

# **Committee Reports to the 2022 Kansas Legislature**

# **KLRD**

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## **Supplement**

**Kansas Legislative Research Department  
March 2022**

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# **KL RD**

*Providing objective research and fiscal  
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**Special Committees;  
Joint Committees;  
Other Committees,  
Commissions, and  
Task Forces**

Special Committee on Kansas Mental Health Modernization and Reform  
Special Committee on Taxation  
Special Committee on the 30 x 30 Federal Initiative

Joint Committee on Information Technology  
Joint Committee on Pensions, Investments and Benefits  
Legislative Budget Committee  
Joint Committee on State Building Construction  
Robert G. (Bob) Bethell Joint Committee on Home and Community Based  
Services and KanCare Oversight

Kansas Senior Care Task Force  
Redistricting Advisory Group



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# Foreword

This publication is the supplement to the *Committee Reports to the 2022 Legislature*. It contains the reports of the following committees: Special Committee on Kansas Mental Health Modernization and Reform; Special Committee on Taxation; Special Committee on the 30 x 30 Federal Initiative; Joint Committee on Information Technology; Joint Committee on Pensions, Investments and Benefits; Legislative Budget Committee; Joint Committee on State Building Construction; Robert G. (Bob) Bethell Joint Committee on Home and Community Based Services and KanCare Oversight; Kansas Senior Care Task Force; and Redistricting Advisory Group.

Summary information for all interim reports' conclusions and recommendations is published in the January 2022 *Committee Reports to the 2022 Legislature*.

This publication is available in electronic format at <http://www.kslegresearch.org/>.

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# Report of the Special Committee on Kansas Mental Health Modernization and Reform to the 2022 Kansas Legislature

**CHAIRPERSON:** Representative Brenda Landwehr

**VICE-CHAIRPERSON:** Senator Carolyn McGinn

**OTHER MEMBERS:** Senators Larry Alley, Renee Erickson, Michael Fagg, and Tom Hawk; and Representatives Tory Marie Arnberger, Barbara Ballard, Will Carpenter, Linda Featherston (substitute, September), Megan Lynn, Cindy Neighbor, Susan Ruiz (substitute, December), Adam Smith, and Rui Xu

## **STUDY TOPIC**

The 2021 Special Committee is established with the continuing directives of the 2020 Special Committee to:

- Analyze the state’s behavioral health system to ensure that both inpatient and outpatient services are accessible in communities, review the capacity of the current behavioral health workforce, and study the availability and capacity of crisis centers and substance abuse facilities;
- Assess the impact of recent changes to state policies on the treatment of individuals with behavioral health needs; and
- Make recommendations on steps needed to make Kansas a nationwide leader on behavioral health delivery, specifically focusing on how Kansas should modernize its behavioral health delivery system.

Continuing its 2020 direction, the Committee will solicit input from the following:

- A Judicial Branch Court Services Officer recommended by the Chief Justice of the Supreme Court of Kansas;
- A Judicial Branch Judge or Judges recommended by the Chief Justice of the Supreme Court of Kansas;
- A representative recommended by the Commissioner of Education;
- A Kansas Department of Health and Environment cabinet official recommended by the Governor;
- One sheriff and one chief of police recommended by the Attorney General;
- A Children’s Alliance of Kansas representative;
- A Kansas Association of Addiction Professionals drug and alcohol addiction treatment provider;
- An Association of Community and Mental Health Centers of Kansas representative with clinical or medical expertise;
- A Kansas Hospital Association representative with clinical or medical expertise;
- A person with lived experience with mental illness or who has provided assistance to an individual living with a mental illness, recommended by the Speaker of the House of Representatives;
- The parent of a child with a mental illness recommended by the President of the Senate;
- A former or current superintendent of a Kansas state mental health hospital;
- A current executive director of a community mental health center recommended by the Association of Community Mental Health Centers of Kansas;
- A health insurance company representative recommended by the Commissioner of Insurance;
- A Kansas County and District Attorneys Association representative;
- A Kansas Health Information Network representative;
- The Medicaid Director for the State of Kansas; and
- The Chairperson of the Governor’s Behavioral Health Services Planning Council.

# Special Committee on Kansas Mental Health Modernization and Reform

## REPORT

### Conclusions and Recommendations

The 2021 Special Committee on Kansas Mental Health Modernization and Reform responded to its charge and continued the work of the 2020 Special Committee on Kansas Mental Health Modernization and Reform, meeting at both the committee level and with its members participating in a charter relationship with three working groups and facilitation support. The Committee submits its own comments and recommendations and includes the report of the working groups, as ratified by the Committee, for consideration by the 2022 Legislature.

### *Opportunities for Coordination and Collaboration*

The Committee recognizes the important recent and ongoing work of commissions, committees, and councils, focused on issues, ideas, and improvements that impact the behavioral health system, its access to services and workforce, its capacity, and its delivery through telehealth. The Committee acknowledges the connections and opportunities to collaborate on common goals and interests associated with the interim work of the 2020 Kansas Criminal Justice Reform Commission (KCJRC), the Governor’s Behavioral Health Services Planning Council (GBHSPC) Subcommittees, the Governor’s Commission on Racial Equity and Justice, the 2020 Special Committee on Foster Care Oversight, and the 2020 Robert G. (Bob) Bethell Joint Committee on Home and Community Based Services and KanCare Oversight (Bethell Joint Committee). The Committee highlights two areas where coordination and meaningful collaboration occur: in specialty courts (with the KCJRC) and integrated care (with the Bethell Joint Committee).

- The Committee submits for the record the crosswalk of recommendations serving as a foundation for the review of its three working groups that detailed the relevant recommendations and study considerations submitted by the KCJRC (2020 report), the GBHSPC Subcommittees (2021 draft recommendations), the Governor’s Commission on Racial Equity and Justice (December 2020 initial report), the Special Committee on Foster Care Oversight (2020 report), and the Bethell Joint Committee (2020 report) (Appendix pages 7–17).
- The Committee submits for the record the checklist on the status of the 2020 Special Committee on Kansas Mental Health Modernization and Reform recommendations with status update responses from the following designated lead agencies and key collaborators: the Behavioral Sciences Regulatory Board, the Kansas Department for Aging and Disability Services (KDADS), the Kansas Department for Children and Families, the Kansas Department of Corrections, the Kansas Department of Health and Environment, the Kansas State Department of Education, and the Office of the Governor (through a representative of KDADS). The checklist served as a tracking tool for the Committee and working groups on recommendations completed and in progress, as designated by lead agencies and key collaborators, while also providing a basis for analysis of the factors that enabled successful completion of certain recommendations and the barriers to completion for others (Appendix pages 18–36).

## ***Distribution of Committee Report***

Given the breadth and complexity of the topics associated with behavioral health and transformation of the system — its service capacity and workforce, the policy and treatment options and outcomes for individuals with behavioral health needs, the use of telehealth for behavioral health services, the sustainability and finance for the delivery of behavioral health services and resources (including the impending transfer to the 988 Suicide Prevention Hotline and the creation of certified community behavioral health clinics) — the Committee requests its complete report be transmitted to the following standing and joint committees of the Kansas Legislature: the Bethell Joint Committee, the House Committee on Children and Seniors, the House Committee on Corrections and Juvenile Justice, the House Committee on Health and Human Services, the House Committee on K-12 Education Budget, the House Committee on Social Services Budget, the Senate Committee on Judiciary, the Senate Committee on Public Health and Welfare, and the Senate Committee on Ways and Means (agency subcommittees).

## ***Strategic Framework for Modernizing the Kansas Behavioral Health System: 2021 High Priority Update (Appendix pages 41–108)***

At its December 15, 2021, meeting, the Committee ratified the Strategic Framework for Modernizing the Kansas Behavioral Health System: 2021 High-Priority Update (Strategic Framework Update) document, as amended by the Committee, that was created by the three authorized working groups and facilitated by the Kansas Health Institute. The Strategic Framework Update contains 10 new high-priority recommendations and 20 revised high-priority recommendations of the 2020 Special Committee on Kansas Mental Health Modernization and Reform over a variety of behavioral health topics, categorized for immediate action and strategic importance. [Note: “Immediate action” refers to those recommendations that the working groups believe can be completed in the next two years. “Strategic importance” refers to those recommendations that should be initiated in the near term but will be completed in the longer term.] Additionally, one separate topic was separately identified as a high-priority item for Committee discussion.

The new and revised recommendations were organized by assigned topics, with new recommendations addressed first and revised recommendations following in numerical order.

***Proposed Legislation:*** None.

## **BACKGROUND**

The 2021 Special Committee on Kansas Mental Health Modernization and Reform (Committee) was created by the Legislative Coordinating Council (LCC) to continue the work and directives of the 2020 Special Committee on Kansas Mental Health Modernization and Reform (2020 Committee) to study the state’s behavioral health system and focus on how Kansas can modernize its behavioral health system. [Note: All occurrences of the term “Committee” will pertain to the 2021 Special Committee. All references to

the 2020 Special Committee will be identified as “2020 Committee.”]

The LCC directed the Committee to:

- Analyze the state’s behavioral health system to ensure that both inpatient and outpatient services are accessible in communities;
- Review the capacity of the current behavioral health workforce;

- Study the availability and capacity of crisis centers and substance abuse facilities;
- Assess the impact of recent changes to state policies on the treatment of individuals with behavioral health needs; and
- Make recommendations on steps needed to make Kansas a nationwide leader on behavioral health delivery, specifically focusing on how Kansas should modernize its behavioral health delivery system.

In addition to the appointed legislative members, the LCC established the following roundtable members and appointing authorities from whom the Committee is to solicit information. The roundtable members and appointing authorities represented the same entities or demographic groups as for the 2020 Committee, with one addition, as noted:

- A Judicial Branch Court Services Officer recommended by the Chief Justice of the Supreme Court of Kansas;
- A Judicial Branch Judge or Judges recommended by the Chief Justice of the Supreme Court of Kansas (added in 2021);
- A representative recommended by the Commissioner of Education;
- A Kansas Department of Health and Environment cabinet official recommended by the Governor;
- One sheriff and one chief of police recommended by the Attorney General;
- A Children’s Alliance of Kansas representative;
- A Kansas Association of Addiction Professionals drug and alcohol addiction treatment provider;

- An Association of Community Mental Health Centers of Kansas representative with clinical or medical expertise;
- A Kansas Hospital Association representative with clinical or medical expertise;
- A person with lived experience with mental illness or who has provided assistance to an individual living with a mental illness, who is recommended by the Speaker of the House of Representatives;
- A parent of a child with a mental illness who is recommended by the President of the Senate;
- A former or current superintendent of a Kansas state mental health hospital;
- A current executive director of a community mental health center recommended by the Association of Community Mental Health Centers of Kansas;
- A health insurance company representative recommended by the Commissioner of Insurance;
- A Kansas County and District Attorneys Association representative;
- A Kansas Health Information Network representative;
- The Medicaid Director for the State of Kansas; and
- The Chairperson of the Governor’s Behavioral Health Services Planning Council.

A list of the appointed roundtable members can be found on Appendix pages 101–102.

In light of the contributions of the experts to the 2020 working groups in assisting with advancing the 2020 Committee’s directives, it was determined working groups would be necessary to accomplish the continuing directives of the Committee. The Kansas Health Institute (KHI) agreed to continue facilitation of the working groups for the 2021 Interim. Three working groups were created to assist the work of the Committee. The topics addressed by the three working groups were a reorganization of the topics addressed by the 2020 working groups and subgroups. The 2021 working groups were Services and Workforce, System Capacity and Transformation, and Telehealth.

## STRUCTURE AND ORGANIZATION

**Crosswalk.** The Kansas Legislative Research Department (KLRD) provided an updated crosswalk of behavioral health recommendations from five groups, task forces, and committees: the 2020 Kansas Criminal Justice Reform Commission, the Governor’s Behavioral Health Services Planning Council Subcommittees, the Governor’s Commission on Racial Equity and Justice, the 2020 Special Committee on Foster Care Oversight, and the 2020 Robert G. (Bob) Bethell Joint Committee on Home and Community Based Services and KanCare Oversight (Bethell Joint Committee). Recommendations were separated into ten topic areas, with three topic areas assigned to each working group and one topic area assigned to the Telehealth Subgroup (Appendix pages 76–82).

The crosswalk provided an update for the Committee and working groups on recommendations made by various entities since the 2020 Committee recommendations. The crosswalk was used to aid discussion for updating, amending, or creating new recommendations based on actions taken to prioritize strategies and implement the recommendations.

**Recommendation status spreadsheet.** KLRD provided a spreadsheet to track the status of the recommendations made by the 2020 Committee and identified each recommendation as completed or in progress based on lead agency and key collaborator responses. The following agencies reported to the Committee on the status of the

2020 recommendations: the Behavioral Sciences Regulatory Board (BSRB), the Kansas Department for Aging and Disability Services (KDADS), the Kansas Department for Children and Families (DCF), the Kansas Department of Corrections (KDOC), the Kansas Department of Health and Environment (KDHE), the Kansas State Department of Education (KSDE), and the Office of the Governor (through a representative of KDADS). Legislative action taken that impacted any recommendation was noted by KLRD.

## Working Group Scope of Work

At the September 28, 2021, meeting, the Committee approved the Scope of Work (Scope), as developed by KHI in consultation with KLRD and the Office of the Revisor of Statutes (Appendix pages 37–40). The Scope included the establishment of three working groups, which were created to “revisit recommendations from the 2020 Interim; revise and update them as necessary; add new recommendations related to topics directed to them by the Special Committee; identify up to five existing, revised, or new recommendations for ‘immediate action,’ and up to five as being of ‘strategic importance,’ using criteria in the roundtable discussion; and ratify reports.”

Pursuant to the Scope, the Committee was to determine what information from the working groups is to be included in the final product (2021 Committee Report) and provide leadership to the working groups through the identification of key performance indicators to be included in the final product and input on any criteria that should inform the priorities put forward by the working groups. The Scope outlined the operational process for the working groups and the membership roles of the working groups. All membership in the working groups was voluntary.

## Working Group Organization

As the Committee began its planning and organization for meetings to continue the work started by the 2020 Committee, legislators again requested KHI assist with Committee discussion and recommendations and facilitate working groups made up of relevant stakeholders and subject matter experts. These working groups reviewed the 2020 recommendations and new

areas of focus for consideration and emphasis in 2021 and prior recommendations from the groups listed in the KLRD crosswalk.

The primary areas of focus for each of the working groups were:

- **Services and Workforce:** The focus of this group was the availability of services, with specific consideration of special populations and the need to address workforce issues. Heightened focus was placed on issues related to maternal mental health, rural populations, veterans, people of color, older adults, low-income families, and health care workers. The ongoing topic areas were workforce, prevention and education, treatment and recovery, special populations, and community engagement. The new topic areas were trauma-informed care, social isolation, stigma, and the Home and Community Based Services (HCBS) autism services waiver. The group also further reviewed the 2020 Recommendation 2.4 Suicide Prevention.
- **System Capacity and Transformation:** This group considered what the behavioral health system could look like in the future. The ongoing topic areas addressed were funding and accessibility, data systems, system transformation, and the legal system and law enforcement. The new topic areas were outcomes data, special courts, competency evaluation and restoration, and K-12 mental health intervention teams, and behavioral health services in schools. The group also further reviewed the 2020 Recommendation 4.1 988 Suicide Prevention Lifeline Funding.
- **Telehealth:** The focus of this group was a new topic of issues related to payment parity, including those for behavioral health services delivered via telehealth.

KHI facilitated all working group meetings via Webex. The working groups met once or twice during the months of October and November and twice each during the month of December. The working group members completed surveys

between meetings to assist in the development and prioritization of recommendations. Presentations during Committee meetings provided information and ideas that assisted with the development of new and revised recommendations, including presentations on specialty courts, trauma-informed care, suicide prevention, outcomes and funding of K-12 behavioral health services, the behavioral health workforce, mobile crisis response, and telehealth. Updates on the work of the Autism Task Team and the Governor's Commission on Racial Equity and Justice also helped inform recommendations and other language in the working group reports.

Working group members consisted of Committee members, roundtable members, and other relevant subject matter experts who were requested to provide input on individual topics. The working groups selected chairpersons and vice-chairpersons and designated reporters to discuss their work at Committee meetings. A list of working group members can be found on Appendix pages 102–106.

The working groups reviewed previous recommendations by the Governor's Behavioral Health Services Planning Council (GBHSPC) Subcommittees, the Kansas Criminal Justice Reform Commission, the Governor's Commission on Racial Equity and Justice, the Special Committee on Foster Care Oversight, and the Bethell Joint Committee, utilizing the KLRD crosswalk as a reference. KHI staff assisted working group members with reviewing and determining whether these recommendations and those of the 2020 Committee should be altered, amended, or removed from consideration.

Working group members also proposed new recommendations based on relevant discussion and areas of need that were missing in the 2020 working group report. The working groups then prioritized each new recommendation based on ease of implementation and potential for high impact, and reviewed 2020 Committee recommendations for any necessary changes. Based on these measurements, the working groups revised the 2020 recommendations and finalized new recommendations by designating recommendations either for immediate action, those that the working groups believe could be completed in the next two years, or for strategic

importance, those that should be initiated in the near term but will be completed in the long term. All recommendations were based on a consensus-based system.

The Recommendations Rubric from 2020 was adopted for use again in 2021 to guide discussion, to ensure consistency across working groups and reports, and as a tool to assist in ranking and modifying existing recommendations or in writing new recommendations. Working groups used the rubric to assign numeric values to recommendations based on a 1-10 scale for both ease of implementation and potential for high impact (Appendix pages 97–98).

The final working group reports also include rationale for the new and revised recommendations based on working group discussion. Additionally, each revised and new recommendation includes the scoring by the working groups based on ease of implementation and potential for high impact. Metrics for measuring impact of the recommendation, action leads, and key collaborators are listed for each revised and new recommendation.

Working group meetings are archived on the Legislature’s YouTube channel (<https://www.youtube.com/c/KSLegislatureLIVE/videos>) and the Legislature’s Harmony platform (<http://sg001-harmony.sliq.net/00287/Harmony/en/>).

### **Strategic Framework for Modernizing the Kansas Behavioral Health System (Appendix pages 41–108)**

KHI facilitated the creation of the Strategic Framework for Modernizing the Kansas Behavioral Health System: 2021 High-Priority Update (Strategic Framework), the final work product developed by the working groups.

Based on the overall work of all three working groups, KHI compiled a draft report that each working group was able to review and make additions or edits to in the December working group meetings.

At the December 15, 2021, Committee meeting, KHI staff and working group co-chairpersons and members presented the Strategic

Framework to the Committee. The Committee reviewed the Strategic Framework and recommended additional edits after discussion. At the December 15, 2021, Committee meeting, edits were formalized, and the Strategic Framework was approved, as amended, by the Committee, and staff was directed to attach the Strategic Framework to the Committee report. A copy of the edits that were made and approved by the Committee can be found in Appendix pages 55–82.

**Definitions.** The Strategic Framework retained the definition of “behavioral health system” from the federal Substance Abuse and Mental Health Services Administration, U.S. Department of Health and Human Services, that was adopted by the 2020 working groups: the term refers to the system of care that includes the promotion of mental health, resilience and well-being; the prevention, referral, diagnosis, and treatment of mental and substance use disorders (SUD); and the support of persons with lived experience in recovery from these conditions, along with their families and communities. See Appendix pages 3–6 for more definitions and an acronym key of common terms in the behavioral health field and in the KLRD crosswalk.

## **COMMITTEE ACTIVITIES**

The LCC approved six meeting days for the Committee. The Committee met on September 28, October 28, November 17, and December 15, 2021. The Committee members met in-person with the option for Webex attendance.

### **September 28, 2021, Meeting**

#### ***Overview of 2020 Special Committee Activities; Recommendations Spreadsheet and Crosswalk; Mental Health Funding***

KLRD staff provided several documents for the Committee. The first, a memorandum titled “Overview of the 2020 Special Committee on Kansas Mental Health Modernization and Reform,” provided detailed information about the 2020 Committee, including the charge of the 2020 Committee, 2020 Committee structure and working groups, topics of the working groups, and a review of reports.

The second document provided was a spreadsheet with the status of the recommendations of the 2020 Committee, including responses from the lead agency for each (Appendix pages 18–36). Agencies were identified as a lead or key collaborators. Representatives from each lead agency discussed the status of the recommendations later during the meeting.

KLRD staff also provided a crosswalk of recommendations from several groups, including the Kansas Criminal Justice Reform Commission, GBHSPC subcommittees, the Governor’s Commission on Racial Equity and Justice, the Special Committee on Foster Care Oversight, and the Bethell Joint Committee (Appendix pages 7–17).

Additional documents provided by KLRD staff included a glossary of common acronyms used in mental health discussions (Appendix pages 3–6), a memorandum with behavioral health-related recommendations from various committees and groups, and a memorandum summarizing behavioral health-related legislation passed in the 2021 Legislative Session.

A KLRD staff member reviewed a chart detailing the history of mental health funding from FY 2010 through FY 2022. The chart included funding for the community mental health centers (CMHCs), private Medicaid practitioners, mental health grants (not CMHC specific), residential treatment for psychiatric residential treatment facilities (PRTFs), nursing facilities for mental health (NFMHs), state mental health hospitals, and other mental health funding. The staff member noted there is also mental health funding for KDOC and KSDE.

### ***GBHSPC Draft Subcommittee Reports***

Draft reports from the following GBHSPC subcommittees were provided to the Committee: Service Members, Veterans, and Their Families Subcommittee; Children’s Subcommittee; Evidence-Based Practices Subcommittee; Subcommittee on Housing and Homelessness; Justice Involved Youth and Adults Subcommittee; Kansas Citizens’ Committee on Alcohol and Other Drug Abuse; Prevention Subcommittee; Problem Gambling Subcommittee; and Rural and Frontier Subcommittee.

### ***Audit Report on Evaluating Mental Health and Substance Abuse***

A Performance Audit Manager from the Legislative Division of Post Audit presented the post audit report “Evaluating Mental Health and Substance Abuse Initiatives to Improve Outcomes” from August 2021. The audit asked two questions: what practices do state-funded mental health and substance abuse providers use and how well do they appear to be working; and how do the programs compare to those used in other states.

The Performance Audit Manager stated outcome data is not generally collected or is not sufficiently complete to draw conclusions about the success of the practices.

### ***Status of 2020 Special Committee Recommendations***

A representative from each of the lead agencies identified as responsible for implementing each recommendation made by the 2020 Committee addressed the Committee on the status of the recommendations, indicating whether the recommendations were completed or in progress. The agencies presenting on the status of the recommendations were KDADS, KDHE, DCF, BSRB, KDOC, and KSDE. A KDADS representative also presented on Recommendation 4.3 Centralized Authority for which the Office of the Governor was the lead agency.

### ***Presentation of the Working Group Process***

KHI staff discussed how the working group process was implemented for the 2020 Committee. The KHI representative noted eight recommendations from the previous year’s report had been completed. She noted part of the work during the 2021 Interim would include a review of those recommendations to determine what enabled some to be completed in a short period of time and the barriers to completing other recommendations.

The KHI representative outlined KHI’s role in facilitating the three working groups: Services and Workforce, System Capacity and Transformation, and Telehealth, which would study payment parity. Payment parity would require telehealth services to be reimbursed at the same rate as in-person services.

During discussion, the following additional topics were requested by Committee members to be considered through the working group process: the lack of outcomes reporting; veterans' behavioral health needs; the increase in suicide in rural communities; the high rate of suicide among people of color and the role poverty plays; social isolation and stigma; special populations, such as seniors, dealing with isolation and depression; maternal mental health needs post-partum; specialty courts; 988 hotline funding in other states; and workforce issues.

### ***Roundtable Discussion***

The KHI representative discussed the deliverables of the working groups, including reviewing the 2020 report to revise and update topics as directed by the Committee. The KHI representative discussed the manner, frequency, and length of the working group meetings to occur through early December 2021. She also reviewed the 2020 rubric that was used to evaluate the recommendations (Appendix pages 97–98). Another KHI representative stated additional criteria would be added to determine the measurement of each recommendation's success and emphasized the use of data for the recommendations.

The Chairperson instructed any legislators on the Committee and roundtable members to communicate their choice of working group to KLRD or KHI staff no later than October 1, 2021. The Chairperson noted participation in the working groups was voluntary, and legislators would not receive compensation.

The Committee approved a formal request for KHI to serve as the facilitator for the three working groups for the 2021 Interim.

