text, or material and becoming discouraged by the amount of work.

- **Block out extraneous stimuli.** If a student is easily distracted by visual stimuli on a full worksheet or page, a blank sheet of paper can be used to cover sections of the page not being worked on at the time. Also, line markers can be used to aid reading, and windows can be used to display individual math problems. Additionally, using larger font sizes and increasing spacing can help separate sections.
- **Highlight essential information.** If an adolescent can read a regular textbook but has difficulty finding the essential information, the teacher can mark this information with a highlight pen.
- **Use a placeholder in consumable material.** In consumable materials in which students progress sequentially (such as workbooks), the student can make a diagonal cut across the lower right-hand corner of the pages as they are completed. With all the completed pages cut, the student and teacher can readily locate the next page that needs to be corrected or completed.
- **Provide additional practice activities.** Some materials do not provide enough practice activities for students with learning problems to acquire mastery on selected skills. Teachers then must supplement the material with practice activities. Recommended practice exercises include instructional games, peer teaching activities, self-correcting materials, computer software programs, and additional worksheets.
- **Provide a glossary in content areas.** Students often benefit from a glossary of content-related terms.
- **Develop reading guides.** A reading guide helps the reader understand the main ideas and sort out the numerous details related to the main ideas. A reading guide can be developed paragraph-by-paragraph, page-by-page, or section-by-section.
- **Use an audio recording device.** Directions, stories, and specific lessons can be recorded. The student can replay the tape to clarify understanding of directions or concepts. Also, to improve reading skills, the student can read the printed words silently as they are presented on tape.
- **Use of assistive technology.** Assistive technology products such as tablets, electronic readers/dictionaries/spellers, text to speech programs, audio books, and more can be very useful tools.

#### Accommodations Involving Interactive Instruction

The task of gaining students' attention and engaging them for a period of time requires many teaching and managing skills. Teaching and interactions should provide successful learning experiences for each student. Some accommodations to enhance successful interactive instructional activities are:

- **Use explicit teaching procedures.** Many commercial materials do not cue teachers to use explicit teaching procedures; thus, the teacher often must adapt a material to include these procedures. Teachers can include explicit teaching steps within their lessons (i.e., present an advanced organizer, demonstrate the skill, provide guided practice, offer corrective feedback, set up independent practice, monitor practice, and review).
- **Repeat directions.** Students who have difficulty following directions are often helped by asking them to repeat the directions in their own words. The student can repeat the directions to a peer when the teacher is unavailable. If directions contain several steps, break down the directions into subsets. Simplify directions by presenting only one portion at a time and by writing each portion on the chalkboard as well

as stating it orally. When using written directions, be sure that students are able to read and understand the words as well as comprehend the meaning of sentences.

- **Maintain daily routines.** Many students with learning problems need the structure of daily routines to know and do what is expected.
- **Provide a copy of lesson notes.** The teacher can give a copy of lesson notes to students who have difficulty taking notes during presentations.
- **Provide students with a graphic organizer.** An outline, chart, or blank web can be given to students to fill in during presentations. This helps students listen for key information and see the relationships among concepts and related information.
- **Use step-by-step instruction.** New or difficult information can be presented in small sequential steps. This helps learners with limited prior knowledge who need explicit or part-to-whole instruction.
- **Simultaneously combine verbal and visual information.** Verbal information can be provided with visual displays (e.g., on an overhead or handout).
- **Write key points or words on the chalkboard/whiteboard.** Prior to a presentation, the teacher can write new vocabulary words and key points on the chalkboard/whiteboard.
- **Use balanced presentations and activities.** An effort should be made to balance oral presentations with visual information and participatory activities. Also, there should be a balance between large group, small group, and individual activities.
- **Use mnemonic instruction.** Mnemonic devices can be used to help students remember key information or steps in a learning strategy.
- **Emphasize daily review.** Daily review of previous learning or lessons can help students connect new information with prior knowledge.

### Accommodations Involving Student Performance

Students vary significantly in their ability to respond in different modes. For example, students vary in their ability to give oral presentations; participate in discussions; write letters and numbers; write paragraphs; draw objects; spell; work in noisy or cluttered settings; and read, write, or speak at a fast pace. Moreover, students vary in their ability to process information presented in visual or auditory formats. The following accommodation involving mode of reception and expression can be used to enhance students' performance:

- **Change response mode.** For students who have difficulty with fine motor responses (such as handwriting), the response mode can be changed to underlining, selecting from multiple choices, sorting, or marking. Students with fine motor problems can be given extra space for writing answers on worksheets or can be allowed to respond on individual chalkboards/whiteboards.
- **Provide an outline of the lesson.** An outline enables some students to follow the lesson successfully and make appropriate notes. Moreover, an outline helps students to see the organization of the material and ask timely questions.

- **Encourage use of graphic organizers.** A graphic organizer involves organizing material into a visual format. To develop a graphic organizer, the student can list the topic on the first line, collect and divide information into major headings, list all information relating to major headings on index cards, organize information into major areas, place information under appropriate subheadings, and place information into the organizer format.
- **Place students close to the teacher.** Students with attention problems can be seated close to the teacher, chalkboard/whiteboard, or work area and away from distracting sounds, materials, or objects.
- **Encourage use of assignment books or calendars.** Students can use calendars to record assignment due dates, list school related activities, record test dates, and schedule timelines for schoolwork. Students should set aside a special section in an assignment book or calendar for recording homework assignments.
- **Have students turn lined paper vertically for math.** Lined paper can be turned vertically to help students keep numbers in appropriate columns while computing math problems.
- **Use cues to denote important items.** Asterisks or bullets can denote questions or activities that count heavily in evaluation. This helps students spend time appropriately during tests or assignments.
- **Design hierarchical worksheets.** The teacher can design worksheets with problems arranged from easiest to hardest. Early success helps students begin to work.
- **Allow use of instructional aids.** Students can be provided with letter and number strips to help them write correctly. Number lines, counters, calculators, and other assistive technology can help students compute once they understand the mathematical operations.
- **Display work samples.** Samples of completed assignments can be displayed to help students realize expectations and plan accordingly.
- **Use peer-mediated learning.** The teacher can pair peers of different ability levels to review their notes, study for a test, read aloud to each other, write stories, or conduct laboratory experiments. Also, a partner can read math problems for students with reading problems to solve.
- **Use flexible work times.** Students who work slowly can be given additional time to complete written assignments.
- **Provide additional practice.** Students require different amounts of practice to master skills or content. Many students with learning problems need additional practice to learn at a fluency level.
- **Use assignment substitutions or adjustments.** Students can be allowed to complete projects instead of oral reports or vice versa. Also, tests can be given in oral or written format.



## EFFECTIVE READING INSTRUCTION

Early identification and treatment is the key to helping individuals with dyslexia achieve in school and in life. Most people with dyslexia need help from a teacher, tutor, or therapist specially trained in a structured literacy approach. Many individuals with dyslexia need one-on-one help so that they can move forward at their own pace. In addition, students with dyslexia often need a great deal of structured practice and immediate, corrective feedback to develop automatic word recognition skills. For students with dyslexia, it is helpful if their outside academic therapists work closely with classroom teachers.

### What is a Structured Literacy approach?

*Structured Literacy* instruction is marked by several elements:

**Phonology.** Phonology is the study of sound structure of spoken words and is a critical element of *Structured Language* instruction. Phonological awareness includes rhyming, counting words in spoken sentence, and clapping syllables in spoken words. An important aspect of phonological awareness is phonemic awareness or the ability to segment words into their component sounds, which are called phonemes. A phoneme is the smallest unit of sound in a given language that can be recognized as being distinct from other sounds in the language. For example, the word *cap* has three phonemes (/k/, /ă/, /p/), and the word *clasp* has five phonemes (/k/, /l/, /ă/, /s/, /p/).

**Sound-Symbol Association.** Once students have developed the awareness of phonemes of spoken language, they must learn how to map the phonemes to symbols or printed letters. Sound-symbol association must be taught and mastered in two directions: visual to auditory (reading) and auditory to visual (spelling). Additionally, students must master the blending of sounds and letters into words as well as the segmenting of whole words into the individual sounds. The instruction of sound-symbol associations is often referred to as phonics. Although phonics is a component of *Structured Literacy*, it is embedded within a rich and deep language context.

**Syllable Instruction.** A syllable is a unit of oral or written language with one vowel sound. Instruction includes teaching of the six basic syllable types in the English language: closed, vowel-consonant-*e*, open, consonant-*le*, *r*-controlled, and vowel pair. Knowledge of syllable types is an important organizing idea. By knowing the syllable type, the reader can better determine the sound of the vowel in the syllable. Syllable division rules heighten the reader's awareness of where a long, unfamiliar word may be divided for great accuracy in reading the word.