### **October 28, 2021, Meeting**

#### ***Review of Information Provided by KLRD to the 2021 Committee***

KLRD staff provided the following documents for the Committee to review: a KLRD Overview of the Psychology Interjurisdictional Compact (PSYPACT); KLRD Informal State Survey of 988 Suicide Prevention Hotline Legislation; KLRD memoranda on Oklahoma and Missouri Certified Community Behavioral Health Clinics (CCBHCs),

Office of the Attorney General's Youth Suicide Prevention Program and Funding, and the Kansas Telemedicine Act, Rural Emergency Hospital Act, and Telehealth Legislation; KDHE Kansas Suicide Data; and three working group documents.

A KLRD staff member provided an update of the Behavioral Health Funding document provided at the September 28, 2021, Committee meeting.

#### ***K-12 Behavioral Health Programs, Outcomes, and Funding***

Representative Kristey Williams provided testimony on the effects of shame as it relates to increased anxiety and depression in students. She stated studies have shown shame is linked to depression. She noted the scenario can be extended to include the teaching of Critical Race Theory (CRT) and provided an explanation of CRT and examples of incidents that had occurred in schools. Representative Williams noted teaching CRT in schools could have an impact on youth suicide rates, which must be considered.

KSDE representatives provided a review of the Mental Health Intervention Team (MHIT) Pilot program, which allows CMHCs to provide behavioral health services for students and their families in the school setting. The program began in the 2018-2019 school year in 9 pilot school districts and their partner CMHCs, and 55 were participating in the 2021-2022 school year. One KSDE representative noted the inability to find a qualified liaison is an obstacle for school districts considering the program. The representative mentioned the use of grants from federal Elementary and Secondary School Emergency Relief (ESSER) funds for mental health services in school to fund the MHIT program will expire in September 2024, creating a question of how to sustain these services after that point.

Another KSDE representative provided a summary of the legislative history of the MHIT Pilot program, a history of its funding since FY 2019, and a series of charts and tables for the Committee to review. A focus of the Committee discussion on the MHIT program was the program's success, the lack of school district participation, and the need to better better advertise the program to families.

Presentations were provided by representatives of various school districts with varying behavior health programs to address student needs.

The USD 489 (Hays) Superintendent provided testimony on his experience with the MHIT Pilot program. He stated his previous school district was one of the initial nine pilot programs and, when the program expanded in 2019, his current school district chose to participate in the program based on the positive impacts he had seen in the prior school district. He provided results of those participating in the program, including that no student who participated had dropped out of school after receiving services.

A USD 233 (Olathe) representative provided testimony regarding the school district's 2019 Strategic Plan for a comprehensive mental health program composed of mental health workers and resources funded by the school district, the State of Kansas, and private partnerships. She cited the benefits to students and parents when the behavioral health services are provided in school. The USD 233 representative outlined the district's plan for staffing and funding the varying mental health positions. Contract therapists, paid through insurance or private pay, also participate. The Braden Robertson Fund, a charitable fund managed by the Olathe Public Schools Foundation, pays the bills submitted to the school district by therapists when parents are unable to pay. A description of each tier of the three-tier mental health program, the after-school program, and the summer program was provided to the Committee for its review. The representative also discussed the Mental Health First Aid training available through local CMHCs to help school staff recognize a possible mental health issue. The training also provides a script on how to start conversations with students.

The Assistant Superintendent of Special Education, USD 299 (Blue Valley), provided testimony on the strategic partnership the school district has with Children's Mercy Health Systems. The partnership was expanded for the 2021-2022 school year through the use of ESSER funds. Children's Mercy Health Systems employed 27 school-based social workers who are deployed across 36 school districts. The Assistant Superintendent stated social workers bring an

expertise in family and community systems and can link students and families with existing community services. The social workers provide support in the form of one-on-one interventions, support groups, goal setting and accountability, community referrals, and advocacy.

KSDE staff provided program reports for the first three years of the MHIT Pilot program.

### *Working Groups Update*

In response to a question at the September 2021 meeting, KHI staff explained how problems and issues had been identified for recommendation development by the 2020 Committee and its working groups.

#### *Services and Workforce Working Group*

The co-chairpersons of the Services and Workforce working group provided an update on the recommendations discussed during the October 14, 2021, working group meeting. Topics reviewed included looking at other states that have been successful in recruitment and retention of mental health workers, dividing workforce recommendations into long-term and short-term activities and determining whether a state agency should be the lead agency for recommendation 1.4 on a workforce investment plan, narrowing or clarifying some recommendations or both, and seeking assistance from experts on how to best implement the recommendation on foster homes. The working group has also identified the issue of special populations for discussion at future working group meetings.

One Co-chairperson noted the need to create an entry-level mental health profession with a career ladder to encourage staff retention, the need for increased peer services, and the differing needs of rural, frontier, and urban areas of the state.

#### *System Capacity and Transformation Working Group*

A Co-chairperson of the System Capacity and Transformation working group updated the Committee on the recommendations discussed at the working group's October 14, 2021, meeting. The Co-chairperson noted the working group recommends combining two recommendations, 2.2 Addressing Inpatient Capacity and 9.1

Regional Model, as support for a regional model could help address the lack of beds and patient acuity identified. With regard to the recommendation on reimbursement rate increase and review, he noted a revision is needed to clarify the increase applies only to Medicaid rates, and the recommendation should be expanded to include all providers of behavioral health services. The Co-chairperson stated, with regard to the 988 National Suicide Prevention Hotline Funding recommendation, the working group believes a telephone surcharge would be the best funding method. The recommendation relating to integration was revised to clarify the strategies noted are not the only options to pursue integration, and other strategies such as the CCBHC initiative could be used.

The Co-chairperson responded to questions on the State General Fund and all funds cost of a 10 to 15 percent increase in Medicaid reimbursement rates. He noted a couple of years ago it was determined, in collaboration with KDADS, that a 2.0 percent rate increase for behavioral health services would equate to \$3.0 million, but that amount would be adjusted when the CCBHCs go to the prospective payment model, as those rates will be increased due to cost-based reimbursement. He stated the result will be a change in the fiscal note for the remainder of the fee-for-service behavioral health providers. When asked if the 10 to 15 percent rate increase would be in addition to the new certification requirements and rates in the budget, the Co-chairperson stated he would describe it as “parallel.” He noted it would be an additional funding mechanism for the CCBHCs.

#### *Telehealth Working Group*

The Telehealth working group co-chairpersons provided an update on the activity of the working group and responded to Committee questions. The vision statement created by the working group was provided. To address the Quality Assurance recommendation, the working group recommended improving provider and patient education around how to use telehealth services. This topic also focused on the need to consider a behavioral health and medical professional licensure compact or a BSRB waiver program. During discussion on this topic, it was noted that unlike licensure boards in other states that license

only one profession, the BSRB licenses multiple behavioral health professions, making it difficult to navigate individual interstate compacts for each profession. A BSRB waiver program with other states would allow a person who was a member in good standing in their licensure state to be offered a waiver to provide services in Kansas. The working group planned to consult with the BSRB on its view of these options.

Regarding other telehealth recommendations, working group discussion topics included establishing coverage of telehealth for crisis services. A virtual co-responder model for law enforcement when responding to mental health crises in rural and frontier communities was suggested, as was increasing education to providers, practitioners, and law enforcement officers on the use of telehealth. Another discussion topic was the need for consistency with the definitions in the Kansas Telemedicine Act for “originating site” and “distant site.” Regarding the recommendation on the child welfare system and telehealth, the working group recommended utilizing telehealth to maintain service and provider continuity as foster children move around the state.

#### ***Kansas Urban and Rural Suicide Rates; Federal and State Efforts to Prevent Suicides in Rural Communities***

A KHI staff member provided testimony on suicide rates in Kansas. A chart was provided reflecting the location of the five peer county groups in the state: urban, semi-urban, densely settled rural, rural, and frontier. The rates provided were age-adjusted, five-year average rates, and pre-COVID-19 pandemic. The data reflected a rise in all peer groups, especially after 2007. The increases depicted ranged from 40.3 percent to 54.7 percent, with the highest increase in frontier areas. He noted the rate of suicide by discharge of firearms was significantly higher in the frontier group than in all other county peer groups. The federal approach to suicide prevention does not identify rural populations as 1 of the 11 identified groups with increased suicide risk. He noted veterans have been the focus of suicide prevention legislation. Reviews of funding sources for rural suicide prevention and what other states have done to bring attention and assistance regarding rural suicide were provided. The KHI staff member

mentioned KDADS has created a plan for suicide prevention that includes rural-focused opportunities.

### ***Overview of Specialty Courts***

The Special Counsel to the Chief Justice of the Kansas Supreme Court presented an overview of specialty courts, a program that uses therapeutic and problem-solving procedures to address underlying factors that may contribute to a party's involvement in criminal activity. Information was provided on the Specialty Court Committee established by the Kansas Supreme Court to make recommendations on the development and administration of specialty courts in the state. A list of the specialty courts in Kansas district courts was provided.

### ***Presentations on Specialty Courts***

Three Kansas district court judges presented an in-depth view of the specific type of specialty court each oversees and shared some of the specialty courts' successes.

#### ***19th Judicial District Drug Court***

The Chief Judge of the 19th Judicial District provided testimony regarding the implementation of a drug court, for which he is the presiding judge. He discussed the time investment and effort involved in creating the program that was made by all members of the criminal justice community. Participants in the program must have a high risk of failure on traditional supervision and have a substantial substance abuse disorder. Mental health assessments and physicals are completed in the first 30 days. Participants regularly appear before the court. Incentives are provided for positive behavior. Sanctions are imposed for negative behavior proportionate to the conduct and are designed to address a specific behavior. All participants are required to complete a cognitive-based behavioral health program. The drug court program averages 18 months to complete.

#### ***10th Judicial District Veterans' Treatment Court***

A 10th Judicial District (Johnson County) District Court Judge who oversees the Veterans' Treatment Court provided testimony on the history and operation of the specialty court. The court is both a post-plea and a diversion court. Applicants

are evaluated by Court Services through the Veterans Administration or Johnson County Mental Health Center. Judges and prosecutors decide who comes in on diversion. Each veteran is assigned a mentor to support the veteran through the process. The specialty court has graduated 50 veterans in 5 years. The Judge noted the very low recidivism rates in specialty courts, stating, to date, no participant who has graduated from the Veterans' Treatment Court program has received a new criminal charge.

#### ***23rd Judicial District Drug Court***

The Chief Judge of the Ellis County District Court provided testimony on the drug court he oversees, which has been in place for three years. He noted the difficulty in starting the program, primarily in finding defense attorneys and creating incentives for participants. He said the purpose of the program was to stop the cycle of individuals constantly appearing before the court. The program requirements are more difficult than probation, and the program averages 18 months to complete. The Chief Judge noted 15 of the current participants are receiving mental health treatment. He noted the large time commitment required of the entire team to facilitate the program: law enforcement, staff, attorneys, and the judge.

In response to Committee questions, the judges provided information on the cost for individuals in the respective programs and the cost of a specialty court.

### ***Call Centers for 988 Suicide Prevention Hotline***

Representatives of KDADS and Kansas Suicide Prevention HQ, provided testimony on the 988 suicide prevention hotline. The National Suicide Prevention Lifeline (NSPL) is being overhauled, and telecommunications providers have until July 2022 to enable 988 as the number to call so Kansans can seamlessly connect to mental health crisis professionals. No federal funds are available for the 988 Suicide Prevention Lifeline. The 988 number is also a mental health hotline, not just for suicide calls. The system requires phone counselors who have completed crisis-specific training, dedicated phone staff 24 hours per day and seven days per week, current accreditation for telephone crisis counseling program, that suicide risk assessments be provided

to all callers and responses comply with NSPL imminent risk policy, and that referrals and follow-up be provided. Three agencies provide the services in Kansas: Kansas Suicide Prevention HQ, Johnson County Mental Health Center, and COMCARE of Sedgwick County. The call centers act as an entry point for all services available to callers. There has been a steady increase in the number of calls received at all of the call centers in the past few years. An overview of the 988 Planning Group and the 988 Coalition was provided. A Vibrant planning grant was used to develop the necessary steps for a successful implementation.

The conferees noted the largest cost was related to building capacity to handle the large influx of calls. Additionally, it was noted staffing, technology, and infrastructure need to be examined and expanded.

In response to questions, the KDADS representative clarified currently all statewide calls are answered by Kansas Suicide Prevention HQ. COMCARE and Johnson County Mental Health Center are county-funded and answer calls for the CMHC county catchment area. He noted other counties could look at funding their call centers for NSPL accreditation or, statewide, the call centers could be funded with state funds or 988 fees collected to ensure the entire state is covered effectively at the 98 percent or higher call answer rate.

Regarding differences in the problems encountered in calls from rural areas, the Kansas Suicide Prevention HQ representative stated phone staff receives 100 hours of training, including skills in cultural competency, before staffing the phone lines. It was also noted Kansas, Nebraska, and Missouri have an agricultural stress line available to the agriculture industry.

The KDADS representative noted there are multiple suicide hotline numbers listed for Kansas, because each CMHC has a hotline. Additionally, CMHCs are required to have an after-hours number, and most contract with Health Information Solutions in Topeka for that service. He said services must be provided to anyone who calls, and follow-up calls are required. Regarding a database to track the strengths and weaknesses of

the system, the State is waiting to hear from Vibrant, which is looking for a national solution.

Regarding allowable uses for funds addressed in the 988 funding bill introduced during the 2021 Legislative Session (HB 2281), the KDADS representative responded the legislation would allow payment for support to any caller to 988, including mobile crisis services and crisis stabilization services in a 24-hour facility, and provide for co-responder programs. The bill would also provide funds for marketing 988 and would allow for ongoing infrastructure pieces to connect to 911.

### ***Suicide Data and Statistics***

A KDHE epidemiologist provided testimony on Kansas suicide data and statistics. She noted the suicide rate in Kansas increased 75 percent from 2001 to 2018. From 2015-2019, suicide was the second leading cause of death in Kansas for persons aged 10-44 years. The epidemiologist provided data on emergency room visits for self-harm and suicide attempts.

She noted the most significant increase in emergency room visits for suicide attempts was among those ages 10 to 19. She stated the majority of emergency room visits for suicide attempts and self-harm are by females and, with regard to race and ethnicity, white, non-Hispanic persons make up the majority of such emergency room visits. Youth ages 10 to 19 made up the largest share and the largest increase from 2016-2020 in hospitalizations for suicide attempts and self-harm.

The epidemiologist also provided an age breakdown data for mortality. White, non-Hispanic males made up 84 percent of suicide deaths. Adult males working in agriculture, forestry, and fishing had the highest rate of suicide among male workers. Females working in health care had the highest suicide rate among female workers. Veterans have a suicide mortality rate 3.4 times that of non-veterans. The frontier areas of the state had the highest rate of suicide deaths per 100,000 residents.

A list of the circumstances leading up to suicide was given for age groups 10 to 17 and 18 years and older. She noted the numbers provided are comparable to the national averages.

### ***Kansas Suicide Prevention Plan 2021-2025; Challenges and Opportunities in Addressing Suicide Prevention***

Representatives of KDADS and Kansas Suicide Prevention HQ presented information regarding the Suicide Prevention Plan 2021-2025, which they noted was influenced by national best practices and Kansas experiences. Details of the infrastructure of the Prevention Plan and a list of public, private, and nonprofit partners were provided. There are three areas of emphasis in the plan: prevention, intervention, and follow-up services. Strategic pieces of the plan include integrated and coordinated suicide prevention and broadened suicide prevention communication efforts, which includes building a strong statewide Suicide Prevention Coalition. KDHE has implemented the Zero Suicide Initiative to support training and implementation efforts. The conferees noted, for the plan to be successful, improvements in data collection related to suicide morbidity and mortality are needed, as is an annual review and report on the plan.

An Associate Professor at the University of Kansas School of Medicine in Wichita, who represented the Sedgwick County Suicide Prevention Coalition, provided testimony on the challenges and opportunities of suicide prevention in Sedgwick County. She provided a graph indicating the growth in the number of suicides in Sedgwick County versus the growth in the state and the nation, with the state and county rates trending higher than the national rates. A breakdown of the 2016-2020 suicide death by age group for the county was provided, along with the Sedgwick County historical suicide rate for adults and minors from 2009 through 2020. Efforts being taken to prevent suicides were discussed, with workforce shortages being the primary challenge. She noted the opportunity for CCBHCs to play a significant part in prevention. She responded to several questions regarding the data.

Testimony on the challenges and opportunities in addressing suicide prevention also was presented by a Board member of the Johnson County Suicide Prevention Coalition. She provided 2020 suicide data for Johnson County. Monthly Coalition meetings focus on specific prevention initiatives. Small grants have been awarded to community-based organizations to

support specific initiatives. In January 2022, a Suicide Fatality Review Board will be launched with a focus on the trends related to death by suicide in the county. She noted ongoing barriers include the lack of access to timely mental and substance abuse treatment and financial barriers that limit the ability to seek appropriate treatment.

A chaplain with the Robert J. Dole VA Medical Center testified that his years of experience as a pastor, Air National Guard chaplain, and as a Veterans Administration chaplain leads him to believe that a partnership between faith communities and mental health providers could lead to a fresh perspective around issues of mental health. He noted the faith community is not suited to deal with suicide intervention but is well-suited to deal with suicide prevention. It was his opinion the State should consider a faith-based collaborative organization to work with mental health agencies. He noted many states have faith-based collaboratives in their state plans.

### ***Roundtable Discussion on Experience with Suicide and Effective Prevention Efforts***

The Committee heard testimony in the form of a roundtable discussion, facilitated by a therapist and program supervisor for Compass Behavioral Health in Dodge City, with Kansans who have personal life experience of suicide. The private citizens provided their experiences related to personal suicide attempts or suicide attempts by family members. They shared what was most helpful to them in avoiding future suicide attempts.

### ***Trauma-Informed Care***

The Chairperson of the Governor's Behavioral Health Services Planning Council Children's Subcommittee (GBHSPC Subcommittee) provided testimony regarding the work of the Subcommittee. She noted the state is doing a great deal of work in regard to mental health. A list of the progress highlights was provided, noting there has been a positive culture shift within and between state agencies resulting in better partnerships and collaboration. She noted Kansas, like many states, is experiencing significant workforce challenges at all levels, and the shortage is worsened by poor distribution of staff.

The GBHSPC Subcommittee Chairperson indicated COVID-19 has exacerbated the challenges of meeting the mental health needs of children. Data was provided regarding emergency room visits for suspected suicide attempts among persons 12-25 years of age before and during the COVID-19 pandemic. Recommendations were provided to the Committee from lessons learned from the COVID-19 pandemic. She noted many young people also have experienced the death of a primary or secondary caregiver during the pandemic, with a disproportionate number being children of color. She stated the GBHSPC Subcommittee recommended all state agencies prioritize data systems to collect and report on service data with racial disparities and equity in mind.

The GBHSPC Subcommittee Chairperson provided information on KSKidsMAP, which provides support to primary care physicians and clinicians. The program increases the capacity of front-line providers to identify and provide services to those with behavioral health needs through access to a consultation line, TeleECHO clinics, and physician and clinician wellness services. She stated there is a need for further exploration of the benefits of telehealth with regard to mental health. The GBHSPC Subcommittee Chairperson provided a list of additional recommendations and noted the three 2021-2022 goals for the Subcommittee.

The Chief Executive Officer (CEO) of the Kansas Children's Service League (KCSL) provided testimony on the impact of childhood adversity, which can have a profound impact on social skills, school readiness, and the likelihood of developing negative coping mechanisms. She noted KCSL's goal is providing children and parents stable, responsive, nurturing relationships that can prevent or even reverse the effects of early life stress. She presented five approaches to prevention of adverse childhood experiences (ACEs), noting the focus should be on children 0-3 years of age, because those are the most formative years for brain development. ACEs include abuse, neglect, and household dysfunction or circumstances that affect children adversely. A summary of recent ACE research outlining the effect of ACEs on brain development and a comparison of Kansas and U.S. ACE data was provided. Suggestions on what could be done to

prevent ACEs were also shared. She noted there is a need to provide support to parents without the child present, which is currently not possible. She said it is not always in the best interest of the children to have them present during sessions with parents to address the needs of a child with behavioral health problems.

The KCSL CEO explained the meaning of the ACE score, which looks at ten categories to determine the level of trauma experienced by a child. She noted, while she did not have data, the Centers for Disease Control and Prevention says early intervention and prevention of abuse results in a 44 percent decrease in depression for those children when they become adults. She described the KCSL Healthy Family Programming, which is an evidence-based home visitation program. Parents in the program take the ACE questionnaire, and the results are used as talking points from which parents can learn and make better decisions for themselves and their child. She also noted a traumatic event does not have to lead to long-term trauma if support is received that contributes to the resilience to work through traumatic experiences.

## **November 17, 2021, Meeting**

### ***Behavioral Health Funding Update***

A KLRD staff member provided an update on funding for behavioral health in Kansas. He responded to Committee questions regarding the revenue generated by lottery machines and its use for the crisis response team and the Clubhouse program, a breakdown for the use of the housing program funds, and the difference between the statewide mobile response service and the 988 hotline.

### ***Autism Task Force Presentation***

An overview of the Autism Task Force was provided by a Sunflower State Health Plan representative and a private citizen, both members of the Task Force. The Autism Task Force was convened by KDADS to develop recommendations for the Secretary for Aging and Disability Services on autism services in Kansas. The Autism Task Force members provided a brief description of the Task Force recommendations, which focused on workforce, services, funding, and special populations. Draft recommendations

were provided relating to exploring a Children’s Waiver and a Community Living Support Waiver, expanding access via telehealth and reciprocity, allowing individualized budget authority, and incentivizing providers. A list of topics for other draft recommendations to be considered also was provided.

### ***Working Group Updates***

A KHI representative provided a review of the working groups’ meetings since the October 2021 Committee meeting. She noted several surveys were conducted to gather information from the various working groups. She sought input from the Committee on how the final report should be formatted.

Co-chairpersons of each of the working groups provided updates on the work of the working groups.

### ***Services and Workforce Working Group***

A Co-chairperson of the Services and Workforce Working Group provided an update on the working group’s discussions of revisions to previous recommendations. Among the revisions being discussed were a request for a review by the Legislative Division of Post Audit of Kansas behavioral health to include reviewing information on recipients of the National Health Service Corps and State Loan Repayment Program for the past ten years to determine the effectiveness of the programs in recruiting and retaining behavioral health professionals in Kansas, incentivizing the methadone clinics in Kansas to work with KanCare, and funding for grants to CMHCs and substance use disorder (SUD) treatment providers to pay for peer mentor and child protective services positions.

New and expanded recommendation topics discussed were a statewide psychiatric access program, Medicaid postpartum coverage, three trauma-informed care approaches, support for the Kansas State Suicide Prevention Plan, strategies to address the behavioral health workforce shortage, the recognition of social isolation as a public health issue and the need for a public campaign to address social isolation, and the need to address stigma by promoting help lines and success stories and discussing behavioral health without stigma.

### ***System Capacity and Transformation Working Group***

A Co-chairperson of the System Capacity and Transformation Working Group updated the Committee on its meetings on November 1 and 10 focusing specifically on the legal system and law enforcement. The Co-chairperson discussed proposed revisions to 2020 recommendations, including identifying geographical areas of behavioral health need and gaps in the level of care; increasing Medicaid reimbursement rates; funding the 988 Suicide Prevention Lifeline; clarifying the expansion of training for correctional employees would include employees of local jails and detention centers; securing funding to increase access to inpatient, residential, and outpatient services for law enforcement referrals to evidence-based SUD programs; coordinating with juvenile corrections advisory boards to ensure local implementation aligns with statewide policy team recommendations; clarifying the purpose of Medicaid procedure code 90846; expanding the Mental Health Intervention Team (MHIT) program; exploring the creation of regional specialty courts, with consideration to addressing venue transfer; funding specialty court coordinators; and providing funding for CMHCs to conduct mobile competency evaluation and competency restoration. Additionally, the Co-chairperson noted there was discussion of the high-priority topic of Medicaid expansion and the extent to which it could help address other recommendations in the report.

### ***Telehealth Working Group***

The co-chairpersons of the Telehealth Working Group provided an update on its November 15 meeting in which the working group reviewed telehealth utilization rates and heard from local and national supplemental experts on telehealth payment parity.