**Morphology.** A morpheme is the smallest unit of meaning in the language. The Structured Literacy curriculum includes the study of base words, roots, prefixes, and suffixes. The word *instructor*, for example, contains the root *struct*, which means *to build*, the prefix *in*, which means *in* or *into*, and the suffix *or*, which means *one who*. An instructor is one who builds knowledge in his or her students.

**Syntax.** Syntax is the set of principles that dictate the sequence and function of words in a sentence in order to convey meaning. This includes grammar, sentence variation, and the mechanics of language.

**Semantics.** Semantics is that aspect of language concerned with meaning. The curriculum (from the beginning) must include instruction in the comprehension of written language.

*Structured Literacy* is distinctive in the principles that guide how critical elements are taught:

**Systematic and Cumulative.** *Structured Literacy* instruction is systematic and cumulative. Systematic means that the organization of material follows the logical order of the language. The sequence must begin with the easiest and most basic concepts and elements and progress methodically to more difficult concepts and elements. Cumulative means each step must be based on concepts previously learned.



**Explicit Instruction.** *Structured Literacy* instruction requires the deliberate teaching of all concepts with continuous student-teacher interaction. It is not assumed that students will naturally deduce these concepts on their own.

**Diagnostic Teaching.** The teacher must be adept at individualized instruction. That is instruction that meets a student's needs. The instruction is based on careful and continuous assessment, both informally (for example, observation) and formally (for example, with standardized measures). The content presented must be mastered to the degree of automaticity. Automaticity is critical to freeing all the student's attention and cognitive resources for comprehension and expression.

## SCREENING, EVALUATION, AND DIAGNOSIS

Early identification and intervention with students who show the warning signs of dyslexia are critically important for better outcomes later on. Researchers have identified the specific skill weaknesses that predict later reading difficulties, making early testing, identification, and remediation possible. For most children, problems can be remediated with programs at the kindergarten and first-grade levels that take about 30-45 minutes per day.

Before second grade, it is more important to focus an evaluation on the precursors of reading development. Measures of language skills, phonological awareness, memory, and rapid naming are more suggestive of being at-risk for dyslexia among young children than are measures of word reading, decoding, and spelling. Therefore, measures of phonological awareness, memory, and rapid naming are typically included in Kindergarten and beginning first grade screening tests that can identify children who need targeted intervention to improve these critical skills so these children can meet grade-level benchmarks.

### How is dyslexia diagnosed?

A comprehensive evaluation typically includes intellectual and academic achievement testing, as well as an assessment of the critical underlying language skills that are closely linked to dyslexia. These include receptive (listening) and expressive language skills, phonological skills including phonemic awareness, and also a student's ability to rapidly name letters and names. A student's ability to read lists of words in isolation, as well as words in context, should also be assessed. If a profile emerges that is characteristic of readers with dyslexia, an individualized intervention plan should be developed, which should include appropriate accommodations, such as extended time. The testing can be conducted by trained school or outside specialists.

### Why is evaluation important?

An evaluation is the process of gathering information to identify the factors contributing to a student's difficulty with learning to read and spell. First, information is gathered from parents and teachers to understand development and the educational opportunities that have been provided. Then, tests are given to identify strengths and weaknesses that lead to a diagnosis and a tentative road map for intervention. Conclusions and recommendations are developed and reported.

### When should a child be evaluated?

It is possible to identify potential reading problems in young children even before the problems turn into reading failure. Screenings should be used with all children in a school, beginning in kindergarten, to locate those students who

are “at risk” for reading difficulty. Preventive intervention should begin immediately, even if dyslexia is suspected. How the child responds to supplementary instruction will help determine if special education services are justified and necessary.

There are numerous types of screeners; one simple one we recommend is the Colorado Learning Disabilities Questionnaire – Reading Subscale (CLDQ-R) School Age Screener. If the risk factors are present, teachers should follow the protocols set-up within their school’s policies to meet with parents regarding further evaluation.

The Colorado Learning Disabilities Questionnaire – Reading Subscale (CLDQ-R) is a screening tool designed to measure risk of reading disability (i.e. dyslexia) in school-age children (Willcutt et al., 2011). Normative scores for this questionnaire were developed based on parent-reports of their 6-to-18- year- old children, as well as actual reading testing of these children. Willcutt, et al. (2011) found that the CLDQ-R is reliable and valid. It is important to note that the CLDQ-R is only a screener and does not constitute a formal evaluation or diagnosis.

### School Age Dyslexia Screener – CLDQ-R

Please read each statement and decide how well it describes the child. Mark your answer by circling the appropriate number. Please do not leave any statement unmarked.

	Never/ not at all	Rarely/ a little	Sometimes	Frequently/ quite a bit	Always/ a great deal
1. Has difficulty with spelling	1	2	3	4	5
2. Has/had difficulty learning letter names	1	2	3	4	5
3. Has/had difficulty learning phonics (sounding out words)	1	2	3	4	5
4. Reads slowly	1	2	3	4	5
5. Reads below grade level	1	2	3	4	5
6. Requires extra help in school because of problems in reading and spelling	1	2	3	4	5

Scoring Instructions:

Add up the circled numbers and record that as the Total Score \_\_\_\_\_

The following cutoffs apply:

- Total Score <16 = Minimal Risk
- Total Score 16-21 = Moderate Risk
- Total Score >21 = Significant Risk

See below for details for each Risk Group.

**Minimal Risk:** The score indicates that there is little in the child’s developmental history to indicate that he/she is at risk for a reading disability (dyslexia). However, if there are concerns about the child’s reading progress, an evaluation with the school or a licensed child psychologist is recommended to examine the nature of these difficulties.

**Moderate Risk:** The score indicates that there are features of the child's developmental history (e.g. difficulty learning letters, required extra reading help) that may be consistent with a reading disability (dyslexia). Reading disability constitutes a very common learning disability, affecting approximately 5% of the United States population. Reading disability is characterized by slow or effortful reading, difficulty sounding out new words, and problems with spelling. If there are concerns about the child's reading progress, an evaluation with the school or a licensed child psychologist is recommended to examine the nature of these difficulties.

**Significant Risk:** The score indicates that there are several features of your child's developmental history (e.g. difficulty learning letters, required extra reading help) that are consistent with a reading disability (dyslexia). Reading disability constitutes a very common learning disability, affecting approximately 5-10% of the United States population. Reading disability is characterized by slow or effortful reading, difficulty sounding out new words, and problems with spelling. The results of this questionnaire indicate that your child may be experiencing some or all of those symptoms. A formal evaluation with the school or a licensed child psychologist is strongly recommended, so that your child can get the reading support he/she needs, if appropriate.

## ADDITIONAL RESOURCES AND FURTHER INFORMATION

There are a great many resources available for a deeper understanding of dyslexia, co-morbidities, treatments as well as specific topics including neuroscience, comprehension, fluency, other learning disabilities, response to intervention and much more.

We encourage you to go to our website, [www.DyslexiaIDA.org](http://www.DyslexiaIDA.org) and explore a variety of information including:

- [IDA Fact Sheets](#)
- [FAQs](#)
- [IDA Provider Directory](#)
- [IDA Knowledge and Practice Standards for Teachers of Reading](#)

There are numerous publications and books available, including those listed in the Recommended Reading for Professionals Fact Sheet, but here are some useful resources to get you started:

Moats, L., & Dakin, K. (2008). *Basic facts about dyslexia and other reading problems*. Baltimore, MD: International Dyslexia Association.

Moats, L., Dakin, K., & Joshi, R. M. (2012). *Expert perspectives on interventions for reading. A collection of best-practice articles from the International Dyslexia Association*. Baltimore, MD: International Dyslexia Association.

Tridas, E. (2007). *From ABC to ADHD: what parents should know about dyslexia and attention problems*. Baltimore, MD: International Dyslexia Association.

Further, there are extraordinary workshops, conferences, and trainings available all over the United States and Canada hosted by IDA branches; conferences all over the world hosted by our Global Partners; and the Annual IDA Conference hosted by IDA Headquarters. Please go to [www.DyslexiaIDA.org](http://www.DyslexiaIDA.org) to find the next event near you!

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## Components of Structured Literacy Intervention Checklist

This rubric is designed to help educators evaluate intervention programs. It identifies the necessary components of structured literacy interventions and will help to identify areas that may need to be supplemented with additional evidence-based instructional practices.

Intervention Name: \_\_\_\_\_

Date: \_\_\_\_\_

Does the intervention program include all components of structured literacy instruction?