### ***Governor’s Commission on Racial Equity and Justice Behavioral Health-Related Recommendations***

The CEO of the United Methodist Health Ministries Fund provided testimony on the work of the Governor’s Commission on Racial Equity and Justice (Commission) in 2021 focused on social determinants of health. The Commission is to provide two reports on social determinants of

health to the Governor on July 1, 2021, and in December 2021.

The CEO, who serves as a member of the Commission, stated the July 2021 report included 51 recommendations on early childhood education and child care, federal legislation and funding, tax policy, teacher diversity, postsecondary education, school resource officers, school mascots, maternal and child health, and vaccine equity. The CEO described the July 2021 report recommendations related to behavioral health and the draft December 2021 mental health recommendations. The December 2021 draft recommendations included addressing the cost, coverage, and services related to behavioral health; ACEs and interfamily violence; early childhood mental health services; youth mental health; and workforce.

### ***Telehealth Research Update***

The Assistant Dean of Student Affairs, University of Kansas School of Medicine, Salina Campus, and Assistant Professor of Population Health and Surgery, University of Kansas School of Medicine, provided a status report on a survey related to telehealth and COVID-19.

The following themes were addressed through provider and administrator interviews: telehealth and access to health care, barriers to implementing telehealth, scheduling logistics and no-show rates, what can and cannot be done through telehealth, parity with in-person visits, and telehealth's role after the COVID-19 pandemic. The representatives noted the next survey will involve telehealth patient focus groups.

### ***KLRD Update on 988 Funding and Summaries of 988 Suicide Prevention Legislation***

In response to questions relating to 988 funding, KLRD staff provided an overview of KDADS' FY 2022 enhancement request for statewide mobile response that was included in the Governor's recommendation to the 2021 Legislature.

KLRD staff provided a written-only updated spreadsheet containing summaries of the 988 Suicide Prevention legislation in other states.

### ***National Conference of State Legislatures Presentation on Other States' Approaches to Telehealth***

A Health Program Policy Associate with the National Conference of State Legislatures (NCSL) provided testimony regarding how states have implemented policies regarding telehealth. He noted telehealth is not a service but a method to provide health care through three modalities: live video, storing and forwarding transmission from one care site to another for evaluation, and remote patient monitoring. The NCSL Policy Associate provided various maps, including the following information: states with legislation permanently implementing COVID-19 telehealth flexibilities, examples of legislation enacted by various states, coverage and payment parity in 2021, and states that enacted legislation allowing participation in the Psychology Interjurisdictional Compact (PSYPACT). He discussed recently enacted legislation, which has permitted a few states to join a Counselor Compact. Information on states allowing many types of out-of-state providers to deliver services to in-state residents if specific requirements are met was also provided.

### ***Presentation on Workforce Issues***

The Director of the Behavioral Health Education Center of Nebraska, University of Nebraska Medical Center (Nebraska education center), provided testimony regarding efforts by the State of Nebraska to address the behavioral health workforce shortage. The Nebraska Legislature funded the creation of the Nebraska education center in 2009 due to the need to deal with untreated mental health disorders. In partnership with the University of Nebraska, the goal was to provide a pathway from student to mental health provider to improve behavioral health access in rural and underserved areas. Recruiting starts in high schools with mentorship programs and educational opportunities through to graduate training. To help with retention, the Nebraska education center offers free continuing education, fatigue prevention, and review of licensure requirements. A workforce data survey is conducted every two years to determine who is in the field and where and how they practice. The Director stated although Nebraska has 50 percent of the providers needed, it has seen a 38 percent behavioral health workforce increase since 2010.

The Executive Director and Licensed Clinical Psychotherapist with Compass Behavioral Health, Garden City, provided testimony on how workforce shortages have affected her organization and the state. She discussed the increased difficulty with staffing shortages in the past few years, citing therapists moving to private practice and difficulty in hiring and retaining psychiatrists, which in turn affects the ability for an advance practice registered nurse (APRN) with a psychiatric specialty to practice due to the lack of a collaborating psychiatrist and results in APRNs leaving for independent practice states. The Executive Director also noted the need to use APRN and therapy staff through telehealth agencies at a higher cost to meet the workforce needs. She suggested several ways to mitigate workforce challenges including adding certification levels to allow career ladders. She noted the CCBHC initiative will help with recruitment and retention efforts.

The Executive Director of the Association of Community Mental Health Centers of Kansas stated the CMHCs are operating at a 12 percent vacancy rate. He noted, as of 2018 when the association was part of the Behavioral Health Economic Network (BHECON), Kansas had the greatest shortage of mental health and addiction care providers in the United States, with uniquely low rates in rural communities. The surrounding states, through either expanded Medicaid or implementations of CCBHCs, have additional resources and the ability to recruit away already scarce behavioral health professionals. He noted efforts to address recruitment and retention, including the recent enactment of legislation reducing the number of hours for clinical licensure, allowing out-of-state providers an easier process for licensure, and implementing CCBHCs.

The KDHE Children and Families Director, a Professor and Chair of Psychiatry and Behavioral Sciences with the University of Kansas School of Medicine-Wichita, and a Research Project Manager with the University of Kansas Center for Public Partnerships and Research provided testimony on psychiatric access programs in the state. The conferees discussed several programs to help address the shortage, including Kansas Connecting Communities, KSKidsMAP, and TeleECHO. The conferees also noted the COVID-19 pandemic has increased health care burnout,

with 76 percent of health care workers reporting exhaustion and burnout in September 2020.

The KDADS Behavioral Health Commissioner provided testimony regarding the recruiting challenges across all classes of workers. He stated the major issue is wage competition affecting all Standard Occupation Classifications. Initiatives to improve behavioral health services have been undermined by workforce shortages. He stated the State has attempted to raise starting wages to try to attract and retain workers. As an example of the effect of the shortages, he stated there are currently 134 psychiatric residential treatment facility (PRTF) beds available, but no staff to support them. There are 133 children on the waitlist for these beds. The Commissioner stated the waitlist could be eliminated but for the staffing shortage. In October 2021, a National State of Emergency in Children's Mental Health was declared. A list of possible actions to address the workforce problem was provided.

#### ***Sedgwick County Mobile Response Unit Update***

The Sedgwick County Sheriff provided an update on the Sedgwick County Mobile Response Unit, the Integrated Care Team (ICT-1). The unit consists of a mental health worker, an emergency medical technician (EMT), and a law enforcement officer. The unit responds to 911 calls with individuals suffering a mental health crisis. The Sheriff reviewed how the team operates and provided statistical information to demonstrate its effectiveness. The Sheriff said a critical piece was the presence of the EMT, who can assess the individual prior to transfer to the hospital, freeing up the law enforcement officer to be released back to service. The Sheriff provided information on the cost of the program at the December 2021 meeting.

#### ***Roundtable Discussion on Workforce Issues***

KHI staff facilitated a roundtable discussion regarding workforce issues and what could be done to address them. All participants, including Committee members, conferees, and working group members, were encouraged to provide ideas that they would want the working groups to add to the recommendations and key themes to incorporate into the report. Suggestions included career laddering, high school internships,

mentorship programs, payment of continuing education costs, right-sizing educational requirements with dual credit courses for psychology or social services, rural residency programs, wage differential (especially in border communities), the impact CCBHCs could make, recruitment of behavioral health staff by other states with better pay and hours, assistance with psychiatrist office startup costs to encourage physicians to go to rural areas, and better broadband access in rural areas.

## **December 15, 2021, Meeting**

### ***Follow-up Information from November 17, 2021, Meeting***

KLRD staff provided the Committee with the following documents for review: KLRD Memorandum with Responses from a representative of the Governor’s Commission on Racial Equity and Justice; KLRD Survey of Interstate Compacts Concerning Licensure of Counselors and Marriage and Family Therapists; NCSL Follow-up Information on Interstate Licensure Compacts; KLRD Spreadsheet on Behavioral Health Professions Wage Comparison — Kansas and Neighboring States; DCF Information on Secondary Education Waivers/Vouchers for Foster Care Youth; ICT-1 Financial Impact Report; Map of CCBHCs in Oklahoma; Map of CCBHCs in Missouri; KLRD Memorandum on Follow-up Fiscal Information; a KDADS HB 2281 Crisis System Service Funding and Delivery Model document; and Office of the Revisor of Statutes Memorandum on Youth Suicide Prevention Statutory Provisions.

### ***Review of Working Group Recommendation Process; Review of Strategic Framework for Modernizing the Kansas Behavioral Health System: 2021 High-Priority Update***

KHI staff reviewed the working group recommendation process and reviewed the sections of the working group report, *Strategic Framework for Modernizing the Kansas Behavioral Health System: 2021 High-Priority Update* (Strategic Framework Update) (Appendix pages 41–108), explaining its organization and editing format.

The format of the recommendations of the Strategic Framework Update were discussed and

KHI staff reviewed how recommendations were sorted into high-priority for the Committee, based on the discussion of the working groups and the prioritization process.

Within these high-priority recommendations, the working groups sorted each recommendation into an “immediate action” category or a “strategic importance” category. (As they did for the 2020 Committee report, “immediate action” means recommendations the working groups believe can be completed in the next two years, and “strategic importance” means those recommendations the working groups believe should be initiated in the near term but would be completed in the longer term.)

Notable parts of the Strategic Framework Update that were discussed by KHI were:

- A summary of new and revised recommendations for Committee consideration (Appendix pages 48–54);
- Detailed new and revised recommendations organized by topic, including rationale, ease of implementation, potential for high impact, measuring impact, and action lead and key collaborators (Appendix pages 55–82);
- Summary of all recommendations from 2020 and 2021, as revised (Appendix pages 83–92);
- Recommendations considered complete (Appendix pages 93–96);
- A copy of the recommendation rubric that the working groups used to finalize their recommendations (Appendix pages 97–98);
- Tables for the high-priority recommendations by topic, which could be used as checklists for implementation (Appendix pages 99–100); and
- Committee, roundtable, and working group membership lists (Appendix pages 101–106).

KHI staff then introduced the Co-chairpersons and other members of each working group who would make presentations. These individuals reviewed each of the high-priority new and revised recommendations by the working groups, and explained the rationale for each of the recommendations. Following the working group presentations for each recommendation, the Committee had the opportunity to pose questions to relevant working group members and subject matter experts.

### ***Review of Services and Workforce Working Group Report Recommendations***

The Co-chairpersons and a KDHE working group member reviewed the recommendations from the Services and Workforce Working Group. The topics of the new and revised recommendations included a request for an audit by the Legislative Division of Post Audit on behavioral health professionals who received student loan repayments; a long-term investment plan for the behavioral health workforce that prioritizes high school internships and a fund for health care worker retention and recruitment; support for the Kansas Suicide Prevention Plan, including KDADS hiring a suicide prevention coordinator; investment in foster home recruitment and services for youth in PRTFs; community-based liaisons for justice-involved youth; trauma-informed care; promotion of awareness of social isolation as a public health issue; normalization of behavioral health as health; an increase in state funds for behavioral health prevention; the funding of a statewide psychiatric access program with specialty teams; and the extension of Medicaid postpartum coverage to 12 months.

A Co-chairperson noted workforce issues were discussed as potential barriers in relation to recommendations in other topic areas, highlighting the essential need to address workforce shortages to accomplish many of the recommendations from all working groups.

### ***Review of System Capacity and Transformation Working Group Report Recommendations***

The Co-chairpersons and a District Court Judge working group member discussed the recommendations from the System Capacity and Transformation Working Group. The Co-

chairpersons stated inclusion of judges as members of the working group brought valuable expertise in addressing the interaction with the legal system by individuals with behavioral health needs.

New and revised recommendations presented by the working group members related to the following topics: expanding the MHIT program in K-12 schools; forming a comprehensive plan to address hospital capacity through regional facilities; funding the 988 National Suicide Prevention Lifeline through a fee on telephone subscriber accounts; increasing Medicaid reimbursement rates for behavioral health providers; working with the State Epidemiological Outcomes Workgroup to establish an annual legislative report on state behavioral health outcomes using existing data and outcomes measures; creating regional specialty courts throughout the state; funding specialty court coordinators; funding mobile competency evaluations; training employees in correctional facilities to recognize those with substance use disorder (SUD); ensuring local agency responses in working with crossover youth align with statewide policy team expectations; clarifying the adoption of coding practices to facilitate integration of primary medical and behavioral health care as only one of the strategies to consider; and allowing utilization of Medicaid code 90846 to enable family psychotherapy without the child present.

A Co-chairperson noted Medicaid expansion remains a high-priority discussion item for the working group but is not included in the recommendations.

### ***Review of Telehealth Working Group Recommendations***

The Co-chairpersons and multiple working group members presented the recommendations from the Telehealth Working Group. The new and revised recommendations addressed the following topics: establishing a special committee on telehealth modernization; developing quality assurance standards for providers and patients; maintaining Medicaid reimbursement codes for telehealth services, as federal Centers for Medicare and Medicaid Services (CMS) rules allow; continuing coverage of telehealth for crisis

services; addressing provider confusion over overlapping interstate compacts for telehealth licenses; and using telehealth to maintain service continuity for children and foster children as they move around the state.

***Review of Recommendations Proposed by Robert G. (Bob) Bethell Joint Committee on Home and Community Based Services and KanCare Oversight***

At the request of the Chairperson, KLRD staff provided a review of preliminary recommendations made on December 14, 2021, by the Bethell Joint Committee, as many of the recommendations overlapped those made by the working groups and being considered by the Committee. The Chairperson requested these recommendations be included for reference in the Committee report. The Bethell Joint Committee recommendations generally included:

- Recommending the State submit a State Plan Amendment to add 90846 as a billable Medicaid code that would allow billing for therapy without the patient participating and request a cost estimate from KDHE;
- Recommending the expansion of postpartum coverage to 12 months for new mothers enrolled in KanCare and directing KDHE to provide data on the number of women who have used the first 2 months of postpartum services and that could benefit from 12 months;
- Requesting the State Medicaid Director review and report, including producing cost estimates and historical comparisons, on raising Medicaid reimbursement rates as percentages of Medicare rates for various codes, in particular, emergency medical services, pediatric primary care, and certified nurse midwife care, and submit the report to the Bethell Joint Committee, the Senate Committee on Public Health and Welfare, the House Committee on Health and Human Services, and the social service budget subcommittees of the Senate Committee on Ways and Means and the House Committee on Appropriations;
- Recommending a bill be drafted to codify in statute the flexibility of the temporary nurse aide authorization provided in Executive Order 20-23;
- Directing KDHE to investigate, and produce a cost estimate on, CMS approval for paying family caregivers if they meet the requirements of any other care providers within industry-standard guardrails and authorizing family caregivers with pending background checks to be paid;
- Requesting the LCC establish a committee to study the Intellectual and Developmental Disability (I/DD) waiver waitlist and long-term needs of the I/DD community, similar in structure to the 2021 Special Committee on Mental Health Modernization and Reform;
- Recommending the Legislature look into raising the Specialized Medical Care (T1000) service codes rates for both the Technology Assisted (TA) and I/DD waiver to \$47.00/hour and using 2021 American Rescue Plan Act funds, if available, prior to State General Fund moneys;
- Recommending the LCC establish a working group to study shortages and credentialing of personal care attendants and look at criteria and training;
- Recommending appropriate legislative committees that deal with perinatal behavioral health monitor the current funding source for Kansas Connecting Communities, a collaborative mental health initiative between KDHE and several state and local partners;
- Recommending the Legislature amend statutes to provide refunds to skilled nursing facilities for the reduction in the number of licensed beds upon decertification; and

- Recommending KDADS look into amending the certified medication aide curriculum to allow certified medication aides to assist residents in self-administration of insulin injections.

### ***Special Committee Review and Edits of Working Group Report Recommendations***

Following the presentations of the new and revised working group recommendations, the Committee had the opportunity to discuss the recommendations, pose questions to relevant working group members and subject matter experts, and propose additional edits for the Strategic Framework Update.

The Chairperson guided the Committee members through a review of each new and revised recommendation in the Strategic Framework Update. The Committee made edits and changes to the Strategic Framework Update.

### ***Discussion and Special Committee Recommendations for Committee Report to the 2022 Legislature***

After Committee discussion of the edits, changes, and additions, the Committee approved the Strategic Framework 2021 Update report, as edited by the Committee, and KLRD staff were directed to advance the Strategic Framework Update as an attachment to the Committee’s report (Appendix pages 41–108).

## **CONCLUSIONS AND RECOMMENDATIONS**

### **Special Committee Recommendations**

At its December 15, 2021, meeting, the Committee discussed and approved the following recommendations based on Committee and working group discussion.

### ***Distribution of Committee Report to the 2022 Legislature***

Given the breadth and complexity of the topics associated with behavioral health and transformation of the system — its service capacity and workforce, the policy and treatment options and outcomes for individuals with

behavioral health needs, the use of telehealth for behavioral health services, the sustainability and finances for the delivery of behavioral health services and resources (including the impending transition to the 988 Suicide Prevention Hotline and the creation of CCBHCs) — the Committee requests its complete report be transmitted to the following standing and joint committees of the Kansas Legislature: the Bethell Joint Committee, House Committee on Children and Seniors, House Committee on Corrections and Juvenile Justice, House Committee on Health and Human Services, House Committee on K-12 Education Budget, House Committee on Social Services Budget, Senate Committee on Judiciary, Senate Committee on Public Health and Welfare, and Senate Committee on Ways and Means (agency subcommittees).

### **Strategic Framework for Modernizing the Behavioral Health System: 2021 High-Priority Update; Working Group Recommendations**

At its December 15, 2021, meeting, the Committee adopted the recommendations of the Strategic Framework Update (Appendix pages 41–108), as amended by the Committee. The recommendations list the rationale behind each new and revised recommendation and other measures for implementation.

### ***Workforce—Revised Recommendations (Appendix pages 55–57)***

- **1.2 Access to Psychiatry Services [Services and Workforce Working Group; Immediate Action]:** Request a Legislative Post Audit review of Kansas behavioral health participants in the National Health Service Corps and State Loan Repayment Program for the past ten years; review professions awarded, communities in which those providers were located, number of years they participated in the program, number of years they continued to practice in their positions after they exited the program, and whether the psychiatrists who participated in the program and remained in Kansas were originally Kansas residents or came to Kansas from other states; expand the analysis to the behavioral health professions served in

these programs and licensed by the Kansas State Board of Nursing, BSRB, and the Kansas State Board of Healing Arts (not just psychiatry); review best practices from other states regarding recruitment and retention of licensed behavioral health professional staff to urban, rural, and frontier communities for possible, if successful, implementation in Kansas; review medical school and residency training location of psychiatrists and child and adolescent psychiatrists currently practicing in Kansas, as well as current practice locations of residents and fellows in child psychiatry who completed residency or fellowship in Kansas within the past ten years; review existing research regarding where fellows practice in relation to where they trained; and look at the University of Kansas program that incentivizes medical students to practice in Kansas to determine whether it is effective. If the requested audit by Legislative Post Audit is not approved, request the legislative budget committees include a proviso in the budget requiring KDHE to do the study with assistance from an educational institution.

- **1.4 Workforce Investment Plan [Services and Workforce Working Group; Strategic Importance]:** The State of Kansas should make a long-term investment plan for the behavioral health system workforce by increasing funding for training, recruitment, retention, and support to effectively attract and retain high-quality staff. Specific steps include:
  - Establishing a university in Kansas partnership to develop the comprehensive investment plan, including a focus on high school internships, mentorship, and free continuing education courses, building on the model in Nebraska on which the Committee heard testimony;
  - Seeding university programs to develop and expand bachelor's and graduate programs in behavioral health;

- Creating a pool of funds that behavioral health providers could access to support retention and recruitment;
- Developing a career ladder for clinicians, such as through the development of an associate-level practitioner role; and
- Taking action to increase workforce diversity, including diversity related to race, ethnicity, and LGBTQ+ identity, and the ability to work with those with limited English proficiency.

**Funding and Accessibility—New Recommendation (Appendix pages 58–59)**

- **2.6 Expand Mental Health Intervention Team Program [System Capacity and Transformation Working Group; Immediate Action]:** Expand the MHIT grant program to additional school districts. Support continuity and provide a way for students to access services when schools are not open by extending the times of services at schools, utilizing CMHCs, or utilizing other mental health providers. Make the MHIT grant program permanent in statute and no longer a pilot program and phase in the reduction of the state-paid portion of the MHIT liaison cost. Clarify that the MHIT program is not a mandatory program.

**Funding and Accessibility—Revised Recommendations (Appendix pages 59–61)**

- **2.2 Addressing Inpatient Capacity by Implementing a Regional Model [Merger of 2020 Recommendations 2.2 and 9.1; System Capacity and Transformation Working Group; Immediate Action]:** Implement and fund a comprehensive plan to address voluntary and involuntary hospital inpatient capacity needs while providing all levels of care across all settings, supplementing the traditional state hospital setting with regionalized facilities accepting both voluntary and involuntary admissions for persons in acute services as well as longer-term/tertiary specialized care. Explore the need for state-certified beds in south-

central Kansas. Ongoing analysis should be conducted to identify geographic areas of need and gaps in levels of care.

- **2.3 Reimbursement Rate and Review** [*System Capacity and Transformation Working Group; Immediate Action*]: Implement an immediate increase of 10–15 percent in reimbursement rates for all providers of behavioral health services. After increasing reimbursement rates, establish a working group to regularly review the reimbursement structures for behavioral health services for both the uninsured and the Medicaid population.

[*Note: The Bethell Joint Committee included as a recommendation in its report to the 2022 Legislature a request that the State Medicaid Director review and create a report, including cost estimates and historical comparisons, on raising Medicaid reimbursement rates as percentages of Medicare rates for various codes, in particular emergency medical services, pediatric primary care, and certified nurse midwife services, and submit the report to the Bethell Joint Committee, Senate Committee on Public Health and Welfare, House Committee on Health and Human Services, and the social service budget subcommittees of the Senate Committee on Ways and Means and the House Committee on Appropriations.*]

- **2.4 Support Kansas Suicide Prevention Plan** [*Services and Workforce Working Group; Immediate Action*]: In support of the 2021-2025 Kansas Suicide Prevention Plan, standardize definitions of data collected related to suicide and making suicide a reportable condition; propose policy to ensure consistent data collection across the state, including for diverse populations (include demographics); leverage the Kansas Suicide Prevention Coalition to enable collaboration among all agencies engaged in suicide prevention; designate KDADS (the single state authority for federal mental health and substance use disorder programs) as lead agency for implementation of the State Suicide Prevention Plan and collaborate with the Youth Suicide Prevention Coordinator in the Office of

the Attorney General; add \$1.5 million from the State General Fund to the KDADS budget to implement additional recommendations and strategies from the State Suicide Prevention Plan, including \$250,000 for the Kansas Suicide Prevention Coalition, \$90,000 for a full-time state suicide prevention coordinator (population-wide), and the remainder for providing grant opportunities for local communities and implementing a statewide media campaign, and require KDADS look into potential grant funding; and require KDADS to submit an annual report on the progress from collaborating state agencies and the coalition as to the status and effectiveness of state suicide prevention policies and interventions, as well as any updates to the State Suicide Prevention Plan, to the Governor’s Behavioral Health Services Planning Council and its Prevention Subcommittee.

### ***Community Engagement –Revised Recommendations (Appendix pages 62–63)***

- **3.3 Foster Homes** [*Services and Workforce Working Group; Strategic Importance*]: The State of Kansas should invest in foster home recruitment and retention by:
  - Increasing funding for supplemental training on behavioral health needs and providing additional financial incentives to support youth with serious emotional disturbance;
  - Supporting families navigating child welfare and Medicaid programs;
  - Continuing investment in recruiting, preparing, and supporting families to serve high-acuity and older youth, and in recruiting, preparing, retaining, and supporting African American families;
  - Providing in-home therapeutic parenting services for families to meet high-acuity needs; and
  - Ensuring services are available across the continuum of care for youth discharged from inpatient or PRTF settings.

- **3.4 Community-Based Liaison [Services and Workforce Working Group; Strategic Importance]:** Expand locations where community-based liaisons are available to facilitate connection to treatment and support services (e.g., community mental health services) upon re-entry as a component of pre-release planning and services for justice-involved adults and youth with substance use disorder and co-occurring conditions.