Yes	No	Phonological Awareness
		Segmenting Sentences Into Words
		Syllable Segmentation and Blending
		Phonemic Awareness - Segmentation, Blending & Manipulation

Yes	No	Sound-Symbol Association
		Sounds & Letters Connected for Both Reading (visual) and Spelling (auditory) to Mastery
		Blending of Sounds & Letters into Words to Mastery
		Segmenting Whole Words into Individual Sounds to Mastery

Yes	No	Syllable Instruction
		6 Basic Syllable Types: Identify the Sound of the Vowel Within a Syllable
		Syllable Division Rules: Enhance Accuracy for Reading Unknown Words to Mastery

Yes	No	Orthography
		Focus on Spelling Patterns and Rules as well as Word Meanings, Parts of Speech and Word Origins
		Explicit Instruction in Letter Formation

Yes	No	Morphology
		Study of Base Words, Roots, Prefixes and Suffixes

Yes	No	Grammar/Syntax
		Focus on Grammar & Sentence Variations
		Study of Mechanics of Language & Function of Word Order to Convey Meaning

YES	NO	Vocabulary
		Words Taught Explicitly in Multiple Settings
		Synonyms, Antonyms and Multiple Meanings Integrated into Discussions
		Essential Features with Visual Representations for Concepts Identified During Discussions
		Idioms Integrated When Appropriate to Situations

Yes	No	Fluency
		Attention to Accuracy, Rate and Prosody
		Use of Normative Data to Ensure Adequate Progress

Yes	No	Reading Comprehension
		Process of Deriving Meaning & Establishing a Coherent Mental Model of the Text's Content
		Attention to Integration of Ideas Within Text and Between Texts
		Use of Text Structure to Accomplish a Goal (i.e., explaining main idea or recalling details)
		Purposeful Teaching of Strategies Related to the Text Structure with Opportunities to Apply in New Situations
		Access Background Knowledge & Identify Language in Text that May be Problematic (indirect meanings, figurative language, complex sentences, pronoun referents, new vocabulary)
		Use of Graphic Organizers

Yes	No	Delivery of Instruction
		Training Standards and Fidelity of Implementation Measures Defined
		Explicit Instruction is Provided One Language Concept at a Time
		Sequence of Instruction is Systematic and Cumulative
		Provides Multisensory Instruction
		Includes Assessments for Diagnostic Teaching (Pre/Post Tests, Mastery Checks)
		Establishes Guidelines for Student Grouping (Size, Homogenous Needs)

Notes

**Kansas Technical Assistance System Network (TASN)** provides technical assistance to support school districts' systematic implementation of evidence-based practices.

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# Kansas LETRS Training Cadre

- **Kansas LETRS Training Cadre Home (/letrs/kansas-letrs-training-cadre)**

- Trainer List & Contact Information (</letrs/kansas-letrs-trainer-contact-information>)
- Training Registration (</letrs/kansas-letrs-training>)



LETRS® (Language Essentials for Teachers of Reading and Spelling) professional development responds to the need for high-quality literacy educators. Developed by literacy expert Louisa C. Moats, Ed.D. LETRS provides the deep foundational knowledge necessary to understand how students learn to read, write, and spell—and why some of them struggle.

**Why LETRS?** Because teachers, not programs – teach students to read. • LETRS is based in real-world experience and the science of reading • LETRS training prepares educators to diagnose why some students fail to learn to read, spell or write. • LETRS training provides strategies and activities that can be implemented immediately. • LETRS increases effectiveness of any core or supplemental program.

For more information about LETRS, including the research base, go to [www.LETRS.com](http://www.letrs.com) (<http://www.letrs.com/>)

LETRS and the Common Core State Standards ([http://ksdetasn.org/cms/images/\\_utahstate\\_media/documents/LETRS/LETRS\\_Common\\_Core\\_Standards.pdf](http://ksdetasn.org/cms/images/_utahstate_media/documents/LETRS/LETRS_Common_Core_Standards.pdf))

**About the Training** LETRS is divided into 12 Core Modules:

- **Foundations:** LETRS Foundations is a teacher's first step into the deeper, more comprehensive content of the core modules. LETRS

Foundations is professional development for teachers of reading who are beginning to implement the components and principles of scientifically based reading instruction. This first module introduces the science of how children learn to read; the importance of oral language, phoneme awareness, phonics, fluency, vocabulary, and comprehension in reading instruction; and how to put LETRS concepts to work in the classroom.

- **Module 1:** Overview of the science of teaching reading, why students struggle, where instructional emphasis needs to be placed (appropriate for teachers of all grades)
- **Modules 2,3:** Phonology; Phonics; and Spelling (appropriate for teachers of all grades—emphasis on foundational skills)
- **Modules 4-6:** Vocabulary; Comprehension; and Fluency (appropriate for teachers of all grades)
- **Modules 7-9:** Systematic Phonics Instruction; Assessment; and Writing Instruction (appropriate for teachers of all grades)
- **Module 10:** Multisyllabic Words and Advanced Decoding (appropriate for teachers of upper elementary and beyond)
- **Teaching English Learners:** Teaching English Learners addresses the key principles of effective instruction for ELLs. This manual provides a framework for understanding critical components of ELL reading instruction that link directly to observable instructional behaviors in the classroom. Teaching English Learners is for instructional leaders who have a responsibility to establish policies involving effective instruction for ELLs.
- **LETRS for Early Childhood Educators:** Designed specifically for early childhood educators, this interactive module prepares teachers to provide instruction that is proven to build a strong foundation in early literacy skills. The program explores language and literacy in ways that create a deeper understanding of these important processes. This module is for educators working with preschool and kindergarten children or early elementary children who are experiencing difficulty with the literacy process.
- **ParaReading:** ParaReading prepares today's paraprofessionals for the increasing demands placed on them in the reading classroom. To be effective, paraeducators and reading tutors need training that incorporates current, scientifically based research on student learning. This is the single best resource available to any potential tutor who wants to become an integral part of the reading instruction process. Based on key LETRS concepts, ParaReading not only increases the effectiveness of reading tutors, but also grounds them in a proven, research-based system of teaching.

Training in modules may occur separately (1-2 days per module), or up to three modules may be provided in approximately 4-5 days.

Training in Modules 1-10 is available now. Training in the English Learners Module and the Early childhood Module is also available. Check back often for more information regarding training opportunities!

Training may be accessed only through certified Kansas LETRS trainers. Trainers are affiliated with service centers and districts around the state. For more information about how to access training, contact a trainer in your area, or contact Kevin Davis, TASN Coordination at [kevin.davis@usu.edu](mailto:kevin.davis@usu.edu) (mailto:kevin.davis@usu.edu)

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# **Preliminary Report of the Statewide Broadband Expansion Planning Task Force to the 2019 Kansas Legislature**

**CO-CHAIRPERSONS:** Senator Robert Olson and Representative Joe Seiwert

**LEGISLATIVE MEMBERS:** Senators Tom Hawk and Mike Petersen; and Representatives Randy Garber and Annie Kuether

**NON-LEGISLATIVE MEMBERS:** Kurt David, Daniel Friesen, Patrick Fucik, Colin Hansen, John Idoux, Colleen Jamison, Catherine Moyer, Lon Pishny, Mike Scott, Eric Sartorius, Doug Shepherd

**EX OFFICIO MEMBERS:** Christine Aarnes, Dan Strom (substitute for Richard Felts), Jennifer Findley, Ann Mah, Larry Thompson

## **CHARGE**

Senate Sub. for HB 2701 (2018) directs the Task Force to:

- Work collaboratively to develop an approach that includes, but is not limited to, the development of criteria for the creation of a statewide map for defining and evaluating the broadband needs of Kansas citizens, businesses, industries, institutions, and organizations;
- Identify and document risks, issues, and constraints associated with a statewide broadband expansion project and develop any corresponding risk mitigation strategies where appropriate;
- Consider recent actions by the Federal Communications Commission relating to broadband services including, but not limited to:
  - The 2018 Broadband Deployment Report;
  - Recommendations of the Broadband Deployment Advisory Committee; and
  - Any actions to implement broadband initiatives using the Connect America Fund Phase II, the Mobility Fund II, or the Remote Areas Fund;

- Identify opportunities and potential funding sources to:
  - Expand broadband infrastructure and increase statewide access to broadband services;
  - Remove barriers that may hinder deployment of broadband infrastructure or access to broadband services; and
  - Consider options for the deployment of new advanced communication technologies;
- Develop criteria for prioritizing the expansion of broadband services across Kansas;
- Review current law and regulations concerning access to the public right-of-way for public utilities and make corresponding recommendations for any changes necessary to encourage broadband deployment; and
- Propose future activities and documentation required to complete the statewide broadband expansion plan, including an upgradeable, functional map of the state of available broadband service, as well as including which technologies should be deployed and the methods to finance broadband expansion.

# Statewide Broadband Expansion Planning Task Force

## PRELIMINARY REPORT

### Conclusions and Recommendations

The Task Force did not make recommendations or propose legislation.

*Proposed Legislation:* None

### BACKGROUND

The Statewide Broadband Expansion Planning Task Force (Task Force) was created by Senate Sub. for HB 2701 (2018), codified at KSA 66-1286. The Task Force is charged with working collaboratively to develop criteria for the creation of a statewide map for defining and evaluating the broadband needs of Kansas, identifying issues associated with a statewide broadband expansion project, considering recent action by the Federal Communications Commission (FCC) related to broadband services, identifying funding sources to expand broadband, developing criteria for prioritizing the expansion of broadband services across Kansas, reviewing current law concerning access to the public right-of-way for public utilities, and proposing future activities to complete the statewide broadband expansion plan.