*Prevention and Education—New Recommendations (Appendix pages 64–66)*

- **4.5 Trauma-Informed Care [Services and Workforce Working Group; Immediate Action]:** Under the auspices of the GBHSPC, convene a workgroup of providers who have implemented trauma-informed practices to make recommendations for a pilot program or other initiative to expand trauma-informed practices statewide.
- **4.6 Promote Social Isolation as a Public Health Issue [Services and Workforce Working Group; Strategic Importance]:** Create strategies to disseminate information on the importance of social isolation as a public health issue, using social media and media campaigns, educating providers, and encouraging adoption of a screening tool.
- **4.7 Normalize Behavioral Health Discussions [Services and Workforce Working Group; Immediate Action]:** In lieu of discussing stigma, build on recent success stories (e.g., 988 lifeline, mobile crisis units, CCBHCs) to publicize behavioral health as health, creating a culture in which depression, anxiety, post-trauma, addiction, and other common illnesses become as mentionable as diabetes, heart disease, and migraines.

*Prevention and Education—Revised Recommendations (Appendix pages 67–68)*

- **4.1 988 Suicide Prevention Lifeline Funding [System Capacity and**

**Transformation Working Group; Immediate Action]:** Once the 988 National Suicide Prevention Line phone number is implemented, Kansas should collect fees via telephone bills to support increasing the in-state answer rate and ensure that callers are connected to in-state resources. The Legislature should consider HB 2281 in the 2022 session to ensure funds are available in July 2022.

- **4.4 Behavioral Health Prevention [Services and Workforce Working Group; Strategic Importance]:** Increase state funds for behavioral health prevention efforts to support additional evidence-based primary prevention and grant opportunities for community prevention activities.

*Treatment and Recovery—Revised Recommendations (Appendix pages 68–69)*

- **5.3 Statewide Psychiatric Access Program [Services and Workforce Working Group; Immediate Action]:** Fully fund a statewide psychiatric access program that includes linked specialty teams with high levels of expertise (e.g., psychiatrists, child and adolescent psychiatrists, peripartum psychiatrists, child psychologists, pediatricians, resource specialists, and patient and family advocates) to provide multi-disciplinary consultations, training, and resource and referral support to health care providers across the lifespan. Ensure continuation of current pregnant/postpartum and pediatric programs starting July 2023 (FY 2024). Expand current programs to include specialty teams for children (through 21 years of age) with I/DD, children (through 21 years of age) with autism spectrum disorder starting July 2024 (FY 2025), and adults with mood disorders starting July 2025 (FY 2026).

*Special Populations—New Recommendation (Appendix pages 69–70)*

- **6.6 Medicaid Postpartum Coverage [Services and Workforce Working**

**Group; Immediate Action]:** Request the Bethell Joint Committee review extending the Medicaid postpartum coverage period to 12 months postpartum. This supports access to behavioral health treatment and other preventive care, thus improving health outcomes for both the mother and child.

[*Note:* In its report to the 2022 Legislature, the Bethell Joint Committee recommended expanding postpartum coverage to 12 months for new mothers enrolled in KanCare and directing KDHE to provide data on the number of women who have used postpartum services within the first 2 months and could benefit from 12 months of services.]

**Data Systems—New Recommendation**  
(Appendix page 71)

- **7.6 Outcomes Data [System Capacity and Transformation Working Group; Strategic Importance]:** Work with the Kansas State Epidemiological Outcomes Workgroup to establish an annual legislative report on state behavioral health outcomes using existing data and outcome measures. [*Note:* This working group brings together data published on the Kansas Behavioral Health Indicators Dashboard.]

**Interactions with Legal System and Law Enforcement—New Recommendations**  
(Appendix pages 72–74)

- **8.5 Regional Specialty Courts/Venue Transfer [System Capacity and Transformation Working Group; Strategic Importance]:** Explore creation of regional specialty courts across Kansas. Consider implications related to venue transfer for access to regional specialty courts.

[*Note:* The Committee requested a letter be sent to the Specialty Courts Committee of the Judicial Branch requesting it explore the funding that may be available from multiple funding sources to create regional specialty courts.]

- **8.6 Specialty Court Coordinators [System Capacity and Transformation Working Group; Immediate Action]:** Provide funding for judicial districts that meet qualifying criteria to hire specialty court coordinators.
- **8.7 Competency Evaluations and Restoration [System Capacity and Transformation Working Group; Immediate Action]:** Recommend KDADS look into a pilot program for CMHCs to conduct mobile competency evaluation and competency restoration services and report to the 2022 Legislature.

**Interactions with the Legal System and Law Enforcement—Revised Recommendations**  
(Appendix pages 74–75)

- **8.1 Correctional Employees [System Capacity and Transformation Working Group; Immediate Action]:** Expand training provided in state correctional facilities, local jails, and detention centers to allow employees to better recognize those with substance use disorders, use a trauma-informed approach to identify other mental health needs, and connect those with needs to available services.
- **8.3 Law Enforcement Referrals [System Capacity and Transformation Working Group; Immediate Action]** Increase utilization and development of evidence-based substance use disorder (SUD) referral as well as treatment and recovery services among persons with law enforcement contact, which could include securing funding to increase access to inpatient, residential and outpatient services for this population.
- **8.4 Defining Crossover Youth Population [System Capacity and Transformation Working Group; Strategic Importance]:** Future efforts should include behavioral health within an operationalized definition for youth with offender behaviors at risk of entering foster care, as well as including diverted youth in the definition of the broader

juvenile offender population. Coordinate with juvenile corrections advisory boards to ensure local implementation aligns with statewide policy team recommendations.

***System Transformation—Revised Recommendations (Appendix pages 75–76)***

- **9.3 Integration [System Capacity and Transformation Working Group; Immediate Action]:** Increase integration, linkage, and collaboration and identify care transition best practices among mental health, substance abuse, primary care, and emergency departments across the state. For example, adopt coding practices that allow for the integration of services across the continuum of care domains (including, but not limited to, primary care, SUD, and mental health) to provide more integrated services to clients with co-occurring conditions.
- **9.5 Family Psychotherapy [System Capacity and Transformation Working Group; Strategic Importance]:** Enable utilization of procedure code 90846 in Medicaid as a tool to support youth in foster care. This would allow therapists/practitioners to have discussions without the child present.

[Note: The Bethell Joint Committee included as a recommendation in its report to the 2022 Legislature that the State submit a State Plan Amendment to add 90846 as a billable Medicaid code that would allow billing for therapy without the patient participating and requested a cost estimate from KDHE.]

***Telehealth—New Recommendation (Appendix pages 76–77)***

- **10.6 Telemedicine Committee [Telehealth Working Group; Strategic Importance]:** The Legislative Coordinating Council shall establish a Special Committee on Telemedicine Modernization structured in the same manner as the 2021 Special Committee on Kansas Mental Health Modernization and Reform, which includes judiciary *ad hoc* members. The Committee stresses the

need to continue its work on the topic of telemedicine.

***Telehealth—Revised Recommendations (Appendix pages 77–82)***

- **10.1 Telehealth Quality Assurance [Telehealth Working Group; Immediate Action]:** Develop quality assurance standards to ensure high-quality telehealth services are provided, including:
  - Establishing consistent guidelines and measures for telehealth in collaboration with licensing and regulatory agencies;
  - Allowing telehealth supervision hours to be consistently counted toward licensure requirements;
  - Allowing services to be provided flexibly utilizing the Kansas Telemedicine Act; and
  - Improving provider and patient education around telehealth literacy in relation to privacy, efficacy, access, and cybersecurity practices.
- **10.2 Telehealth Reimbursement Codes [Telehealth Working Group; Immediate Action]:** As CMS rules allow, maintain Medicaid reimbursement codes added during the public health emergency for telehealth services and consider options to prevent loss of facility fees so that providers are not losing revenue by delivering telehealth services.
- **10.3 Telehealth for Crisis Services [Telehealth Working Group; Immediate Action]:** Continue coverage of telehealth for crisis services to allow for the use of telehealth with law enforcement and mobile crisis services. Explore virtual co-responder models for law enforcement to aid police departments and other law enforcement agencies as they respond to mental health crises in rural and frontier communities. Engage professional associations statewide to adopt appropriate education for providers, practitioners, and law enforcement officers on using telehealth for crisis services. [Note: The

Committee stressed that crisis services and mobile crisis services are two different types of services.]

- **10.4 Telehealth Originating and Distant Sites** [*Telehealth Working Group; Strategic Importance*]: The following item should be addressed to ensure that individuals receive — and providers offer — telehealth in the most appropriate locations: examine issues related to providers practicing, and patients receiving, services across state lines, such

as by exploring participation in interstate licensure compacts.

- **10.5 Child Welfare System and Telehealth** [*Telehealth Working Group; Strategic Importance*]: Utilize telehealth to maintain service and provider continuity as children, particularly foster children, move around the state. Explore how the unique needs of parents of children in the child welfare system can be met via telehealth.

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## **Working Definitions for Mental Health Modernization and Reform**

**Behavioral health system:** Refers to the system of care that includes the promotion of mental health, resilience and well-being; the prevention, referral, diagnosis, and treatment of mental and substance use disorder; and the support of persons with lived experience in recovery from these conditions, along with their families and communities. (Adopted from the “Strategic Framework for Modernizing the Kansas Behavioral Health System: Working Groups Report to the Special Committee on Kansas Mental Health Modernization and Reform,” December 2020)

**Certified Community Behavioral Health Clinic (CCBHC):** Under Section 223 of the Protecting Access to Medicare Act of 2014, Congress required the U.S. Department of Health and Human Services (HHS) to establish a process for certification of CCBHCs as part of a two-year demonstration project under Medicaid. Per statute, entities under the CCBHC Medicaid Demonstration must provide a comprehensive set of services that respond to local needs by using integrated care. The demonstration project allows CCBHCs to have a reimbursement model that enhances the coverage of provider costs and allows for a full set of statutorily required services to be offered. In October 2015, HHS awarded planning grants to 24 states to help prepare to participate in the two-year demonstration project. The demonstration phase began in July 2017. Additional expansion grants (CCBHC-E) were awarded beginning in May 2018.

**Crisis Intervention Center:** Any entity licensed by the Kansas Department for Aging and Disability Services (KDADS) that is open 24 hours a day, 365 days a year, equipped to serve voluntary and involuntary individuals in crisis due to mental illness, substance abuse or a cooccurring condition, and that uses certified peer specialists. [KSA 59-29c02(e)]

**Integrated Care:** A systematic coordination of general and behavioral health care. (See Recommendation 9.3 Integration in the Strategic Framework for Modernizing the Kansas Behavioral Health System).

**Psychiatric Residential Treatment Facility:** Any non-hospital facility with a provider agreement with the licensing agency to provide inpatient services for individuals under the age of 21 who will receive highly structured, intensive treatment for which the licensee meets the requirements as set forth by regulations created and adopted by the Secretary for Aging and Disability Services. [KSA 39-2002(m)]

**Telemedicine:** Including “telehealth”, means the delivery of healthcare services or consultations while the patient is at an originating site and the healthcare provider is at a distant site. Telemedicine shall be provided by means of real-time two-way interactive audio, visual, or audiotext technology to provide or support healthcare delivery, that facilitate the assessment, diagnosis, consultation, treatment, education and care management of a patient’s healthcare. “Telemedicine” does not include communication between healthcare providers that consist solely of a telephone voice-only conversation, email or facsimile transmission; or a physician and a patient that consists solely of a telephone voice-only conversation, email or facsimile transmission. [KSA 40-2,211(5)]

<b>Acronym Key</b>		
ACE	Adverse Childhood Experiences	
ACT	Assertive Community Treatment	
APRN	Advance Practice Registered Nurse	
ARPA	American Recovery Plan Act	
BHECN	Behavioral Health Education Center of Nebraska	
BHS	Behavioral Health Services	
BSRB	Behavioral Sciences Regulatory Board	
CAK	Children's Alliance of Kansas	
CAODA	Committee on Alcohol and Other Drug Abuse	
CCBHC	Certified Community Behavioral Health Center	
CDC	Centers for Disease Control and Prevention	
CEO	Chief Executive Officer	
CIC	Crisis Intervention Center	
CINC	Child in Need of Care	
CIT	Crisis Intevention Training	
CJJR	Centers for Juvenile Justice Reform	
CMA	Certified Medication Aide	
CMHC	Community Mental Health Center	
CMS	Centers for Medicare and Medicaid Services	
CRT	Critical Race Theory	
CSG	Council of State Governments	
CYPM	Crossover Youth Practice Model	
DCF	Kansas Department for Children and Families	
EBP	Evidence Based Practice	
EHR	Electronic Health Records	
EMS	Emergency Medical Services	
EMSC	Emergency Medical Services for Children	
EMT	Emergency Medical Technician	
ESSER	Elementary and Secondary School Emergency Relief Fund	
FFPSA	Families First Prevention Services Act	
FMAP	Federal Medical Assistance Percentage	
FQHC	Federally Qualified Health Center	
GBHSPC	Governor's Behavioral Health Services Planning Council	
HCBS	Home and Community Based Services	
	AU	Autism
	BI	Brain Injury
	FE	Frail Elderly
	I/DD	Intellectual and Developmental Disability
	PD	Physical Disability
	SED	Serious Emotional Disturbance
	TA	Technology Assisted
HHS	U.S. Department of Health and Human Services	
HIE	Health Information Exchange	
ICT	Integrated Care Team	
IIP	Immediate Intervention Program	
IPS	Individual Placement and Support	
IT	Information Technology	
JIYA	Justice Involved Youth and Adult	

KCC	Kansas Connecting Communities
KCJRC	Kansas Criminal Justice Reform Commission
KCSDV	Kansas Coalition Against Sexual and Domestic Violence
KCSL	Kansas Children's Service League
KCTC	Kansas Communities that Care
KDADS	Kansas Department for Aging and Disability Services
KDHE	Kansas Department of Health and Environment
KDOC	Kansas Department of Corrections
KHI	Kansas Health Institute
KHIN	Kansas Health Information Network
KLRD	Kansas Legislative Research Department
KMAP	Kansas Medical Assistance Program
KSDE	Kansas State Department of Education
KSPHQ	Kansas Suicide Prevention Headquarters
LACIE	Lewis and Clark Information Exchange
LCC	Legislative Coordinating Council
LEO	Law Enforcement Officer
LTC	Long-term Care
MAT	Medication Assisted Treatment
MHBG	Mental Health Services Block Grant
MHIT	Mental Health Intervention Team
MHMR	Special Committee on Kansas Mental Health Modernization and Reform
MOU	Memorandum of Understanding
NCSL	National Conference of State Legislatures
NFMH	Nursing Facility for Mental Health
NHSC	National Health Service Corps
NSPL	National Suicide Prevention Lifeline
OAG	Office of the Attorney General
OSH	Osawatomie State Hospital
PDMP	Prescription Drug Monitoring Program (K-TRACS)
PGOAF	Problem Gambling and Other Addictions Fund
PHE	Public Health Emergency
PMTO	Parent Management Training of Oregon
PPH	Private Psychiatric Hospital
PPS	Prevention and Protection Services
PRTF	Psychiatric Residential Treatment Facility
PSYPACT	Psychology Interjurisdictional Compact
PTSD	Post-Traumatic Stress Disorder
RFP	Request for Proposal
RADAC	Regional Alcohol and Drug Assessment Center
SAMHSA	Substance Abuse and Mental Health Services Administration
SBIRT	Screening, Brief Intervention, and Referral for Treatment
SEOW	State Epidemiological Outcomes Workgroup
SGF	State General Fund
SIA	State Institutional Alternative
SLRP	Student Loan Repayment Program
SMHH	State Mental Health Hospital
SMI	Severe Mental Illness
SMVF	Service Members, Veterans, and Their Families

SOAR	SSDI Outreach, Access, and Recovery Program
SPA	State Plan Amendment
SPMI	Severe Persistent Mental Illness
SPT	Statewide Policy Team
SSDI	Social Security Disability Insurance
SSI	Supplemental Security Income
STEPS	Supports and Training for Employing People Successfully
SUD	Substance Use Disorder
SUPPORT Act	Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment [SUPPORT] for Patients and Communities Act
TA	Technical Assistance
TANF	Temporary Assistance for Needy Families
TBRI	Trust-Based Relational Intervention
YRBSS	Youth Risk Behavior Surveillance System

<b>Special Committee on Mental Health Modernization and Reform, September 2021</b> <b>Recent Behavioral Health and Mental Health Committees and Task Forces' Recommendations - KLRD Crosswalk</b>				
<b>Work Group 1: Finance and Sustainability</b>				
<b>Topic 1. Workforce</b>				
<b>2020 Kansas Criminal Justice Reform Commission</b>	<b>Governor's Behavioral Health Services Planning Council Subcommittees (Draft Recommendations)</b>	<b>Governor's Commission on Racial Equity and Justice December 2020 Initial Report</b>	<b>2020 Special Committee on Foster Care Oversight</b>	<b>2020 Robert G. (Bob) Bethell Joint Committee on Home and Community Based Services and KanCare Oversight</b>
<b>Legislative/Other Authority Recommendation 21. Workforce Development:</b> Consider placing an emphasis on mental health and substance abuse workforce development, especially in rural and frontier areas of the state.	<b>CAODA Recommendation 2:</b> Increase the workforce pipeline while also addressing regulatory barriers to treatment that have arisen due to the workforce crisis.  <b>Children's Subcommittee Recommendation 2.7:</b> Support and/or fund specialized training for clinicians in dealing with depression and anxiety.	No relevant considerations.	<b>FCO Recommendation:</b> The Committee recommends DCF work with KLRD to research how to develop and expand a two-year certificate program for behavioral health technicians and guardians <i>ad litem</i> , through community colleges and or technical schools, for the purpose of creating an educational pathway into a career in child welfare. Research should include how such a program would fit into the current child welfare system and how it may impact funding.	No relevant considerations.

Topic 2. Funding and Accessibility				
2020 Kansas Criminal Justice Reform Commission	Governor's Behavioral Health Services Planning Council Subcommittees ( <i>Draft Recommendations</i> )	Governor's Commission on Racial Equity and Justice December 2020 Initial Report	2020 Special Committee on Foster Care Oversight	2020 Robert G. (Bob) Bethell Joint Committee on Home and Community Based Services and KanCare Oversight
Legislative/Other Authority <b>Recommendation 10. Mental Health Services:</b> Consider making access to local and regional community mental health services a legislative priority.	<b>Prevention Subcommittee Recommendation 2.4:</b> Work to secure sustainable resources for initiatives that improve access to behavioral healthcare to support an environment that is amenable to prevention such as 988 and CCBHCs.	<b>Behavioral Health Recommendation 1:</b> Expand Medicaid to provide mental health and other health care coverage to populations currently not covered	No relevant considerations.	No relevant considerations.
Topic 3. Community Engagement				
2020 Kansas Criminal Justice Reform Commission	Governor's Behavioral Health Services Planning Council Subcommittees ( <i>Draft Recommendations</i> )	Governor's Commission on Racial Equity and Justice December 2020 Initial Report	2020 Special Committee on Foster Care Oversight	2020 Robert G. (Bob) Bethell Joint Committee on Home and Community Based Services and KanCare Oversight
No relevant recommendations.	No relevant recommendations.	No relevant recommendations.	No relevant recommendations.	No relevant considerations.

**Work Group 2: Policy and Treatment**

Topic 4. Prevention and Education				
<p><b>2020 Kansas Criminal Justice Reform Commission</b></p>	<p><b>Governor's Behavioral Health Services Planning Council Subcommittees (Draft Recommendations)</b></p> <p><b>Children's Subcommittee</b>  <b>Recommendation 2.1:</b> Public education campaign about the effects of isolation and loneliness, including the brain science behind it.</p> <p><b>Children's Subcommittee</b>  <b>Recommendation 2.2:</b> Equip educators, school districts, and early childhood professionals to participate in preventative, family supportive strategies to intervene in child maltreatment and not just reporters of child maltreatment. The State should support and fund efforts to equip teachers with the knowledge, tools, and resources they need.</p> <p><b>Children's Subcommittee</b>  <b>Recommendation 2.3:</b> Support and expand peer groups and the connection they provide in mitigating the effects of isolation. We heard several examples of how peer groups were effective in combatting isolation during the pandemic.</p> <p><b>Children's Subcommittee</b>  <b>Recommendation 2.4:</b> Promote and invest in peer support and/or other locally driven communities and support groups where people take care of each other.</p>	<p><b>Governor's Commission on Racial Equity and Justice December 2020 Initial Report</b></p>	<p><b>2020 Special Committee on Foster Care Oversight</b></p>	<p><b>2020 Robert G. (Bob) Bethell Joint Committee on Home and Community Based Services and KanCare Oversight</b></p>
<p>No relevant considerations.</p>		<p>No relevant considerations.</p>	<p>No relevant considerations.</p>	<p>No relevant considerations.</p>

Topic 4. Prevention and Education (Continued)				
2020 Kansas Criminal Justice Reform Commission	Governor's Behavioral Health Services Planning Council Subcommittees ( <i>Draft Recommendations</i> )	Governor's Commission on Racial Equity and Justice December 2020 Initial Report	2020 Special Committee on Foster Care Oversight	2020 Robert G. (Bob) Bethell Joint Committee on Home and Community Based Services and KanCare Oversight
	<p><b>Children's Subcommittee</b>  <b>Recommendation 2.5:</b> Consolidate COVID response and resource information in a central location where people can easily find it.</p> <p><b>Prevention Subcommittee</b>  <b>Recommendation 2.1:</b> Support expansion of SBIRT utilization to youth populations (grades 6-12) to increase early detection of substance misuse and provide greater opportunity for substance use related education.</p> <p><b>Prevention Subcommittee</b>  <b>Recommendation 2.3:</b> Provide leadership and support to regional and local partners by securing and distributing a suicide prevention awareness campaign materials/ toolkit.</p> <p><b>Prevention Subcommittee KDADS</b>  <b>Recommendation 2:</b> Expand approved providers for SBIRT by changing the language to include community health workers and other health education providers.</p>			

Topic 5. Treatment and Recovery				
<p><b>2020 Kansas Criminal Justice Reform Commission</b></p> <p><b>Legislative Recommendation 1. SB 123 and Diversion:</b> Adopt legislation that includes the provisions of 2020 HB 2708, relating to drug abuse treatment for people on diversion.</p> <p><b>Legislative Recommendation 12. Pretrial Substance Abuse Treatment:</b> Adopt legislation that includes the provision of 2020 HB 2708, concerning the implementation of pretrial substance abuse programs.</p> <p><b>Legislative/Other Authority Recommendation 8. Substance Abuse Treatment Center (KDOC):</b> Consider authorizing funding and authority for a substance abuse treatment center within the correctional facility system, including funding and authority to build a substance abuse treatment center to provide 240 additional male beds for treatment; and funding and authority to allow the KDOC to continue repurposing and renovating an existing building to provide approximately 200-250 male beds for treatment.</p>	<p><b>Governor's Behavioral Health Services Planning Council Subcommittees (Draft Recommendations )</b></p> <p><b>Children's Subcommittee Recommendation 2.8:</b> Support and/or fund ways for providers to meaningfully engage with parents.</p>	<p><b>Governor's Commission on Racial Equity and Justice December 2020 Initial Report</b></p> <p>No relevant considerations.</p>	<p><b>2020 Special Committee on Foster Care Oversight</b></p> <p>No relevant considerations.</p>	<p><b>2020 Robert G. (Bob) Bethell Joint Committee on Home and Community Based Services and KanCare Oversight</b></p> <p>No relevant considerations.</p>

Topic 6. Special Populations				
2020 Kansas Criminal Justice Reform Commission				No relevant recommendations.
Governor's Behavioral Health Services Planning Council Subcommittees ( <i>Draft Recommendations</i> )	<p><b>CAODA Recommendation 3:</b> Expand prevention efforts for all adolescents by implementing pilot SBIRT programs.</p> <p><b>Children's Subcommittee Recommendation 2.9:</b> Support and/or fund expanded treatment for very young children.</p> <p><b>Rural and Frontier Subcommittee Recommendation 2:</b> Include rural and frontier representatives on all State behavioral health initiatives (e.g., Mental Health Modernization, 988 Coalition, Mobile Crisis Initiatives, etc.).</p> <p><b>Rural and Frontier Subcommittee Recommendation 4:</b> Dedicate resources to strengthen the continuum of care in rural and frontier areas by increasing the number of available crisis beds for the non-insured and/or underinsured to fill the gap in the western half of the state.</p>	Governor's Commission on Racial Equity and Justice December 2020 Initial Report	Behavioral Health Recommendation 2: Support policies and enrollment efforts to reduce uninsurance rates of children as an evidence-based strategy to reduce involvement with the criminal justice system.	
2020 Special Committee on Foster Care Oversight				No relevant recommendations.
2020 Robert G. (Bob) Bethell Joint Committee on Home and Community Based Services and KanCare Oversight				No relevant recommendations.