The Task Force is composed of 22 members (17 voting members and 5 ex officio members) with 3 from the House of Representatives and 3 from the Senate; 11 non-legislative members appointed by the Kansas Association of Counties, League of Kansas Municipalities, Kansas Rural Independent Telephone Coalition, Kansas Cable Telecommunications Association, Cellular Telecommunications Industry Association, an electing carrier, an incumbent local exchange carrier, Kansas Electric Cooperatives, State Independent Telephone Association, Kansas Municipal Utilities, and Kansas Independent Fiber Association; and 5 ex officio members appointed by the Governor, Kansas Hospital Association,

Kansas Corporation Commission, the Commissioner of Education, and the Secretary of Transportation. The Task Force is permitted to meet in an open meeting at any time upon call of either co-chairperson.

As required by the bill, the Task Force is to make and submit its initial report to the House Committee on Energy, Utilities and Telecommunications and the Senate Committee on Utilities prior to January 15, 2019, and its final report prior to January 15, 2020. This report replaces a preliminary report published in electronic-only format prior to the statutory deadline. (Please contact the Kansas Legislative Research Department for the electronic-only report.) The Task Force is scheduled to expire on June 30, 2020.

### TASK FORCE ACTIVITIES

The Task Force met on January 11, 2019, and, in accordance with its statutory charge, heard presentations on the status of broadband in Kansas, broadband grant projects, and the Connect America Fund.

### Broadband in Kansas

The Director of Broadband Initiatives, Kansas Department of Commerce, reviewed the importance of broadband access and utilization to economic growth in Kansas. The Director also noted the five objectives of Kansas public policy

as stated in the Kansas Telecommunications Act: ensure every Kansan has access to a first-class telecommunications infrastructure that provides excellent service at an affordable price, ensure citizens realize the benefits of competition, promote consumer access to a full range of telecommunications services, advance the development of a statewide telecommunications infrastructure, and protect consumers of telecommunications services from fraudulent practices.

## **Broadband Grant Projects**

A representative of Connected Nation explained the Governor's Office received broadband mapping grant funds from the Information Network of Kansas (INK) and the Governor's Office then contracted with Connected Nation to implement two broadband mapping projects. The first project was a Mobility Fund Stage II challenge process and the other project was creation of a statewide broadband availability map.

### ***Mobility Fund Stage II Challenge Process***

The representative provided the following explanation and update of the project. The FCC's Mobility Fund Phase II (a component of the federal Universal Service Fund [USF]) has designated \$4.53 billion for long-term evolution (LTE), the highly technical process involved in high-speed data for smart phones and mobile devices, broadband service build-out over ten years in eligible areas across the country.

According to the map created by the FCC indicating the areas eligible for Mobility Fund Phase II funding due to lack of LTE broadband service, Kansas has very few eligible areas. Connected Nation undertook testing across the state to show the number of eligible areas in Kansas should be increased. Connected Nation staff drove more than 15,000 miles across Kansas to conduct tests to determine the download speed per square kilometer grid cell; tests could be no more than 800 meters apart from one another. Of 187,397 tests that were conducted, 119,994 (64.0 percent) failed, meaning the tests indicated less than 5 megabit per second (Mbps) service or no service at all in the areas where service had been reported as available by mobile carriers to the

FCC. The challenge data collected by Connected Nation will be reviewed by the FCC. Mobile carriers will have an opportunity to challenge the challenge and provide evidence that any submitted challenges were done in error. The FCC will adjudicate the claims and publish an updated eligibility map. Carriers will be able to submit bids during the Mobility Fund Phase II reverse auction to build out service in eligible areas. The FCC will announce the auction winners and the winners will begin building out new service. The representative estimated this process would take another year to complete.

### ***Statewide Broadband Availability Map***

The representative of Connected Nation stated the second project was to create a granular statewide broadband availability map. Connected Nation collected street-level data on service availability (provider names, provider types, speed, and serviceable location) and service types (fiber, cable DSL, fixed wireless, and mobile wireless). This data was collected from internet service providers (ISPs). Of the 91 viable ISPs, only 6 refused to participate. The initial map was delivered to the Governor's Office on December 31, 2018, and a revised map will be available by July 2019. The interactive map is available at <https://arccg.is/5L9jO>.