Work Group 3: System Capacity and Transformation				
Topic 7. Data Systems				
2020 Kansas Criminal Justice Reform Commission	No relevant recommendations.			
Governor's Behavioral Health Services Planning Council Subcommittees ( <i>Draft Recommendations</i> )	<p><b>CAODA Recommendation 4:</b> Collect data and change committee representation to address Substance Use Health Disparities and Equity.</p> <p><b>Children's Subcommittee Recommendation 3.1:</b> All state agencies should prioritize improved data systems to collect and report on service data reported with racial disparities [in behavioral health] and equity in mind; support providers in providing data into those new data systems; and engage stakeholders, especially trusted local community leaders, providers and families, in building data systems.</p>	Governor's Commission on Racial Equity and Justice December 2020 Initial Report	2020 Special Committee on Foster Care Oversight	2020 Robert G. (Bob) Bethell Joint Committee on Home and Community Based Services and KanCare Oversight
		No relevant recommendations.	No relevant recommendations.	No relevant recommendations.

Topic 8. Interaction with the Legal System and Law Enforcement				
<p><b>2020 Kansas Criminal Justice Reform Commission</b></p> <p><b>Legislative/Other Authority Recommendation 15. Liaisons:</b> Consider creation of a behavioral health liaison position within local jails and a corrections liaison position within each CMHC, with consideration given to funding pilot programs initially.</p> <p><b>Legislative/Other Authority Recommendation 17. On-site Behavioral Services:</b> Consider establishing on-site behavioral health services in jails, with consideration given to funding pilot programs initially.</p>	<p><b>Governor's Behavioral Health Services Planning Council Subcommittees (Draft Recommendations )</b></p> <p><b>JIVA Subcommittee Immediate Recommendation 2:</b> Support development and implementation for Behavioral Health Jail Liaison positions in all CMHCs.</p> <p><b>JIVA Subcommittee Immediate Recommendation 3:</b> Support the role of peer support in the arenas of behavioral health and criminal justice, such as peer support services within correctional settings.</p> <p><b>JIVA Subcommittee Longer-Term Recommendation 1:</b> Support behavioral health and juvenile and adult criminal justice system collaborations (per CCBHC standards).</p>	<p><b>Governor's Commission on Racial Equity and Justice December 2020 Initial Report</b></p> <p><b>Behavioral Health Recommendation 4:</b> Increase use of Mental Health First Aid Training, Crisis Intervention Training, and other behavioral health trainings for new and existing officers.</p> <p><b>Behavioral Health Recommendation 3:</b> Support and finance the use of mobile crisis response models, including co-responder and virtual co-responder models to assist law enforcement in responding to behavioral health calls and stops.</p>	<p><b>2020 Special Committee on Foster Care Oversight</b></p> <p>No relevant recommendations.</p>	<p><b>2020 Robert G. (Bob) Bethell Joint Committee on Home and Community Based Services and KanCare Oversight</b></p> <p>No relevant recommendations.</p>

Topic 8. Interaction with the Legal System and Law Enforcement (Continued)				
2020 Kansas Criminal Justice Reform Commission	<p><b>Governor's Behavioral Health Services Planning Council Subcommittees (Draft Recommendations )</b></p> <p><b>JIVA Subcommittee Longer-Term Recommendation 2:</b> Support the study, and implementation of, best practices where the public behavioral healthcare system and the criminal justice system intersect, keeping in mind the principle of "scalability" of programming/services adaptable to frontier, rural, and urban regions/counties.</p> <p><b>JIVA Subcommittee Longer-Term Recommendation 4:</b> Support discussion on planning for, and implementation of, specialty courts (mental health courts and drug courts).</p>	Governor's Commission on Racial Equity and Justice December 2020 Initial Report	2020 Special Committee on Foster Care Oversight	2020 Robert G. (Bob) Bethell Joint Committee on Home and Community Based Services and KanCare Oversight

Topic 9. System Transformations				
2020 Kansas Criminal Justice Reform Commission				
Governor's Behavioral Health Services Planning Council Subcommittees ( <i>Draft Recommendations</i> )	<p><b>CAODA Recommendation 1:</b> Eliminate behavioral health deserts by increasing the number and distribution of Crisis Stabilization Centers.</p> <p><b>Children's Subcommittee Recommendation 2.6:</b> Medicaid Expansion would address many of the safety net issues.</p> <p><b>Children's Subcommittee Recommendation 3.2:</b> Hire a dedicated position to coordinate and provide accountability [on racial disparities in behavioral health].</p> <p><b>Housing and Homelessness Subcommittee Recommendation 4:</b> KDADS should continue to support the funding of Supported Housing Funds to assist those experiencing SPMI, SMI, and /or SMI with co-occurring disorder, or youth who have an SED aged 18-21, in obtaining or maintaining housing in the community as they are integral to the work being done by the housing specialists.</p> <p><b>JIYA Subcommittee Recommendation 1:</b> Support the implementation and funding for 988.</p>	Governor's Commission on Racial Equity and Justice December 2020 Initial Report	2020 Special Committee on Foster Care Oversight	2020 Robert G. (Bob) Bethell Joint Committee on Home and Community Based Services and KanCare Oversight
	No relevant recommendations.	No relevant recommendations.	No relevant recommendations.	<p><b>Bethell Recommendation:</b> The Committee recommends the Legislature work on integrated care and coordinating general and behavioral health, which includes mental health, substance abuse, and primary care.</p>

Subgroup: Telehealth	
Topic 10. Telehealth	
<p><b>2020 Kansas Criminal Justice Reform Commission</b></p> <p>No relevant recommendations.</p>	<p><b>Governor's Behavioral Health Services Planning Council Subcommittees (<i>Draft Recommendations</i>)</b></p> <p><b>Children's Subcommittee</b>  <b>Recommendation 1.1:</b> Support investments in digital infrastructure to increase access to telehealth.</p> <p><b>Children's Subcommittee</b>  <b>Recommendation 1.2:</b> Support providers in the provisions of telehealth with specific populations, situations, and appropriate use within the continuum of care, including to youth in crisis or awaiting placement.</p> <p><b>Children's Subcommittee</b>  <b>Recommendation 1.3:</b> Ensure inclusive and equitable access to telehealth services, irrespective of provider codes, sites, or diagnosis.</p>
<p><b>Governor's Commission on Racial Equity and Justice December 2020 Initial Report</b></p> <p>No relevant recommendations.</p>	<p><b>2020 Special Committee on Foster Care Oversight</b></p> <p><b>FCO Recommendation:</b> The Committee recommends support for legislation to codify and continue reimbursement for health services, including mental health services, delivered through televideo and telephone.</p>
<p><b>2020 Kansas Criminal Justice Reform Commission</b></p> <p>No relevant recommendations.</p>	<p><b>2020 Robert G. (Bob) Bethell Joint Committee on Home and Community Based Services and KanCare Oversight</b></p> <p>No relevant recommendations.</p>

2020 Special Committee on Kansas Mental Health Modernization and Reform: Status of Recommendations					
Status	Recommendation Title	Recommendation	Action Lead Agency (Key Collaborators)	Lead Agency Response	Key Collaborator Response
<b>Workforce Recommendations</b>					
<b>Completed</b>	1.1 Clinical Supervision Hours	Where applicable, reduce the number of clinical supervisions hours required of master's-level behavioral health clinicians to obtain clinical licensure from 4,000 to 3,000, similar to the reduction in clinical hours of social workers.	BSRB (Legislature, KDADS)	<p><b>BSRB:</b> The Board requested introduction of HB 2208 during the 2021 Legislative Session, which was enacted by the Legislature. HB 2208 lowered the number of clinical supervision hours required for a clinical level license, from 4,000 hours to 3,000 hours, for the professions of Master's Level Psychology, Professional Counseling, Marriage and Family Therapy, and Addiction Counseling. This action brought the number of supervision hours in line with the reduction in supervision hours for the social work profession in 2019. Normally, for licensees accruing supervision hours, a training plan amendment would have been necessary to use the new standard, but to expedite the process, the Board waived the requirement of updates to training plans and has allowed licensees to use the requirement immediately upon enactment of the bill. A letter on HB 2208 was sent to all licensees under the BSRB and a message was posted to the front page of the BSRB website to provide notice of the changes in the bill.</p>	
<b>In Progress</b>	1.2 Access to Psychiatry Services	Require a study to be conducted by KDHE with an educational institution[s], to explore strategies to increase the number of psychiatrists, child and adolescent psychiatrists, and psychiatric nurses.	KDHE (Educational Institution)	<p><b>KDHE:</b> KDHE is exploring whether such a study can be funded within existing appropriations and implemented through existing Division of Public Health contracts.</p>	

Status	Recommendation Title	Recommendation	Action Lead Agency (Key Collaborators)	Lead Agency Response	Key Collaborator Response
In Progress	1.3 Provider MAT Training	Increase capacity and access to MAT in Kansas through provider training on MAT.	<p style="text-align: center;"><b>Workforce Recommendations (Continued)</b></p> <p style="text-align: center;">KDADS (KDHE, KDOC)</p>	<p><b>KDADS:</b> MAT training and expansion is a continuing effort. So far, KDADS has been successful in creating opportunities for training and has added MAT services to the available services for SUD providers covering the uninsured and for Medicaid, expansion of take home options under COVID-19, and is currently working on expanding workforce options and mobile options for MAT, as well as policy requiring MAT options in PRTF for SUD patients. Ease of implementation score is 5.</p>	<p><b>KDOC:</b> KDOC has implemented MAT in facilities beginning September 2021, in a partnership with the RADACs and our medical provider, Centurion. Training has been rolled out for staff on the MAT programs. The RADACs work with community providers for post-release follow up.</p> <p><b>KDHE:</b> KDHE and KDADS worked with KDOC on a technical assistance project sponsored by the National Governors Association on MAT for the justice-involved population.</p>
	1.4 Workforce Investment Plan	The State of Kansas should make a long-term investment plan for the behavioral health system workforce by increasing funding for training, recruitment, retention, and support to effectively attract and retain high-quality staff. Specific steps include: develop a career ladder for clinicians, such as through the development of an associate s-level practitioner role; and take action to increase workforce diversity, including diversity related to race/ethnicity and LGBTQ identity, and the ability to work with those with limited English proficiency.	<p style="text-align: center;">KDADS (KDHE, BSRB, Legislature, providers, clinics, educational institutions)</p>	<p><b>KDADS:</b> KDADS is planning to use ARPA funding for workforce investments in the short term, however the long-term investment plan still needs to be discussed with the legislature and stakeholders to determine the level of investment needed and available. Ease of implementation score is 1.</p>	<p><b>BSRB:</b> Funding for the BSRB is from receipt of license fees for mental health practitioners and the agency receives no funding from the State General Fund. Expenditures for the agency are limited to the agency's two programs: licensing of practitioners and investigation and discipline of those individuals. The Board is primarily charged as a public protection agency, however the Board understands that part of protecting the public is ensuring there is an adequate number of practitioners to provide services. The BSRB oversees seven disciplines of practitioners, and most disciplines have a tiered level of licensure (such as a bachelor level social work license, a master's level social work license, and a clinical level social work license). The BSRB previously licensed social workers at an associate level, and still continues to renew licenses for eight such licensees, however the agency has not licensed individuals at an associate level during the last 20 years. Concerning the topic of workforce diversity, the Board and the seven advisory committees for the Board, have been discussing whether to change continuing education hours to require hours in diversity, equity, and inclusion. The Board will be discussing the Special Committee's recommendations in more detail at the Board's Annual Planning Meeting on Monday, September 27, 2021.</p>

Status	Recommendation Title	Recommendation	Action Lead Agency (Key Collaborators)	Lead Agency Response	Key Collaborator Response
<b>Workforce Recommendations (Continued)</b>					
<b>In Progress</b>	1.5 Family Engagement Practices	Provide adequate workforce compensation and reimbursement rates for time spent planning and implementing family engagement practices. Such support should be based on local needs, priorities, and goals determined at the program and school levels, in partnership with families.	KDADS (KDHE, Legislature)	<b>KDADS:</b> KDADS issued a Family Engagement RFP for FY 22 but was unable to make an award due to a significant variance in the bidder's cost to implement and the available funding. KDADS applied this past spring for a Federal Systems of Care grant to fund additional family engagement, but was not awarded the grant. KDADS is working on SPAs for family engagement with KDHE for Medicaid recipients. Ease of implementation score 5.	
<b>Funding and Accessibility Recommendations</b>					
<b>In Progress</b>	2.1 Certified Community Behavioral Health Clinic Model	Support expansion of the federal Excellence in Mental Health Act and then pursue participation. If participation in the Excellence in Mental Health Act is not possible, pursue a state plan amendment or change to the 1115 Waiver to allow interested providers to gain access to the CCBHC model.	KDHE (KDADS, Providers)	<b>KDHE:</b> This project is well underway. Since July, KDHE, KDADS, and the CMHCs have been meeting weekly with various consultants to move the project forward. We have an ambitious timeline by which to complete necessary steps.	<b>KDADS:</b> KDADS is working with KDHE to complete the state plan amendment necessary for CCBHCs. Submission is expected to CMS by January. Ease of implementation score is 5.

Status	Recommendation Title	Recommendation	Action Lead Agency (Key Collaborators)	Lead Agency Response	Key Collaborator Response
<b>In Progress</b>	2.2 Addressing Inpatient Capacity	<p style="text-align: center;"><b>Funding and Accessibility Recommendations (Continued)</b></p> Implement and fund a comprehensive plan to address voluntary and involuntary hospital inpatient capacity needs while providing all levels of care across all settings.	KDADS (Legislature)	<p><b>KDADS:</b> KDADS has worked over the last year to implement a new provider type called State Institutional Alternatives (SIAs) to provide acute inpatient mental health treatment in community hospitals as an alternative to State hospital stays. The provider type allows community hospitals to admit patients in mental health crisis that meet the screening criteria for a State hospital level of care and receive a daily rate for those patients. The first 3 SIA hospitals began accepting patients on August 30 and three additional hospitals will start as SIAs on September 27. Construction for 12 additional certified beds at OSH in the Biddle Building is scheduled to begin in November 2021. The plans for the remodel are under review by Facilities Management in preparation for release to construction companies for bid. The additional licensed bed space needed to temporarily move patients before the Biddle construction starts is completed, except for a delay obtaining doors to complete the space. Ease of implementation score is 4.</p>	
<b>In Progress</b>	2.3 Reimbursement Rate Increase and Review	Implement an immediate increase of 10-15 percent for reimbursement rates for behavioral health services. After increasing reimbursement rates, establish a Working Group to regularly review the reimbursement structures for behavioral health services for both the uninsured and the Medicaid population.	Legislature (KDADS, KDHE, CMHCs)	<p><b>Legislature:</b> The SPARK Task Force added \$12.5 million to supplement existing grants to behavioral health providers for costs incurred while responding to the COVID-19 and to support the transition to telemedicine. The funding additionally supports mental health and substance use disorder treatment related to secondary impacts of COVID-19, focusing on uninsured and low-income populations.</p>	<p><b>KDHE:</b> The CCBHC model, once fully implemented, will increase Medicaid payments to CMHCs by \$40-\$70 million per year.</p>

Status	Recommendation Title	Recommendation	Action Lead Agency (Key Collaborators)	Lead Agency Response	Key Collaborator Response
<b>In Progress</b>	2.4 Suicide Prevention	Allocate resources to prioritized areas of need through data driven decision-making. Assist local suicide prevention efforts and promote local support groups in fund-raising efforts, building capacity, and increasing availability for survivors of suicide loss. Dedicate resources and funding for suicide prevention.	KDADS (Legislature, local efforts)	<p><b>Funding and Accessibility Recommendations (Continued)</b></p> <p><b>KDADS:</b> KDADS submitted a budget enhancement and supported legislation that would have provided funding for suicide prevention infrastructure for FY 22. The enhancement was not funded and the bill remains in committee. Funding is a barrier to progress. Despite not receiving new additional funding KDADS reallocated resources to create a position within BHS that will be a Full-time State Suicide Prevention Coordinator. Additionally through continued joint efforts, KDADS and State agency partners (KDHE, OAG) successfully completed the launch of the Kansas Suicide Prevention Coalition this month, which will connect and support local efforts. KDADS also invested in suicide prevention training and worked with partners at KDHE on Zero Suicide initiatives. Additionally, the GBHSPC completed and posted the new five-year State suicide prevention plan. KDADS continued its focus on SMVF populations by establishing a Governor's Challenge Extension program in the Flint Hills Region around Manhattan. Additional State funding is still needed to implement the plan and support local programming. Ease of implementation score is 8.</p>	
	2.5 Problem Gambling and Other Addictions Fund	Recommend the State continue to incrementally increase the proportion of money in the PGOAF that is applied to treatment over the next several years until the full funding is being applied as intended.	Legislature (Providers, KDADS)	<p><b>Legislature:</b> The Legislature added \$250,000, all from the PGOAF, for SUD grants for FY 22.</p>	<p><b>KDADS:</b> KDADS provided information to KLRD and several committees on PGOAF funds during the Session.</p>

Status	Recommendation Title	Recommendation	Action Lead Agency (Key Collaborators)	Lead Agency Response	Key Collaborator Response
In Progress	3.1 Crisis Intervention Centers	Utilize State funds to support the expansion of Crisis Intervention Centers, as defined by state statute, around the state.	<p style="text-align: center;"><b>Community Engagement Recommendations</b></p> <p style="text-align: center;">KDADS (KDHE, Legislature)</p>	<p><b>KDADS:</b> KDADS continues to work with CMHCs to expand crisis services. The CIC regulations have been drafted and currently being prepared for submission by our legal team. KDADS has utilized increases in revenue from the Lottery vending machines to expand current programming and there is a new set aside in the MHBG for crisis services that was added this year. CCBHCs will help provide additional revenue through KanCare for crisis services. KDADS also supported a bill last session that would have expanded funding for crisis services but that bill remains in committee. Additional State funding would expedite the expansion. Ease of Implementation score is 7.</p>	
	3.2 IPS Community Engagement	Increase engagement of stakeholders, consumers, families, and employers through KDHE or KDADS by requiring agencies implementing the IPS program, an evidence-based supported employment program, to create opportunities for assertive outreach and engagement for consumers and families.	<p style="text-align: center;">KDHE, KDADS (Legislature)</p>	<p><b>KDHE:</b> KDHE administers the STEPS program, which incorporates IPS principles. Individuals with qualifying behavioral health diagnoses (<i>i.e.</i> schizophrenia, PTSD) may qualify for STEPS. STEPS includes the following IPS principles: it aims to get participants into competitive employment; it is open to all eligible individuals who want to work; it tries to find jobs consistent with individual preferences; it works quickly; employment specialists develop relationships with employers; it provides time-unlimited, individualized support for the person and their employer; and benefits counseling is included.</p> <p><b>KDADS:</b> KDADS included IPS in the NFMH pre-litigation settlement practice improvements and is in the process of hiring staff to provide IPS quality assurance and fidelity review. KDADS has established regular meetings with DCF's VocRehab team and an interagency Employment First team. KDADS is reengaging with IPS experts at the national level for technical assistance and plans to include IPS in services offered by CCBHCs. KDADS continues to work with GBHSPC. Ease of implementation score is 5.</p>	<p><b>KDADS:</b> KDADS has participated in KDHE's steering meetings during the implementation of the KanCare STEPS supported employment project.</p>

Status	Recommendation Title	Recommendation	Action Lead Agency (Key Collaborators)	Lead Agency Response	Key Collaborator Response
<b>In Progress</b>	3.3 Foster Homes	<p>The State of Kansas should invest in foster home recruitment and retention by increasing funding for supplemental training on behavioral health needs and providing additional financial incentives to support SED youth.</p>	<p>DCF (KDADS)</p>	<p><b>Community Engagement Recommendations (Continued)</b>  <b>DCF:</b> DCF investments include activities such as Family Crisis Response and Support Mobile Response statewide and creating the Caregiver's Guide to Psychotropic Medications in collaboration with KDADS. In addition, approaches such as TBRI are being implemented by some case management agencies in parts of the state. DCF contract funding supports CAK recruitment and retention contracts who administer a robust menu of web-based and other opportunities for training topics such as Understanding and Managing Aggressive Behaviors, Cognitive Behavioral Interventions, De-escalation Techniques; Nonviolent Crisis Intervention; Safe Crisis Management; Behavior and Crisis Management and more. CAK implemented a new curriculum: CORE TEEN – a 14-hour curriculum designed for families who support older youth from the child welfare system who have moderate to severe emotional and behavioral challenges to and decrease placement disruption. In SFY 21, DCF increased funding for supplemental training on behavioral health needs by \$467,145.60 using federal adoption and legal guardianship incentive funds for a new contract with CAK to innovate supports for relative caregivers. This contract continues to develop right-time, on-demand trainings with focus on supporting youth with behavioral health care needs. These "online, on-demand" trainings can be modified to become accessible for foster and adoptive caregivers as well.</p>	

Status	Recommendation Title	Recommendation	Action Lead Agency (Key Collaborators)	Lead Agency Response	Key Collaborator Response
In Progress	3.4 Community-Based Liaison	Fund and improve resources for community-based liaison to facilitate connection to treatment and support services (e.g., community mental health services) upon re-entry as a component of pre-release planning and services for justice-involved adults and youth with SUD and co-occurring conditions.	KDADS (KDOC, CMHCs, Legislature)	<b>KDADS:</b> KDADS has included jail liaisons in the CMHC participating agreements and worked with KDOC on re-entry issues through TA opportunities through CSG. The Stepping Up TA Center is operational with block grant funding and both the center and KDADS have been involved in helping the Chief Justice plan a Behavioral Health Summit to further support local communities. Additional State funding would be beneficial. Ease of implementation score is 6.	<b>KDOC:</b> KDOC funds a liaison at COMCARE and some part time services at Valeo (Shawnee County), Wyandotte and Johnson County CMHCs. We remain supportive of this model in all CMHCs, however it will require Legislative action to provide funding.
	4.1 988 Suicide Prevention Lifeline Funding	Once the 988 NSPL phone number is implemented, Kansas should collect fees via phone bills to support increasing the in-state answer rate and ensure that callers are connected to in-state resources.	KDADS (Crisis centers, CMHCs, Legislature)	<b>KDADS:</b> KDADS supported legislation to this effect last session, that legislation remains in committee. \$3 million in SGF funding was provided to KDADS to provide grants to the 988 call centers. Those grants have been awarded to KSPHQ, ComCare, and Johnson County CMHC. 988 planning is nearing completion and a draft of the implementation plan should be available soon. No federal funding for 988 has been provided. Ease of implementation score is 5.	
In Progress	4.2 Early Intervention	Increase access to early childhood mental health services by including additional language in the Medicaid state plan to explicitly cover the cost of early childhood mental health screening, assessment, and treatment.	KDHE, KDADS (DCF, MCOs)	<b>KDHE:</b> The recommendation to add language to the Medicaid State Plan to expressly cover these services is under review. Implementing this recommendation would likely have a fiscal impact. <b>KDADS:</b> KDADS is continuing to research the fiscal impact and feasibility of this recommendation during KanCare 2.0 with regards to budget neutrality. KDADS may ultimately consider a recommendation to try and achieve this as part of KanCare 3.0. Ease of implementation score is 3.	<b>DCF:</b> DCF is part of the statewide early childhood director's group and collaborates on projects in early care including home visiting programs and pre-school development. DCF's budget supports through TANF, Family First and State funds grant dollars to evidenced based parent skill building programs Healthy Families America and Parents as Teachers. We will continue to support KDHE in any state plan adjustments to cover services or supports for early childhood age groups.

Status	Recommendation Title	Recommendation	Action Lead Agency (Key Collaborators)	Lead Agency Response	Key Collaborator Response
<b>Prevention and Education Recommendations (Continued)</b>					
<b>Completed</b>	4.3 Centralized Authority	Centralize coordination of behavioral health - including substance use disorder and mental health - policy and provider coordination in a cabinet-level position.	Office of the Governor (KDADS, KDHE, KSDE)	<b>Office of the Governor:</b> KDADS Secretary Laura Howard has been designated the centralized authority.	<b>KSDE:</b> KSDE agrees that policy development and implementation would benefit with a centralized coordinator. <b>KDADS:</b> Completed - Secretary Laura Howard has been designated as the centralized authority
<b>In Progress</b>	4.4 Behavioral Health Prevention	Increase state funds for behavioral health prevention efforts (e.g., SUD, prevention, suicide prevention).	KDADS (KDHE, Legislature, providers)	<b>KDADS:</b> KDADS supported legislation to this effect last session; that legislation remains in committee. KDADS was successful in applying for additional federal grant funds to support prescription misuse, but has not received any additional state funding at this time. KDADS did reallocate agency funding to fill the State Suicide Prevention Coordinator position. KDADS did review its state plan for the SABG to consider reallocating treatment dollars to prevention. Ease of implementation score is 5.	<b>KSDE:</b> Funded headcount for PRTF, JDC, and Flint Hills Job Corp declined in 2020-21 from 491.4 to 450.6. COVID-19 was a likely factor in the decline.
<b>Treatment and Recovery Recommendations</b>					
<b>In Progress</b>	5.1 Psychiatric Residential Treatment Facilities	Monitor ongoing work to improve care delivery and expand capacity at PRTFs to meet the needs of youth for whom a PRTF is medically appropriate, such as through reductions in the PRTF waitlist and a focus on reintegration and discharge planning, including with schools.	KDADS (KSDE, KDHE, CMHCs, MCOs)	<b>KDADS:</b> KDADS continues to monitor progress on PRTF waitlists weekly. Currently, Kansas has more licensed PRTF beds that are unstaffed due to workforce issues than it has children on the waitlists. \$1 million was added to the KDADS budget to support the piloting of the NRI study recommendations at EmberHope. EmberHope has completed its licensing requirements and its grant award is being finalized. They will begin serving children in October. Ease of implementation score is 7.	
<b>Completed</b>	5.2 Service Array	Explore options to expand the behavioral health service array, including the expansion of MAT in block grant services. Make the expanded service array available to individuals across the state, such as KanCare enrollees, those with private insurance and the uninsured.	KDADS (KDHE, DCF, providers, private insurers)	<b>KDADS:</b> KDADS has explored options and did expand MAT in Block Grant services. Ease of implementation score is 5.	<b>DCF:</b> DCF does not manage for expansion any MAT programs specifically; however, it collaborates with KDHE and KDADS around common programs and goals.

Status	Recommendation Title	Recommendation	Action Lead Agency (Key Collaborators)	Lead Agency Response	Key Collaborator Response
<b>Treatment and Recovery Recommendations (Continued)</b>					
<b>In Progress</b>	5.3 Frontline Capacity	Increase capacity of frontline healthcare providers (e.g., pediatricians, family physicians, and OB-GYNs) to identify and provide services to those with behavioral health needs.	KDHE (Private insurers, providers, KDADS)	<b>KDHE:</b> KDHE's ARPA Section 9817 spending plan includes funding to commission a training to help improve service access and quality for HCBS individuals. This would include those with a behavioral health diagnosis. The spending plan is currently pending CMS approval.	
<b>In Progress</b>	5.4 Housing	Expand and advance the Supported Housing program and the SOAR program, including additional training regarding youth benefits	KDADS (Homelessness Subcommittee of Governor's Behavioral Health Services Planning Council, ACMHC, Association of Addiction Professionals, KDHE)	<b>KDADS:</b> KDADS was successful in receiving a requested budget enhancement to expand Supported Housing and hire a Housing First position. The funds granted have been awarded to Douglas County as seed money in FY 22 to launch their Housing First team and KDADS continues to look at how ARPA funds can be used to further expand Supported Housing. Kansas is also now one of the leading states in the SOAR program and we continue to look at how we can expand SOAR services to youth, including the creation of a position in BHS to support that effort. Ease of implementation score is 8.	
<b>Special Populations Recommendations</b>					
<b>Completed</b>	6.1 Domestic Violence Survivors	Build awareness of and responsiveness to the behavioral health needs and risks of domestic violence survivors of all ages through data analysis, information sharing, workforce training, and targeted interventions between domestic violence providers, state agencies and community providers serving individuals impacted by domestic violence.	DCF  (KDADS, KDHE, community-based organizations, providers)	<b>DCF:</b> DCF administers grants for domestic violence services that provide adults who have been victimized by domestic violence and/or sexual abuse with safety planning, mentoring services, healthy relationship training, conflict resolution training, financial literacy training and responsible parenting skills training. The grants are with Catholic Charities, Family Crisis Center, SafeHome, The Willow, and the YWCA. Since January 2021, DCF has had a contract with KCSDV for a two-part virtual training series called Training Strategies and Skills to Address Domestic Violence in Child Welfare. The participants include employees of DCF, the Child Welfare Case Management providers and other partners. Through August 2021, 205 participants have engaged in the series. DCF anticipates approximately 500 child welfare staff and advocates will participate in this learning opportunity in 2022. DCF also has a training and development contract with KCSDV.	

Status	Recommendation Title	Recommendation	Action Lead Agency (Key Collaborators)	Lead Agency Response	Key Collaborator Response
<b>Special Populations Recommendations (Continued)</b>					
<b>In Progress</b>	6.2 Parent Peer Support	Increase access to parent peer support for caregivers and families of youth in the behavioral health system, including ensuring appropriate supports for fathers of dependent children.	KDADS (DCF, KDHE)	<p><b>KDADS:</b> KDADS is close to completing this recommendation; grant funding ran out before the project could be fully completed. KDADS is working to try to identify additional funding sources to complete the project. An SPA is being developed along with an accompanied KanCare policy. Funding is the main barrier at this point. Ease of implementation score is 5.</p>	<p><b>DCF:</b> DCF collaborates with KDADS in several workgroups and service coordination areas and will continue to support KDADS in any way we can to increase access to the parent peer support service.</p>
<b>Completed</b>	6.3 Crossover Youth	Continue to develop linkages between the behavioral health system, juvenile justice system and the child welfare system to increase understanding of treatment options available to youth externalizing trauma in the crossover youth population as current treatment options are not meeting the needs of this population. Then, develop specialty services to meet the needs of this population.	DCF (KDADS, KDOC, KDHE)	<p><b>DCF:</b> DCF has a dedicated full-time staff position to coordinate the CYPM and participates on the policy team. Through the FFPSA, the DCF budget includes grants for two Evidenced-based programs in mental health: Functional Family Therapy and Multi-Systemic Treatment designed to serve families with older youth. In addition, DCF has two smaller grants for an emerging specialty in in-home Behavior Intervention Services for any child in the custody of the Secretary using Adoption and Legal Guardianship Incentive funds.</p>	
<b>In Progress</b>	6.4 I/DD Waiver Expansion	Fully fund the I/DD waiver and expand I/DD waiver services. Increase reimbursement rates for I/DD services to support workforce expansion.	KDADS (DCF, KDHE)	<p><b>KDADS:</b> To implement the recommendation of the committee, additional investments would be necessary to fund an additional 4,500 individuals that are currently on the waitlist. As part of the 10 percent FMAP bump, we have proposed a study of the waitlist to determine which services and at what level of utilization the individuals waiting require and those findings will help inform the amount of funding needed. Further, appropriations would be needed to expand the services offered on the I/DD waiver. The cost would be dependent on the specific services desired to be added to the waiver and the estimated utilization of the services. Finally, there would be a fiscal note associated with any increase in reimbursement rate for I/DD waiver services.</p>	<p><b>DCF:</b> DCF will continue to support KDADS and the all efforts including waiver services through workgroups and participation in the recent Autism Task Team.</p> <p><b>Legislature:</b> The 2021 Legislature added \$5.5 million, including \$2.0 million SGF, in FY 2021 and \$31.0 million, including \$12.4 million SGF, for FY 22 to provide an increase in the provider reimbursement rates for the I/DD waiver. This includes a 5.0 percent increase for the final three months of FY 21 and an additional 2.0 percent for FY 22.</p>

Status	Recommendation Title	Recommendation	Action Lead Agency (Key Collaborators)	Lead Agency Response	Key Collaborator Response
<b>In Progress</b>	6.5 Family Treatment Centers	Increase the number and capacity of designated family SUD treatment centers, as well as outpatient treatment programs across the state.	KDADS (DCF, KDHE)	<b>KDADS:</b> While KDADS is supportive of this recommendation and continues to license and designate facilities as they are opened, KDADS has not yet sought additional funding to incentivize providers to open these types of facilities. Ease of implementation score is 5.	<b>DCF:</b> DCF will continue to support KDADS efforts to expand capacity and promote the expansion and access with populations we serve who might have a need for the service.
	<b>Special Populations Recommendations (Continued)</b>				
<b>In Progress</b>	7.1 State Hospital EHR	The new state EHR system should be interoperable with other data systems in the state. Interoperability should include the ability to automate the current process to reinstate Medicaid benefits following discharge.	KDADS (EHR vendor, KDHE)	<b>KDADS:</b> KDADS and the State hospitals are in the procurement process to purchase an EHR system. We are in the final stages of reviewing proposals and expect to make an award by December 2021. Interoperability is a key expectation in the request for proposals including data sharing among the hospitals and community partners. Ease of implementation Score 9	
	7.2 Data and Survey Informed Opt-Out	Collect, analyze, use, and disseminate surveillance data to inform prevention. Change legislation regarding public health and behavioral health state surveys, including changing KCCTC and YRBS surveys from an opt-in consent to an informed opt-out consent, to allow for meaningful data collection.	Legislature (KDADS, KDHE)	<b>Legislature:</b> 2021 SB 139 and HB 2159, which would permit the administration of certain tests, questionnaires, surveys, and examinations regarding student beliefs and practices on an opt-out basis, are both in committee.	<b>KSDE:</b> KSDE agrees with recommendations from the School Mental Health Advisory Council and the Blue Ribbon Panel on Bullying that making the KCCTC and YRBS informed opt-out would be beneficial for data collection.
<b>In Progress</b>	7.3 Information Sharing	Utilize Medicaid funds to incentivize participation in HIEs (e.g. KHIN or LACIE). Explore health information exchanges as an information source on demographic characteristics, such as primary language and geography for crossover youth and other high priority populations.	KDHE (KHIN, Providers)	<b>KDHE:</b> KDHE is studying this recommendation as it pertains to using Medicaid funds to incentivize participation in HIEs.	

Status	Recommendation Title	Recommendation	Action Lead Agency (Key Collaborators)	Lead Agency Response	Key Collaborator Response
In Progress	7.4 Needs Assessment	Conduct a statewide needs assessment to identify gaps in funding, access SUD treatment providers and specific policies to effectively utilize, integrate and expand SUD treatment resources.	KDADS (KDHE)	<p><b>KDADS:</b> KDADS has been exploring what resources will be needed to conduct a statewide needs assessment specific to SUD services. At this time KDADS has not yet made a funding request for this recommendation. Ease of implementation score is 7.</p>	
	7.5 Cross-Agency Data	Encourage state agencies to develop policies that improve their ability to access and review cross-agency data for making service and program decisions based on a thorough, shared needs assessment.	KDADS (KDHE, DCF, KDOC, KSDE)	<p><b>KDADS:</b> KDADS is working with key collaborators on TA projects with federal TA providers that include data sharing policies and MOU development around a variety of subject areas. Continued collaboration is moving towards formalization of these agreements. A primary example being the PDMP (K-TRACS) and agreements between KDADS and Board of Pharmacy to utilize data for reporting purposes. Ease of implementation score is 6.</p>	<p><b>KDOC:</b> KDOC has no additional content to submit on this item.</p> <p><b>KSDE:</b> DCF provides a daily file to KSDE listing the children in foster care. KSDE and DCF also collaborate to create the Foster Child Report Card. DCF also assists with background checks on applicants for teaching licenses. KDHE and KSDE have worked closely with weekly Zoom meetings throughout much of the pandemic. KDHE is facilitating grant funds and programming to assist schools with COVID-19 testing to allow more students to stay in school.</p> <p><b>DCF:</b> DCF has data sharing agreements with KDHE and access to management or ad hoc reports on various service codes or trends. For example, DCF can request management information on crisis code or psychotropic medication utilization. For over 10 years, KDOC-Juvenile Services and DCF have conducted data analysis of cross-agency data to understand overlap between the foster care population and KDOC service use of Juvenile Intake and Assessment, Intensive Supervision and Juvenile Correctional Facility custody.</p> <p><b>KDHE:</b> KDHE intends to pursue legislation to allow the agency to report the state's compliance with the SUPPORT Act beginning in 2022. The SUPPORT Act will require Medicaid prescribers to check K-TRACS before prescribing a controlled substance to a Medicaid beneficiary. KDHE would need a statutory change to access K-TRACS data to monitor prescribers' compliance with that requirement.</p>
In Progress					

Status	Recommendation Title	Recommendation	Action Lead Agency (Key Collaborators)	Lead Agency Response	Key Collaborator Response
<b>In Progress</b>	8.1 Correctional Employees	Expand training provided in correctional facilities to allow employees to better recognize those with substance use disorders, use a trauma-informed approach to identify other mental health needs, and connect those with needs to available services.	KDADS (KDOC, local law enforcement agencies)	<b>KDADS:</b> KDADS and KDOC worked on a TA project this past year and made some changes to how inmates are screened for SUD upon intake. This helps identify the needs of the inmate and puts them on a path for treatment and recovery upon release. KDADS is continuing to provide CIT and LEO training on behavioral health. This is an ongoing effort to expand training and more expansion is still needed. Ease of implementation score is 8.	<b>KDOC:</b> KDOC has delivered a training to all staff on substance abuse and evidence-based practices, which included contextual data on the prevalence within our population. We have updated this lesson plan with information about what was going on with use in the facilities, and how staff could all help detect and prevent.
<b>In Progress</b>	8.2 Criminal Justice Reform Commission Recommendations	Implement recommendations developed by the CJRC related to specialty courts (e.g., drug courts) and develop a process for regular reporting on implementation status and outcomes.	Legislature (KDADS, KDOC)	<b>Legislature:</b> 2021 HB 2077 amended law related to the Kansas Criminal Justice Reform Commission by removing statutory study requirements relating to specialty courts, evidence-based programming, specialty correctional facilities, and information management data systems.	<b>KDOC:</b> The KDOC Secretary and other key KDOC staff continue to be regular contributors to the discussions of the C-JRC.  <b>KDADS:</b> KDADS continues to work with CSG on the Stepping Up Initiative and jail diversion programs like specialty courts and is meeting with the Sentencing Commission and participating in planning of the Chief Justice's behavioral health summit where these ideas and others are being showcased. Ease of implementation score is 5.
<b>Completed</b>	8.3 Law Enforcement Referrals	Increase utilization and development of evidence-based SUD referral as well as treatment and recovery services among persons with law enforcement contact, which could include securing funding to increase access to services for this population.	KDOC (KDADS, providers)	<b>KDOC:</b> In cooperation with the healthcare vendor Centurion, KDOC established an SUD assessment and referral system for residents entering the system effective July 1, 2021. If a resident is determined to suffer from Opioid Use Disorder, that resident is eligible for MAT. Processes are also in place among our Parole Officers who routinely make referrals to the RADACs to connect those under supervision to recovery services, programs and treatment.	

Status	Recommendation Title	Recommendation	Action Lead Agency (Key Collaborators)	Lead Agency Response	Key Collaborator Response
<b>Completed</b>	8.4 Defining Crossover Youth Population	<p><b>Interactions with Legal System and Law Enforcement (Continued)</b></p> <p>Future efforts should include behavioral health within an operationalized definition for youth with offender behaviors at risk of entering foster care, as well as including diverted youth in the definition of the broader juvenile offender population.</p>	<p>KDOC, KDADS (DCF)</p>	<p><b>KDOC:</b> As recommended by the Joint Committee on Corrections and Juvenile Justice Oversight, KDOC has contracted with Georgetown University McCourt School of Public Policy's Center for Juvenile Justice Reform (CJJR) to implement the Cross Over Youth Model through the use of the Evidence Based Fund. There is an established Statewide Policy Team (SPT) that has defined Cross Over Youth for the State of Kansas.</p> <p><b>Crossover Youth:</b> a young person age 10 or older with any level of concurrent involvement with the child welfare and juvenile justice systems. "Involvement" in the juvenile justice system includes court-ordered community supervision and IIPs. "Involvement" in the child welfare system includes out-of-home placement, an assigned investigation of alleged abuse or neglect with a young person named as the alleged perpetrator, and/or participation in voluntary/preventative services cases that are open for service.</p> <p>The multi-disciplinary collective that became the Kansas State Crossover Youth Practice Model State Policy Team in 2019 continues to hold monthly public meetings under the facilitation of the Statewide Coordinators with the support of CJJR. The team's focus continues to be on intentional interagency collaboration, the facilitation of information sharing, adaptability and accountability, and the active incorporation of youth and family voices in decisions.</p>	<p><b>DCF:</b> The Kansas Crossover Youth State Policy Team has defined the population with a goal to provide inclusive services to youth and their families with emphasis on prevention and accessibility. DCF has available to any youth at risk of entering foster care evidenced based mental health services of Multisystemic Therapy and Functional Family Treatment for the older youth population. DCF expanded availability of Multisystemic Therapy, Functional Family Treatment and Parent Child Interaction Therapy through Family First Prevention service array.</p>

Status	Recommendation Title	Recommendation	Action Lead Agency (Key Collaborators)	Lead Agency Response	Key Collaborator Response
<b>In Progress</b>	9.1 Regional Model	Develop a regional model that would supplement the traditional state hospital setting with regionalized facilities accepting both voluntary and involuntary admissions for persons in acute services as well as longer-term/tertiary specialized care. Currently, there is a particular gap in capacity in south central Kansas.	KDADS (Providers, Local Units of Government, Law Enforcement)	<b>KDADS:</b> KDADS has worked over the last year to implement a new provider type called State Institutional Alternatives to provide acute inpatient mental health treatment in community hospitals as an alternative to state hospital stays. The provider type allows community hospitals to admit patients in mental health crisis that meet the screening criteria for a state hospital level of care and receive a daily rate for those patients. The first three SIA hospitals began accepting patients on August 30 and three additional hospitals will start as SIAs on September 27. The three hospitals starting in September are in Wichita, Newton, and Arkansas City.	
<b>In Progress</b>	9.2 Long-Term Care Access and Reform	Reform NFMHs to allow for the provision of active treatment and necessary rehabilitative services and crisis services in NFMHs and inclusion within the continuum of care. Increase access to LTC facilities, particularly for individuals with past involvement with the criminal justice system or those with a history of sexual violence.	KDADS (KDHE)	<b>KDADS:</b> KDADS has developed a strategic plan to complete this recommendation as part of the NFMH prelitigation agreement. The plan calls for several practice improvements that will reform both NFMHs and community-based services in terms of how patients are assessed, screened, and provided informed choice regarding their treatment options. The actual length of time this strategic plan will take to complete is eight years but many of the practice improvements will be completed sooner. KDADS has begun reorganizing and hiring staff to work on these practice improvement areas, which also include additional concepts introduced in other MHMR recommendations. Ease of implementation score is 8.	<b>KDHE:</b> KDHE is in full support of the NFMH pre-litigation agreement and will work diligently to ensure the agency's obligations under the agreement are met.

Status	Recommendation Title	Recommendation	Action Lead Agency (Key Collaborators)	Lead Agency Response	Key Collaborator Response
<b>In Progress</b>	9.3 Integration	Increase integration, linkage, collaboration and identify care transition best practices among mental health, substance abuse, primary care and emergency departments across the state. Adopt coding practices that allow for the integration of services across the continuum of care domains (including, but not limited to, primary care, substance use disorder, and mental health) to provide more integrated services to clients with co-occurring conditions.	KDADS/KDHE (Legislature, CMHCs, FQHCs, other safety net providers)	<p><b>KDADS:</b> KDADS has been working with KDHE to explore opportunities to integrate care, and review current codes in KanCare. CCBHCs and Mobile Crisis will have a significant impact on this when they are fully implemented. Changes to KanCare in the upcoming KanCare 3.0 will also be a significant factor. Ease of implementation score is 6.</p> <p><b>KDHE:</b> KDHE and KDADS are in the process of establishing the CCBHC system in Kansas. DCF, KDADS, and KDHE have partnered to help launch mobile crisis response services for youth, which are scheduled to go live in October 2021.</p>	
	9.4 Evidence Based Practices	Kansas should continue and expand support for use of EBP in the state, including for housing and supported employment. Coordinate EBP utilization across systems (e.g., law enforcement, SUD, mental health care) with a goal of implementing programs with fidelity, when possible.	KDADS (DCF)	<p><b>KDADS:</b> KDADS has established an EBP workgroup as a subcommittee of the GBHSPC. Additionally KDADS has begun developing a quality assurance team that will have EBP fidelity reviewers for selected EBPs, and will work to implement those EBPs across the system. Specifically we will be using federal funding to support ACT, IPS, and Housing First as we implement CCBHCs and the NFMH Pre litigation Agreement. Ease of implementation score is 6.</p>	<p><b>DCF:</b> DCF expanded the availability of mental health evidence-based prevention programs through Multisystemic Therapy, Functional Family Treatment and Parent Child Interaction Therapy through Family First Prevention grant service array.</p>
<b>In Progress</b>	9.5 Family Psychotherapy	Enable utilization of procedure code 90846 in Medicaid as a tool to support youth in foster care, as well as any child accessing care in a PRTF.	KDHE Division of Healthcare Finance (DCF)	<p><b>KDHE:</b> KDHE understands the need to add this as a covered code and is actively working on determining (1) the fiscal impact of adding this code to the array of Medicaid-covered services; (2) what SPA language would be necessary to gain CMS approval to cover the code; and (3) how this code would fit into the CCBHC PPS payment model.</p>	<p><b>DCF:</b> DCF would support Medicaid covering that code.</p> <p><b>KDADS:</b> KDADS is working with KDHE to complete the state plan amendment necessary for 90846 Submission is expected to CMS by January. Ease of implementation score is 10.</p>

Status	Recommendation Title	Recommendation	Action Lead Agency (Key Collaborators)	Lead Agency Response	Key Collaborator Response
<b>In Progress</b>	10.1 Quality Assurance	<p>Develop standards to ensure high-quality telehealth services are provided, including:</p> <ul style="list-style-type: none"> <li>- Establishing consistent guidelines and measures for telehealth in collaboration with licensing and regulatory agencies;</li> <li>- Implementing standard provider education and training;</li> <li>- Ensuring patient privacy;</li> <li>- Educating patients on privacy-related issues;</li> <li>- Allowing telehealth supervision hours to be consistently counted toward licensure requirements; and</li> <li>- Allowing services to be provided flexibly when broadband access is limited.</li> </ul>	<p>Various (KDHE, KDADS, Providers, BSRB, private insurers, regulatory agencies)</p>	<b>Telehealth Recommendations</b>	<p><b>BSRB:</b> The Board, and the seven advisory committees under the Board, have had ongoing discussions and recommendations concerning the expansion of telehealth. The Board is working on establishing consistent guidelines for practitioners, in part by working with representatives from multi-state compacts for professions providing telehealth services across state lines. Additionally, the Board is in the process of reviewing and updating existing regulations, including disciplinary guidelines, as these relate to licensees performing more telehealth services. Concerning telehealth supervision hours, the Board of the BSRB requested introduction of HB 2208 during the 2021 Legislative Session, which was enacted by the Legislature. HB 2208 allowed most professions under the BSRB to attain all supervision hours over televideo. For the profession of Licensed Psychology, current regulatory language limits televideo supervision to no more than one out of every four sessions. Staff for the BSRB brought this issue to the Licensed Psychology Advisory Committee and that Committee recommended removing the limitation. The Board recently voted to make that change in regulation, so the agency is submitting regulatory language to allow all supervision by televideo for Licensed Psychologists. Concerning assisting with allowing services to be provided flexibly when broadband access is limited, to assist with supervision of practitioners seeking a clinical level license, the BSRB included language in enacted HB 2208 to allow supervision hours over telephone, under extenuating circumstances as approved by the Board. The Board will be discussing these recommendations in more detail at the Board's Annual Planning Meeting on Monday, September 27, 2021.</p> <p>KDHE: Kansas Medicaid permits the use of telephone or videoconferencing for many telehealth codes.</p>

Status	Recommendation Title	Recommendation	Action Lead Agency (Key Collaborators)	Lead Agency Response	Key Collaborator Response
<b>In Progress</b>	10.2 Reimbursement Codes	Maintain reimbursement codes added during the PHE for tele-behavioral health services and consider options to prevent loss of facility fees so that providers are not losing revenue by delivering telehealth services.	KDHE Division of Healthcare Finance (KDADS, MCOs, CMHCs)	<b>Telehealth Recommendations (Continued)</b> <b>KDHE:</b> KDHE concurs that telehealth codes added during the pandemic should be maintained, subject to CMS allowing federal match for those codes. Regarding facility fees, KDHE is studying this recommendation. There would be a fiscal impact if this recommendation is implemented, and non-behavioral health providers would likely also seek the same treatment of facility fees for telemedicine services.	<b>KDADS:</b> The United States continues to be in the PHE, but KDADS does support maintaining expansion and has advocated at the federal level for that to continue.
<b>Completed</b>	10.3 Telehealth for Crisis Services	Establish coverage of telehealth for crisis services to allow for the use of telehealth with law enforcement and mobile crisis services. Explore virtual co-responder models for law enforcement and police departments and other law enforcement agencies as they respond to mental health crisis in rural and frontier communities.	KDHE (KDADS, KDOC, DCF, local law enforcement agencies, providers)	<b>KDHE:</b> KMAP Bulletin Nos. 20065 and 20086 state that effective with dates of service on or after March 12, 2020, procedure codes H2011 (Crisis Intervention at the Basic Level); H2011 HK (Crisis Intervention at the Intermediate Level); and H2011 HO (Crisis Intervention at the Advanced Level) will be allowed to be reimbursed via telemedicine (both tele-video and telephone). Billing for these two codes is contingent upon KDADS approval of the individual crisis protocol utilized at a specified CMHCs. In addition, the State has submitted an SPA to allow for delivery of mobile crisis services for youth.	<b>KDOC:</b> KDOC has no additional content to submit on this item. <b>DCF:</b> On October 1, 2021 Beacon Health Options begins operations of a statewide centralized call center for crisis line that is audio using a phone line for the crisis intake and triage services. If mobile response is needed, an in-person response is not feasible, telehealth options are available for use with the mobile response service assessment. <b>KDADS:</b> KDADS and KDHE have included this option in their current SPA and policy codes for the mobile crisis code.
<b>In Progress</b>	10.4 Originating and Distant Sites	The following items should be addressed to ensure that individuals receive - and providers offer - telehealth in the most appropriate locations: - Adopt a broad definition of originating site, consistent with the Kansas Telemedicine Act; - Allow staff to provide services from homes or other non-clinical sites, if patient privacy and safety standards can be met; and - Examine issues related to providers practicing, and patients receiving, services across state lines, such as by exploring participation in interstate licensure compacts.	Legislature (KDHE, KDADS, providers)	<b>Legislature:</b> The Legislature enacted SB 283, which amends a provision allowing an out-of-state physician to practice telemedicine to treat Kansas patients to replace a requirement that such physician notify the State Board of Healing Arts (Board) and meet certain conditions with a requirement the physician hold a temporary emergency license granted by the Board.	
<b>In Progress</b>	10.5 Child Welfare System and Telehealth	Utilize telehealth to maintain service and provider continuity as children, particularly foster children, move around the state. Consider how the unique needs of parents of children in the child welfare system can be met via telehealth.	KDHE (KDADS, DCF)	<b>KDHE:</b> KDHE recognizes the value telehealth provides and has no present plans to roll back flexibilities allowed during the pandemic. However, the Kansas Medicaid program must follow CMS rules governing the allowability of telehealth in order to qualify for federal matching funds for those services.	<b>DCF:</b> Technology for remote contacts can be used for interactions, services, and supports between case managers and service providers with children and youth in care. CMHCs and other service providers or supports may use technology based on standards of the service or needs of the family.