## **Connect America Fund**

The Chief of Telecommunications and Southwest Power Pool Affairs (Chief of Telecommunications), Kansas Corporation Commission, provided the history and an update on the federal Connect America Fund (CAF) as follows. In 2011, an FCC Order reformed the federal USF. The Order created the CAF, which replaced the legacy High Cost Fund (HCF), to promote broadband expansion through incentive-based funding to areas that would not otherwise receive this service. The HCF promoted maintaining voice services only and the CAF promotes maintaining and expanding voice and broadband services. The HCF was cost-based funding and CAF is incentive-based funding. Generally, the goal of CAF is to provide voice and broadband services at reasonable rates. The Chief of Telecommunications traced the funding process from 2012 through 2018 for both price-cap funding and rate-of-return (ROR) funding in

Kansas and reviewed the CAF funding requirements for broadband service in price-cap areas. The CAF Phase I Round 1 funding began in 2012 with a service requirement of 4 Mbps download and 1 Mbps upload (4/1) to at least one unserved location for each \$775 received. Kansas providers did not receive any of this funding. Round 2 of CAF Phase I funding reduced the speed requirement to 3 Mbps download and 768 kilobits per second upload. Three Kansas providers received Round 2 funding for a total of \$214,825 for 346 locations in Kansas. In 2014, the FCC offered the Rural Broadband Experiments and offered funding for 25 Mbps download and 5 Mbps upload in certain areas and 10 Mbps download and 1 Mbps upload (10/1) in other areas. Only one Kansas provider was approved for funding under this program. In 2015, CAF Phase II offered funding for 10/1 service speed. AT&T accepted \$18.9 million to provide 10/1 to 35,375 eligible locations and Century Link accepted \$16.5 million to deploy 10/1 to 29,018 eligible locations. In the 2018 CAF Phase II Auction, funding was offered for a minimum speed 10 Mbps to 1 gigabit per second. Seven Kansas providers were awarded funds and six providers have completed the initial paperwork.

To receive CAF funding, ROR carriers were required to offer 10/1 broadband service upon a customer's reasonable request. If 10/1 speed was not reasonable, the FCC allowed ROR carriers to offer 4/1. In a 2014 order, the FCC defined a reasonable request as a request where the carrier could cost-effectively extend a voice and broadband-capable network to that location. Further, in determining whether a particular upgrade is cost effective, the order stated the carrier should consider not only its anticipated end-user voice and broadband revenues, but other sources of support, such as USF. In 2016, the FCC developed the Alternative Connect America Cost Model (A-CAM) to provide support based on cost models to ROR carriers with a 10/1 requirement. In 2018, the FCC issued a CAF Reform Report and Order. ROR carriers that currently receive A-CAM support were offered additional funding if they would expand the broadband availability to 25/3 while deploying at least 10/1 to new locations in their service areas. The order also provided an opportunity for ROR carriers that did not elect to transition to A-CAM support in 2016 to transition to A-CAM II model-based support in return for

specifically tailored obligations to deploy 25/3. Finally, the order authorized support for those ROR carriers that elected to remain on legacy ROR support in exchange for build-out of 25/3 service.

The Chief of Telecommunications concluded by stating at its January 30, 2019, meeting the FCC was slated to issue an order to address the support provided to competitive eligible telecommunications carriers (CETC) for expansion of mobile broadband. CETC support is frozen at 60.0 percent of the 2011 amount, and the new order may continue phasing down the CETC support in 2019.

### **Task Force Discussion**

After hearing the presentations detailed above, the Task Force generally discussed the following:

- Appreciation for the broadband vision and funding provided by Governor Colyer and INK;
- Whether a broadband accessibility map is necessary to promote broadband expansion in the state and the expense of maintaining such a map;
- The FCC's role in encouraging ISPs to share their data;
- The standard the State should follow to set a new definition of broadband;
- Options for funding broadband expansion;
- Whether and to what extent the Task Force should partner with the House Committee on Rural Revitalization;
- What additional information the Task Force needs to fulfill its statutory charge and what stakeholders should provide the information;
- The adoption rate of broadband across various customer bases in the state;

- The possibility of building a system that will be sustainable into the future;
- The challenge of identifying all federal funding available to the State;
- The benefit of reviewing broadband expansion plans from other states;
- The need to develop criteria for prioritizing the expansion of broadband services across Kansas; and

- Whether working groups should be formed to work on specific areas of the statutory charge.

The Co-chairperson asked members to prepare for the next meeting by identifying and prioritizing key tasks necessary to fulfill the Task Force's charge.

## **CONCLUSIONS AND RECOMMENDATIONS**

The Task Force did not make recommendations or propose legislation.