## **SCOPE OF WORK: Working Groups of the 2021 Special Committee on Mental Health Modernization and Reform**

### **Background**

The Legislative Coordinating Committee approved six days in 2021 for the Special Committee on Mental Health Modernization and Reform (Special Committee) and its roundtable members to convene to:

1. Ensure that both inpatient and outpatient services are accessible in communities;
2. Review the capacity of current behavioral health workforce;
3. Study the availability and capacity of crisis centers and substance abuse facilities;
4. Assess the impact of recent changes to State policies on the treatment of individuals with behavioral health needs; and
5. Make recommendations on steps needed to make Kansas a nationwide leader on behavioral health delivery, specifically focusing on how Kansas should modernize its behavioral health delivery system.

The Special Committee will convene three working groups to revisit recommendations from the 2020 interim, revise and update them as necessary, add new recommendations related to topics directed to them by the Special Committee, identify up to five existing, revised or new recommendations for “immediate action,” and up to five as being of “strategic importance,” using criteria developed in the roundtable discussion, and ratify reports.

KHI will facilitate the working groups, with topics to be assigned by the Special Committee:

1. Services and Workforce (tentatively including issues 1, 3, 4, 5, 6 from 2020 cycle – see attachment)
2. System Capacity and Transformation (tentatively including issues 2, 7, 8, 9 from 2020 cycle)
3. Telehealth (special topic, based on issue 10 from 2020 cycle)

The working groups will meet for 90 minutes three times each (or four for the telehealth group). One additional meeting per working group *may* be scheduled prior to the ratification meeting if necessary to complete its section of the report. The working group reports will be abbreviated, focusing on revisions and additions to the previous version of the report, which will be preserved as the foundation for the new work.

### **KHI Services**

- Administrative Support:
  - KHI will assist with inviting experts to the working groups.
  - KHI will distribute working group meeting materials.
  - Kansas Legislative Office of Information Services (KLOIS) will set up WebEx meetings and live casts.

- KHI, with working group chairpersons, will provide an update of workgroup progress at Special Committee meetings.
- Process Facilitation Services:
  - KHI will build on the 2020 structured process to revise the strategic framework.
  - KHI will invite experts if requested by workgroup members.
  - KHI may develop and administer surveys to collect feedback as part of the facilitation process.
  - KHI may meet with workgroup chairpersons to ensure workgroup is on track and resolve any issues.
- Working Groups Report:
  - KHI will assist in the revision, layout and presentation of the updated Strategic Framework, based on the decisions of each working group.
  - KHI will deliver an electronic copy of the draft report as to the Special Committee no later than December 10, 2021.
  - KHI will prepare and present testimony, if requested, to legislative committees during the 2022 Legislative session.
- Miscellaneous Deliverables: Intermediate deliverables may be created as part of the facilitation process.

### **Deliverables**

- Develop report by Dec. 10, 2021.
- Working group Chairperson(s) and KHI will provide updates at Special Committee meetings.
- Working group Chairperson(s) will present relevant section of the report to the Special Committee.

### **Structure**

- Special Committee and Roundtable members will volunteer for/be assigned to each Working Group. KHI recommends no more than 15-20 members per working group.
- Special Committee will provide the charge to the working groups.
- Working group members attend meetings remotely.
- Working group members might have to provide some information via survey.
- Working group decisions are made by consensus.

### **Meetings**

- Meetings will be held virtually via WebEx to last up to 90 minutes. See *Table 1*.
- Up to 10 working group meetings will be facilitated by KHI: three each for the Services and Workforce Working Group and the System Capacity and Transformation Working Group, and up to four for the Telehealth Working Group. One additional short meeting per working group may be scheduled if necessary to assist in report completion. All dates and times are in *Table 1*.
- KLRD will provide meeting notice to the public and WebEx information to working group members; KLOIS will schedule WebEx meetings, which will also be live cast.

**Table 1. Proposed Meeting Dates and Workgroup Tasks**

<b>Meeting</b>	<b>Task</b>	<b>Date</b>
Special Committee	KHI will facilitate discussion of working group charge and process, criteria identification for rubric and revisions, identification of barriers/facilitators for previous recommendations, deliverables	Sept. 28, 2021
Telehealth Working Group	<ul style="list-style-type: none"> <li>• Review charge and checklist</li> <li>• Review previous recommendations</li> <li>• Hear from supplemental experts</li> </ul>	Oct. 13, 2021 1 p.m. (90 min.)
Services and Workforce Working Group	<ul style="list-style-type: none"> <li>• Review charge and checklist</li> <li>• Review/revise previous recommendations</li> <li>• Identify new recommendations based on charge</li> </ul>	Oct. 14, 2021 10 a.m. (90 min.)
System Capacity and Transformation Working Group	<ul style="list-style-type: none"> <li>• Review charge and checklist</li> <li>• Review/revise previous recommendations</li> <li>• Identify new recommendations based on charge</li> </ul>	Oct. 14, 2021 1 p.m. (90 min.)
Telehealth Working Group	<ul style="list-style-type: none"> <li>• Revise previous recommendations</li> <li>• Identify new recommendations based on charge</li> </ul>	Oct. 20, 2021 1 p.m. (90 min.)
Special Committee	Working group reports updates to Committee on Oct. 28	Oct. 28-29, 2021
Services and Workforce Working Group	<ul style="list-style-type: none"> <li>• Prioritize recommendations</li> <li>• <i>(Supplement with survey prior to meeting)</i></li> </ul>	Nov. 3, 2021 1 p.m. (90 min.)
System Capacity and Transformation Working Group	<ul style="list-style-type: none"> <li>• Prioritize recommendations</li> <li>• <i>(Supplement with survey prior to meeting)</i></li> </ul>	Nov. 10, 2021 1 p.m. (90 min.)
Telehealth Working Group	<ul style="list-style-type: none"> <li>• Prioritize recommendations</li> <li>• <i>(Supplement with survey prior to meeting)</i></li> </ul>	Nov. 15, 2021 1 p.m. (90 min.)
Special Committee	Working group reports updates to Committee on Nov. 17	Nov. 17-18, 2021
All Working Groups	HOLD for potential 1-hour meetings for each working group if needed to resolve outstanding issues	Dec. 2, 2021
All Working Groups	Ratify Strategic Framework update <ul style="list-style-type: none"> <li>• Telehealth Working Group, Services and Workforce Working Group, System Capacity and Transformation Working Group</li> </ul>	Dec. 6, 2021 11 a.m., 1 p.m., 2 p.m.
Special Committee	Working group members present recommendations	Dec. 10, 2021

Meeting	Task	Date
2022 Legislative Session	Working group members present report to 2022 committees upon request. (KHI available to describe the process.)	2022 Legislative Session

Note: Additional surveys may be administered between working group meetings.

# **Strategic Framework for Modernizing the Kansas Behavioral Health System: 2021 High-Priority Update**

*Working Groups Report to the 2021 Special Committee  
on Kansas Mental Health Modernization and Reform*

December 15, 2021

[**Note:** Updated to reflect recommendations approved by the Special Committee at its meeting on December 15, 2021. The 2021 Working Group edits to the previous 2020 Working Group recommendations are shown in red in this report.]

## Acknowledgments

The working groups (*Appendix E*, [page E-1](#)) would like to thank the following individuals who provided topic-specific expertise: Jane Adams, Wyatt Beckman, Randal Bowman, The Honorable Glenn Braun, Andrew Brown, Scott Brunner, Dr. Rachel Brown, Darla Carra-Denton, Gail Cozadd, Marley A. Doyle, MD, Sheriff Jeff Easter, Richard Falcon, Sarah Fertig, Reverend David C. Fulton, David Fye, Lindsay Galindo, Koleen Garrison, Lauren Grace, John Hess, PhD, Dorothy Hughes, PhD, MHSA, David Jordan, Shawn Jurgensen, Kathy Keck, Kyle Kessler, Tanya Keys, Dr. Nicole Klaus, Monica Kurz, Jennifer Marsh, The Honorable Timothy McCarthy, Amber McMurray, Max Mendoza, Craig Neuenswander, EdD, Ericka Nicholson, Melissa Patrick, Nanette Perrin, PhD, Jack Pitsor, The Honorable Nicholas St. Peter, Angie Salava, Dr. Mark Schmidt, Rennie Shuler-McKinney, Lisa Southern, Representative Kristey Williams, Ron Wilson, Kyle Zebley, and Heidi Zimmerman.

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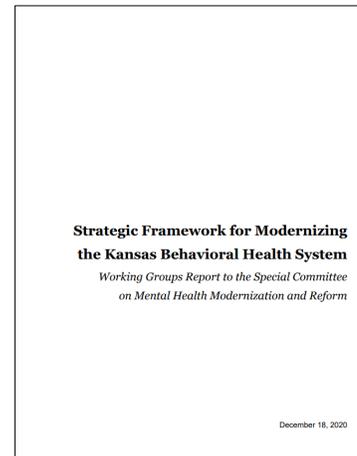
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# Background/Introduction

The Legislative Coordinating Council approved six days for the 2021 Special Committee on Kansas Mental Health Modernization and Reform (Special Committee) to:

- Ensure that both inpatient and outpatient services are accessible in communities;
- Review the capacity of the current behavioral health workforce;
- Study the availability and capacity of crisis centers and substance abuse facilities;
- Assess the impact of recent changes to state policies on the treatment of individuals with behavioral health needs; and
- Make recommendations on steps needed to make Kansas a nationwide leader on behavioral health delivery, specifically focusing on how Kansas should modernize its behavioral health delivery system.



To access the 2020 report, visit <https://bit.ly/3GabNV6>

The 2021 Special Committee convened three working groups to revisit recommendations from the 2020 report, *Strategic Framework for Modernizing the Kansas Behavioral Health System*. The working groups were asked to revise, update, and add to the recommendations as necessary to address topics directed to them by the Special Committee. The three working groups convened were Services and Workforce, System Capacity and Transformation, and Telehealth.

**Navigating this Report:** This report should be read in concert with the [2020 Strategic Framework for Modernizing the Kansas Behavioral Health System](#). New recommendations and revisions to 2020 recommendations are noted in the 2021 report summary (page 4) and should be read with the 2020 *Strategic Framework*. Revisions to previous recommendations are noted by red underlined text.

Recommendations from 2020 considered complete are documented in *Appendix B* ([page B-1](#)).

High-priority recommendations from 2020 and 2021 are included in *Appendix D* ([page D-1](#)), designated as:

**Immediate Action** are those that the working groups believe can be initiated and completed in the next two years.

**Strategic Importance** are those that should be initiated in the near term but will be completed in the longer term.

In addition to high-priority recommendations, the group also offered one high-priority discussion item to urge the Special Committee to consider the potential contribution of Medicaid expansion to a modernized behavioral health system.

## ***Working Group Process***

In 2020, three working groups had met to develop the bulk of the recommendations in the 2020 *Strategic Framework*, with a fourth working group convened with a subset of the other three to focus on cross-cutting issues related to tele-behavioral health.

In 2021, to review and update the recommendations, the 2021 Special Committee on Kansas Mental Health Modernization and Reform (Special Committee) considered lessons learned in the 2020 working group process and, after discussion, again convened three working groups. The Special Committee then assigned topics based on the 2020 recommendations and new areas of focus for consideration or emphasis in 2021.

- Services and Workforce:
  - Ongoing topics: Workforce, community engagement, prevention and education, treatment and recovery, and special populations
  - New topics: Trauma-informed care, social isolation, stigma and the Autism waiver
  - 2020 Recommendation 2.4 Suicide Prevention
  - Heightened focus on issues related to maternal mental health, rural populations, veterans, people of color, older adults, low-income families and health care workers
- System Capacity and Transformation:
  - Ongoing topics: Funding and accessibility, data systems, legal system and law enforcement, and system transformation
  - New topics: K-12 mental health intervention teams/behavioral health services in schools, outcomes data, specialty courts, and competency evaluation and restoration
  - 2020 Recommendation 4.1 988 Suicide Prevention Lifeline funding
- Telehealth
  - New topic: Issues related to payment parity (including for behavioral health services delivered via telehealth)

Each working group met virtually four to five times (*Figure 1*, page 3) and completed surveys between meetings used to assist in the development and prioritization of recommendations.

In addition, presentations during meetings of the Special Committee were used to gather testimony and ideas that informed the development of new and revised recommendations, including for K-12 behavioral health services, outcomes and funding; specialty courts; suicide

prevention; trauma-informed care; the behavioral health workforce; telehealth; and mobile crisis response. The Special Committee also heard updates on the work of the Autism Task Team and the Governor’s Commission on Racial Equity and Justice that were used to inform recommendations and other language in this report.

**Figure 1. Working Group Process Diagram**

Special Committee on Kansas Mental Health Modernization and Reform		
Workgroup #1 Services and Workforce	Workgroup # 2 System Capacity and Transformation	Workgroup # 3 Telehealth
<ul style="list-style-type: none"> <li>• <b>Meeting #1, Oct. 14, 2021,</b> Review and revise previous recommendations</li> <li>• <b>Meeting #2, Nov. 3, 2021,</b> Identify new recommendations based on charge</li> <li>• <b>Meeting #3, Dec. 2, 2021,</b> Prioritize recommendations</li> <li>• <b>Meeting #4, Dec. 6, 2021,</b> Ratify <i>Strategic Framework</i> update</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Meeting #1, Oct. 14, 2021,</b> Review and revise previous recommendations</li> <li>• <b>Meeting #2, Nov. 1, 2021,</b> Special focus on legal system and law enforcement recommendations</li> <li>• <b>Meeting #3, Nov. 10, 2021,</b> Identify new recommendations based on charge</li> <li>• <b>Meeting #4, Dec. 2, 2021,</b> Prioritize recommendations</li> <li>• <b>Meeting #5, Dec. 6, 2021,</b> Ratify <i>Strategic Framework</i> update</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Meeting #1, Oct. 13, 2021,</b> Review and revise vision and previous recommendations</li> <li>• <b>Meeting #2, Oct. 20, 2021,</b> Overview of Kansas Telemedicine Act, revisions to previous recommendations and discussion on new topic</li> <li>• <b>Meeting #3, Nov. 15, 2021,</b> Presentations and discussion on new topic, and review of data</li> <li>• <b>Meeting #4, Dec. 2, 2021,</b> Finalize recommendation language and characterization</li> <li>• <b>Meeting #5, Dec. 6, 2021,</b> Ratify <i>Strategic Framework</i> update</li> </ul>

Note: Surveys were administered between working group meetings.

All working group decisions were reached based upon consensus. Each working group adopted the following meeting commitments: to come ready to discuss and compromise, keep remarks succinct and on topic, not to hesitate to ask clarifying questions, and to start and end meetings on time. As members discussed each topic and recommendations, decisions were made based on proposals offered by the working group and adopted by verbal agreement or absence of objections.

In order to guide discussion and ensure consistency across working groups and reports, the Recommendations Rubric from 2020 was adopted for use again in 2021 (*Appendix C, [page C-1](#)*) as a tool to assist in ranking and modifying existing recommendations or when writing new recommendations. Using the rubric, working groups were able to assign numeric values to recommendations based on a 1-10 scale for both ease of implementation and potential for high impact.

# New and Revised Recommendations for Special Committee Consideration

The following recommendations were added by the 2021 working groups of the Special Committee on Kansas Mental Health Modernization and Reform (“New Recommendations”) or are revisions the 2021 working groups proposed to recommendations from the 2020 *Strategic Framework* (“Revised Recommendations”). [**Note:** The Special Committee's updates to and comments on individual recommendations is shown later in the report, beginning on p. 12.]

## ***New Recommendations***

**Expand Mental Health Intervention Team Program.** Expand the Mental Health Intervention Team grant program to additional school districts. Support continuity and provide a way for students to access services when schools are not open by extending the times of services at schools, utilizing community mental health centers (CMHCs), or utilizing other mental health providers. ([Recommendation 2.6](#); **Immediate Action**)

**Trauma-Informed Care.** Under the auspices of the Governor’s Behavioral Health Services Planning Council (GBHSPC), convene a workgroup of providers who have implemented trauma-informed practices to make recommendations for a pilot program or other initiative to expand trauma-informed practices statewide. ([Recommendation 4.5](#); **Immediate Action**)

**Promote Social Isolation as a Public Health Issue.** Create strategies to disseminate the importance of social isolation as a public health issue, using social media and media campaigns, educating providers, and encouraging adoption of a screening tool. ([Recommendation 4.6](#); **Strategic Importance**)

**Normalize Behavioral Health Discussions.** In lieu of discussing stigma, build on recent success stories (e.g., 988 lifeline, mobile crisis, certified community behavioral health clinics) to publicize behavioral health as health, creating a culture in which mention of depression, anxiety, post-trauma, addiction and other common illnesses become as mentionable as diabetes, heart disease and migraines. ([Recommendation 4.7](#); **Immediate Action**)

**Medicaid Postpartum Coverage.** Request Robert G. Bethell Home and Community Based Services and KanCare Oversight Committee review of extending the Medicaid postpartum coverage period to 12 months postpartum. This supports access to behavioral health treatment and other preventive care, thus improving health outcomes for both the mother and child. ([Recommendation 6.6](#); **Immediate Action**)

**Outcomes Data.** Work with the State Epidemiological Outcomes Workgroup (SEOW) to establish an annual legislative report on state behavioral health outcomes using existing data and outcome measures. ([Recommendation 7.6](#); **Strategic Importance**)

**Regional Specialty Courts/Venue Transfer.** Explore creation of regional specialty courts across Kansas. Consider implications related to venue transfer for access to regional specialty courts. ([Recommendation 8.5](#); **Strategic Importance**)

**Specialty Court Coordinators.** Provide funding for judicial districts that meet qualifying criteria to hire specialty court coordinators. ([Recommendation 8.6](#); *Immediate Action*)

**Competency Evaluations and Restoration.** Provide funding for community mental health centers to conduct mobile competency evaluation and competency restoration. ([Recommendation 8.7](#); *Immediate Action*)

**Telemedicine Committee.** The Legislative Coordinating Council shall establish a Special Committee on Telemedicine Modernization. ([Recommendation 10.6](#); *Strategic Importance*)

## ***Revised Recommendations***

**Access to Psychiatry Services.** Request a Legislative Post Audit to review Kansas behavioral health recipients of National Health Service Corps (NHSC) and State Loan Repayment Program (SLRP) for the past 10 years; review professions awarded, communities in which those providers were located, number of years they participated in the program, and number of years they continued to practice in their position after they exited the program; expand the analysis to the behavioral health professions served in these programs (not just psychiatry); review best practices from other states regarding recruitment and retention of licensed behavioral health professional staff to Urban, Rural, and Frontier communities for possible, if successful, implementation in Kansas; review medical school and residency training location of psychiatrists and child and adolescent psychiatrists currently practicing in Kansas, as well as current practice locations of residents and fellows in child psychiatry who completed residency or fellowship in Kansas within the last 10 years; review existing research regarding where fellows practice in relation to where they trained; and look at the University of Kansas program that incentivizes medical students to end up practicing in Kansas to see if it is effective. (*Revision of 2020 Recommendation 1.2*; *Immediate Action*)

**Workforce Investment Plan.** The State of Kansas should make a long-term investment plan for the behavioral health system workforce by increasing funding for training, recruitment, retention, and support to effectively attract and retain high-quality staff. Specific steps include:

- The state should establish a Kansas university partnership to develop the comprehensive investment plan, including a focus on high school internships, mentorship and free continuing education courses, building on the model the Special Committee heard about in Nebraska;
- Seed university programs to develop and expand bachelor's and graduate programs in behavioral health;
- Create a pool of funds that behavioral health providers could access to support retention and recruitment;
- Develop a career ladder for clinicians, such as through the development of an associate-level practitioner role; and

- Take action to increase workforce diversity, including diversity related to race/ethnicity, LGBTQ+ and the ability to work with those with limited English proficiency.

*(Revision of 2020 [Recommendation 1.4](#); Strategic Importance)*

**Addressing Inpatient Capacity by Implementing a Regional Model.** Implement and fund a comprehensive plan to address voluntary and involuntary hospital inpatient capacity needs while providing all levels of care across all settings, supplementing the traditional state hospital setting with regionalized facilities accepting both voluntary and involuntary admissions for persons in acute services as well as longer-term/tertiary specialized care. Ongoing analysis should be conducted to identify geographic areas of need and gaps in levels of care. *(Merger of 2020 [Recommendations 2.2](#) and 9.1; Immediate Action)*

**Reimbursement Rate and Review.** Implement an immediate increase of 10-15 percent for reimbursement rates for all providers of behavioral health services. After increasing reimbursement rates, establish a working group to regularly review the reimbursement structures for behavioral health services for both the uninsured and the Medicaid population. *(Revision of 2020 [Recommendation 2.3](#); Immediate Action)*

**Support Kansas Suicide Prevention Plan.** In support of the 2021-2025 Kansas Suicide Prevention Plan: Standardize definitions of data collected related to suicide data and making suicide a reportable condition; propose policy to ensure consistent data collection across the state, including for diverse populations (include demographics); leverage the Kansas Suicide Prevention Coalition to enable collaboration among all agencies engaged in suicide prevention; designate the Kansas Department for Aging and Disability Services (KDADS; the single state authority for federal mental health and substance use disorder programs) as lead agency for implementation of the State Suicide Prevention Plan and collaborate with the Youth Suicide Prevention Coordinator in the office of the Attorney General; add \$1,500,000 state general funds (SGF) to KDADS budget to implement additional recommendations and strategies from the State Suicide Prevention Plan, including \$250,000 for the Kansas Suicide Prevention Coalition, \$90,000 for a full-time state suicide prevention coordinator (population-wide), and the remainder for providing grant opportunities for local communities and implementing a statewide media campaign; require KDADS to submit an annual report on the progress from collaborating state agencies and the coalition as to the status and effectiveness of state suicide prevention policies and interventions as well as any updates to the State Suicide Prevention Plan to the Governor’s Behavioral Health Services Planning Council and its Prevention Subcommittee. *(Revision of 2020 [Recommendation 2.4](#); Immediate Action)*

**Foster Homes.** The State of Kansas should invest in foster home recruitment and retention by:

- Increasing funding for supplemental training on behavioral health needs and providing additional financial incentives to support serious emotional disturbance (SED) youth;
- Supporting families navigating child welfare and Medicaid programs;

- Continuing investment in recruiting, preparing and supporting families to serve high-acuity and older youth, and in recruiting, preparing, retaining and supporting African-American families;
- Providing in-home therapeutic parenting services for families to meet high-acuity needs; and
- Ensuring services are available across the continuum of care for youth discharged from inpatient or Psychiatric Residential Treatment Facilities (PRTF) settings.

*(Revision of 2020 [Recommendation 3.3](#); Strategic Importance)*

**Community-Based Liaison.** Expand locations where community-based liaisons are available to facilitate connection to treatment and support services (e.g., community mental health services) upon re-entry as a component of pre-release planning and services for justice-involved adults and youth with substance use disorder (SUD) and co-occurring conditions.

*(Revision of 2020 [Recommendation 3.4](#); Strategic Importance)*

**988 Suicide Prevention Lifeline Funding.** Once the 988 National Suicide Prevention Lifeline (NSPL) phone number is implemented, Kansas should collect fees via phone bills to support increasing the in-state answer rate and ensure that callers are connected to in-state resources. The Legislature should consider House Bill (HB) 2281 in the 2022 session to ensure funds are available in July 2022. *(Revision of 2020 [Recommendation 4.1](#); Immediate Action)*

**Behavioral Health Prevention.** Increase state funds for behavioral health prevention efforts to support additional evidence-based primary prevention and grant opportunities for community prevention activities. *(Revision of 2020 [Recommendation 4.4](#); Strategic Importance)*

**Statewide Psychiatric Access Program.** Fully fund a statewide psychiatric access program that includes linked specialty teams with high levels of expertise (e.g., psychiatrists, child and adolescent psychiatrists, peripartum psychiatrists, child psychologists, pediatricians, resource specialists, and patient and family advocates) to provide multi-disciplinary consultations, training, and resource and referral support to health care providers across the lifespan. Ensure continuation of current pregnant/postpartum and pediatric programs starting July 2023 (FY 2024). Expand current programs to include specialty teams for children (through 21 years of age) with Intellectual/Developmental Disability (I/DD) and children (through 21 years of age) with Autism Spectrum Disorder starting July 2024 (FY 2025), and for adults with mood disorders starting July 2025 (FY 2026). *(Revision of 2020 [Recommendation 5.3](#); Immediate Action)*

**Correctional Employees.** Expand training provided in state correctional facilities, local jails and detention centers to allow employees to better recognize those with substance use disorders, use a trauma-informed approach to identify other mental health needs, and connect those with needs to available services. *(Revision of 2020 [Recommendation 8.1](#); Immediate Action)*

**Law Enforcement Referrals.** Increase utilization and development of evidence-based SUD referral as well as treatment and recovery services among persons with law enforcement contact, which could include securing funding to increase access to inpatient, residential and

outpatient services for this population. (**Revision to 2020 [Recommendation 8.3](#); Immediate Action**)

**Defining Crossover Youth Population.** Future efforts should include behavioral health within an operationalized definition for youth with offender behaviors at risk of entering foster care, as well as including diverted youth in the definition of the broader juvenile offender population. Coordinate with juvenile corrections advisory boards to ensure local implementation aligns with statewide policy team recommendations. (**Revision to 2020 [Recommendation 8.4](#); Strategic Importance**)

**Integration.** Increase integration, linkage, collaboration and identify care transition best practices among mental health, substance abuse, primary care and emergency departments across the state. For example, adopt coding practices that allow for the integration of services across the continuum of care domains (including, but not limited to, primary care, substance use disorder, and mental health) to provide more integrated services to clients with co-occurring conditions. (**Revision to 2020 [Recommendation 9.3](#); Immediate Action**)

**Family Psychotherapy.** Enable utilization of procedure code 90846 in Medicaid as a tool to support youth in foster care. This would allow therapists/practitioners to have discussions without the child present. (**Revision to 2020 [Recommendation 9.5](#); Strategic Importance**)

**Telehealth Quality Assurance.** Develop quality assurance standards to ensure high-quality telehealth services are provided, including establishing consistent guidelines and measures for telehealth in collaboration with licensing and regulatory agencies; allowing telehealth supervision hours to be consistently counted toward licensure requirements; allowing services to be provided flexibly utilizing the Kansas Telemedicine Act; and improving provider and patient education around telehealth literacy in relation to privacy, efficacy, access and cybersecurity practices. (**Revision to 2020 [Recommendation 10.1](#); Immediate Action**)

**Telehealth Reimbursement Codes.** As Centers for Medicare and Medicaid Services (CMS) rules allow, maintain Medicaid reimbursement codes added during the public health emergency for telehealth services and consider options to prevent loss of facility fees so that providers are not losing revenue by delivering telehealth services. (**Revision to 2020 [Recommendation 10.2](#); Immediate Action**)

**Telehealth for Crisis Services.** Continue coverage of telehealth for crisis services to allow for the use of telehealth with law enforcement and mobile crisis services. Explore virtual co-responder models for law enforcement to aid police departments and other law enforcement agencies as they respond to mental health crisis in rural and frontier communities. Engage professional associations statewide to adopt appropriate education for providers, practitioners and law enforcement officers on using telehealth for crisis services. (**Revision to 2020 [Recommendation 10.3](#); Immediate Action**)

**Telehealth Originating and Distant Sites.** The following item should be addressed to ensure that individuals receive — and providers offer — telehealth in the most appropriate locations: examine issues related to providers practicing, and patients receiving, services across state

lines, such as by exploring participation in interstate licensure compacts. (**Revision to 2020 Recommendation 10.4; Strategic Importance**)

**Child Welfare System and Telehealth.** Utilize telehealth to maintain service and provider continuity as children, particularly foster children, move around the state. Explore how the unique needs of parents of children in the child welfare system can be met via telehealth. (**Revision to 2020 Recommendation 10.5; Strategic Importance**)

## Data Profile

The following process measures were identified in 2020 to monitor the progress on the work completed by this committee and its convened working groups:

- Number of recommendations implemented and
- Number of recommendations implemented with identified key collaborators.

The high-level data profile presented in *Figure 3* (page 10) has been updated based on data availability to provide a systemic assessment of the state's behavioral health system. As before, it includes only a subset of the wide range of data that are available about the Kansas behavioral health system.

Future use of measures can incorporate data by race/ethnicity, gender, age and geography, where available, and could include measures related to other factors that influence behavioral health risk and outcomes, including housing quality, social support, and employment opportunities.<sup>1</sup> Please see **Recommendation 7.6 Outcomes Data** for a proposed approach that would be responsive to the Legislature and could incorporate those key concepts.

The table on page 10 provides only new data available in 2021.

**Figure 3. Select Measures to Assess the Kansas Behavioral Health System**

<b>MEASURES</b>								
<b>Measure:</b>	<b>Number</b>		<b>Percent</b>					
Kansas counties recognized as a <a href="#">Mental Health Professional Shortage Area</a> <i>Lower number/percentage of counties is better.</i>	99 (2020)		94.3% (2020)					
<b>MEASURES COMPARING KANSAS AND U.S.</b>								
<b>Measure:</b>	<b>Kansas current (year)</b>	<b>Kansas previous (year)</b>	<b>U.S. current (year)</b>	<b>U.S. previous (year)</b>				
Statewide age-adjusted mortality rate for suicide per 100,000 population <i>Lower rates are better.</i>	22.4 (2018)	21.6 (2017)	14.2 (2018)	15.2 (2017)				
Percent of high school students who report feeling sad or hopeless almost every day for two weeks or more in a row so that they stopped doing some usual activities (i.e., criteria for and predictors of clinical depression) <i>Lower percentage is better.</i>	32.5% (2019)	24.8% (2017)	36.7% (2019)	31.5% (2017)				
Percent of children, ages 3 through 17, with a mental/behavioral condition who receive treatment or counseling <i>Higher percentage is better.</i>	49.2% (2019-2020)	55.9% (2018-2019)	52.3% (2019-2020)	53.2% (2018-2019)				
<b>MENTAL HEALTH IN AMERICA RANKINGS of 50 States and Washington D.C. by Report Year</b>								
<b>Select Measure:</b> <i>States with positive outcomes are ranked higher (closer to 1) than states with poorer outcomes.</i>	<b>2022</b>	<b>2021</b>	<b>2020</b>	<b>2019</b>	<b>2018</b>	<b>2017</b>	<b>2016</b>	<b>2015</b>
Kansas rankings: Overall	#41	#29	#42	#24	#19	#21	#15	#19
Kansas ranking: Adult (prevalence and access to care)	#42	#38	#43	#28	#22	#23	#16	#23
Kansas ranking: Youth (prevalence and access to care)	#33	#26	#37	#21	#19	#18	#15	#8
Kansas ranking: Adults with mental illness who report unmet needs	#49	#51	#46	#29	#39	#38	#28	#51
Kansas ranking: Youth with at least one major depressive episode who did not receive mental health services	#17	#18	#47	#40	#29	#12	#12	NA

Note: The Mental Health in America overall ranking uses national data from surveys including the National Survey on Drug Use and Health (NSDUH) and the Behavioral Risk Factor Surveillance System (BRFSS). The overall ranking is comprised of 15 measures for adults and youth around mental health issues, substance use issues, access to insurance, access to adequate insurance, as well as access to and barriers to accessing mental health care. A rank of 1-13 indicates lower prevalence of mental illness and higher rates of access to care, and an overall ranking 39-51 indicates higher prevalence of mental illness and lower rates of access to care. Data in each reporting year come from previous reporting periods. For example, in the 2022 report, most indicators reflect data from 2018-2019, while the 2021 report includes data from 2017-2018 and so forth. The baseline report year is 2015. For more information, go to <https://mhanational.org/sites/default/files/2022StateofMentalHealthinAmerica.pdf>

Source: Data as reported by the Kansas Department of Health and Environment (KDHE) and Kansas Health Institute (KHI) summary of data from the 2015-2022 Mental Health in America Rankings.

## Recommendations

The following section provides additional background for each new and revised recommendation identified by a working group, organized by topic. Only new recommendations and revised recommendations from 2020 are included in this section. All other recommendations from the 2020 report not referenced here remain in progress, except for those specifically identified as complete (*Appendix B, page B-1*).

The reasons working groups proposed revisions are noted in the rationale section of the tables below, and new recommendations and recommendations that were significantly revised were also characterized to capture factors related to ease of implementation and potential for high impact. For recommendations with less significant modification, only the rationale for revision was required.

### ***Workforce – Revised Recommendations***

#### ***Workforce Recommendation 1.2: Access to Psychiatry Services [Revised; Immediate Action]***

**Recommendation:** Request a Legislative Post Audit to review Kansas behavioral health recipients of National Health Service Corps (NHSC) and State Loan Repayment Program (SLRP) for the past 10 years; review professions awarded, communities in which those providers were located, number of years they participated in the program, and number of years they continued to practice in their position after they exited the program, and whether the psychiatrists who participated in the program and remained in Kansas were originally Kansas residents or came to Kansas from other states; expand the analysis to the behavioral health professions served in these programs (not just psychiatry); review best practices from other states regarding recruitment and retention of licensed behavioral health professional staff to Urban, Rural, and Frontier communities for possible, if successful, implementation in Kansas; review medical school and residency training location of psychiatrists and child and adolescent psychiatrists currently practicing in Kansas, as well as current practice locations of residents and fellows in child psychiatry who completed residency or fellowship in Kansas within the last 10 years; review existing research regarding where fellows practice in relation to where they trained; and look at the University of Kansas program that incentivizes medical students to end up practicing in Kansas to see if it is effective. If the audit request is not approved, request the legislative budget committees include a provision in the budget requiring KDHE to do the study with assistance from an educational institution.

**Rationale for Revision:** The working group believed the previous version of the recommendation (“Require a study to be conducted by KDHE with an educational institution[s], to explore strategies to increase the number of psychiatrists, child and adolescent psychiatrists, and psychiatric nurses.”) lacked specificity. Working group members suggested that this recommendation could be effectively implemented through a request for a Legislative Post Audit. Working group members volunteered to assist in developing the request. Although Legislative Post Audit review is not guaranteed, it would significantly streamline this recommendation. The revised recommendation also provides information about the scope of the review. The effectiveness of the recommendation long-term will require action to be taken on the findings.

<b>Ease of Implementation (Score 1-10): 8</b>	<b>Potential for High Impact (Score 1-10): 6</b>
<ul style="list-style-type: none"> <li>• If performed as a Legislative Post Audit, ease of implementation would be high with little to no additional cost.</li> <li>• Taking action on findings will require additional activity.</li> </ul>	<ul style="list-style-type: none"> <li>• Implementing strategies from the report could impact frontier and rural communities that struggle to recruit psychiatric providers.</li> <li>• Potential for high impact may depend on actionability of the Legislative Post Audit’s results.</li> </ul>
<b>Measuring Impact:</b> <ul style="list-style-type: none"> <li>• Percent or number of mental health care professionals participating in the Kansas State Loan Repayment Program.</li> <li>• Number of Kansas counties recognized as a Mental Health Professional Shortage Area.</li> <li>• Number of adult and child/adolescent psychiatry residents in Kansas.</li> </ul>	
<b>Action Lead:</b> Legislature	<b>Key Collaborators:</b> KDHE, KDADS, universities

Return to [Figure A-1](#) and [Figure D-1](#).

**Workforce Recommendation 1.4: Workforce Investment Plan [Revised; Strategic Importance]**

<p><b>Recommendation:</b> The State of Kansas should make a long-term investment plan for the behavioral health system workforce by increasing funding for training, recruitment, retention, and support to effectively attract and retain high-quality staff. Specific steps include:</p> <ul style="list-style-type: none"> <li>• <u>The state should establish a Kansas-university in Kansas partnership to develop the comprehensive investment plan, including a focus on high school internships, mentorship and free continuing education courses, building on the model the Special Committee heard about in Nebraska;</u></li> <li>• <u>Seed university programs to develop and expand bachelor’s and graduate programs in behavioral health;</u></li> <li>• <u>Create a pool of funds that behavioral health providers could access to support retention and recruitment;</u></li> <li>• Develop a career ladder for clinicians, such as through the development of an associate-level practitioner role; and</li> <li>• Take action to increase workforce diversity, including diversity related to race/ethnicity, LGBTQ+ and the ability to work with those with limited English proficiency.</li> </ul>
<p><b>Rationale for Revision:</b> The working group highlighted a dire need for investment in the behavioral health workforce, requiring immediate steps toward long-term action. Behavioral workforce shortages have significantly reduced access to behavioral health services for many across the state, and working group members specifically identified challenges in recruitment and retention as key to solving this problem. The working group embraced a “grow your own” approach, in which the workforce reflects the diversity of the community. Although working group members noted challenges associated with a long-term commitment to recruitment and</p>

retention including, but not limited to, potentially high costs, creation of new programs, and the work of multiple legislative sessions, this recommendation has a high potential for impact. Working group members said many Kansans will benefit from implementation of this recommendation, particularly in rural areas where there exists a critical shortage of psychiatrists and behavioral health workers, as well as other populations that lack access to behavioral health services. The working group called for the creation and funding of a Kansas organization modeled after the Behavioral Health Education Center of Nebraska (BHECN) at the University of Nebraska that was presented to the Special Committee.

<b>Ease of Implementation (Score 1-10): 1</b>	<b>Potential for High Impact (Score 1-10): 9</b>
<ul style="list-style-type: none"> <li>• Could include program changes and pilot programs.</li> <li>• Cost will be a barrier to implementation.</li> <li>• Could involve changes in a legislative session, federal approval process, agency budget development and grant cycles.</li> </ul>	<ul style="list-style-type: none"> <li>• Would impact a large population.</li> <li>• Would impact multiple populations, including those in foster care, those with limited English proficiency, children and those with low income.</li> </ul>
<p><b>Measuring Impact:</b></p> <ul style="list-style-type: none"> <li>• Workforce retention rates.</li> <li>• Number of behavioral health providers practicing in Kansas by age, race/ethnicity, language and sexual orientation.</li> <li>• Number of students enrolling in post-secondary behavioral health education/training programs in Kansas schools.</li> <li>• Number of community colleges offering a behavioral health track associate degree.</li> </ul>	
<b>Action Lead:</b> KDADS	<b>Key Collaborators:</b> KDHE, Kansas Behavioral Sciences Regulatory Board (BSRB), Legislature, providers, clinics, educational institutions

Return to [Figure A-1](#) and [Figure D-2](#).

## **Workforce – Other Issues**

Workforce issues were discussed as potential barriers in relation to recommendations in other topic areas, highlighting how essential addressing workforce shortages will be in accomplishing many of the recommendations from the working groups.

The Services and Workforce working group considered modifying 2020 **Recommendation 1.3 Provider MAT Training**, “Increase capacity and access to medication-assisted treatment (MAT) in Kansas through provider training on MAT.” The working group opted to add report language emphasizing that many of the individuals who need MAT often are uninsured and lack the ability to pay for the treatment. The working group discussed the need to ensure funding sustainability for MAT once federal opioid response grants end. The working group also was interested in ensuring that the certified community behavioral health clinic (CCBHC) model Kansas adopts will allow CCBHCs to collaborate with SUD providers to ensure access to MAT and other

treatment. The group also discussed requiring KanCare managed care organizations to report regularly to the Robert G. (Bob) Bethell Committee on Home and Community Based Services and KanCare Oversight regarding network adequacy for MAT services. The state also can use the KanCare 3.0 contracting process to emphasize the need to expand access to and capacity of MAT services.

In addition, the Services and Workforce working group noted that 2020 **Recommendation 1.5 Family Engagement Practices** will require more funding than initially allocated for implementation. Working group members also said the processes ultimately implemented in support of the recommendation should be flexible, simple and user-friendly to access.

## ***Funding and Accessibility – New Recommendation***

### ***Funding and Accessibility Recommendation 2.6: Expand Mental Health Intervention Team Program [New; Immediate Action]***

**Recommendation:** Expand the Mental Health Intervention Team (MHIT) grant program to additional school districts. Support continuity and provide a way for students to access services when schools are not open by extending the times of services at schools, utilizing Community Mental Health Centers, or utilizing other mental health providers. **Make the MHIT program permanent in statute and no longer a pilot program and phase-in the reduction of the State-paid portion of the MHIT liaison cost. Clarify the MHIT program is not a mandatory program.**

**Rationale:** The 2018 Legislature created the Mental Health Intervention Team Pilot Program “to improve social-emotional wellness and outcomes for students by increasing schools’ access to counselors, social workers and psychologists statewide.” In Fiscal Year 2022, 55 school districts are participating. Working group members said there is a significant need to expand the program to more school districts as for most children, schools are their first access point for services and the program can support continuity of care. The program also helps reduce transportation as a barrier to accessing behavioral health services. Working group members also noted there should be an expectation for schools to seek out additional funding to supplement the program beyond the funding provided by the state. The working group members called for future investigation into a long-term plan for this program, including the possibility of incorporating the Mental Health Intervention Team program into the school finance formula for future sustainability. In the short-term, working group members recommend expanding the pilot program to other school districts interested in participating. Implementation of this recommendation has high potential for impact, particularly for youth at high risk for suicide. Increased access to this program could also reduce foster care entrance rates as children receive better access to essential mental health services. In addition to community mental health centers, working group members anticipate students would also receive services through the mobile crisis response team and 988 prevention lifeline when schools are not open, reiterating the importance of supporting continuity between the Mental Health Intervention Team program and other mental health providers.

<b>Ease of Implementation (Score 1-10): 7</b>	<b>Potential for High Impact (Score 1-10): 9</b>
<ul style="list-style-type: none"> <li>• Cost will be a barrier to implementation, although schools could participate financially in the cost of the building liaison.</li> <li>• Will require an expansion to the pre-existing pilot program in the short term. Long-term implementation will require more resources.</li> </ul>	<ul style="list-style-type: none"> <li>• Would impact foster children, rural communities, urban communities, limited English proficient persons, low-income individuals, children, and students.</li> <li>• Serves those disproportionately affected.</li> </ul>
<b>Measuring Impact:</b> <ul style="list-style-type: none"> <li>• Number of school districts participating in the Mental Health Intervention Team Program.</li> <li>• Data elements currently collected by the Kansas State Department of Education (KSDE) for Mental Health Intervention Team participants.</li> </ul>	
<b>Action Lead:</b> KSDE	<b>Key Collaborators:</b> KDADS, DCF

Return to [Figure A-1](#) and [Figure D-1](#).

## ***Funding and Accessibility – Revised Recommendations***

### ***Funding and Accessibility Recommendation 2.2: Addressing Inpatient Capacity [Revised; Immediate Action]***

<p><b>Recommendation:</b> Implement and fund a comprehensive plan to address voluntary and involuntary hospital inpatient capacity needs while providing all levels of care across all settings, <u>supplementing the traditional state hospital setting with regionalized facilities accepting both voluntary and involuntary admissions for persons in acute services as well as longer-term/tertiary specialized care. Explore the need for State-certified beds in southcentral Kansas. Ongoing analysis should be conducted to identify geographic areas of need and gaps in levels of care.</u></p>	
<p><b>Rationale for Revision:</b> The working group combined 2020 Recommendations 2.2 Addressing Inpatient Capacity and 9.1 Regional Model to acknowledge the intended effect of regional facilities on inpatient capacity needs across the state. Working group members expressed concern that there can be significant changes in where gaps in capacity exist from year to year. Working group members proposed that rather than identifying a specific region for added capacity, it would recommend that, as capacity is added, ongoing analysis should be used to identify and address gaps.</p>	
<b>Ease of Implementation (Score 1-10): 3</b>	<b>Potential for High Impact (Score 1-10): 10</b>
<ul style="list-style-type: none"> <li>• Cost will be a barrier to implementation.</li> <li>• Contracting cycles will impact implementation</li> </ul>	<ul style="list-style-type: none"> <li>• Would impact a large population.</li> <li>• Could produce cost savings via reduction in transportation costs and lower costs in other systems, including emergency medicine and corrections.</li> </ul>

<b>Measuring Impact:</b>	
<ul style="list-style-type: none"> <li>• Number of private hospitals enrolled in KanCare as State Institution Alternatives.</li> <li>• Number of new private psychiatric hospital (PPH) beds licensed in Kansas.</li> <li>• Number of new state mental health hospital (SMHH) beds added at state hospitals.</li> <li>• Increases in community-based treatment service delivery or utilization like supported employment and supported housing.</li> </ul>	
<b>Action Lead:</b> KDADS	<b>Key Collaborators:</b> Legislature, local units of government, law enforcement

Return to [Figure A-1](#) and [Figure D-1](#).

**Funding and Accessibility Recommendation 2.3: Reimbursement Rate Increase and Review [Revised; Immediate Action]**

<b>Recommendation:</b> Implement an immediate increase of 10-15 percent for reimbursement rates for <u>all providers of</u> behavioral health services. After increasing reimbursement rates, establish a working group to regularly review the reimbursement structures for behavioral health services for both the uninsured and the Medicaid population.
<b>Rationale for Revision:</b> Working group members clarified that the recommendation has applied to Medicaid rates and noted the importance of funding for providing services to the uninsured. They also asked to update the recommendation language and clarify that it applies to all providers of behavioral health services.

Return to [Figure A-1](#) and [Figure D-1](#).

**Funding and Accessibility Recommendation 2.4: Suicide Prevention [Revised; Immediate Action]**

<b>Recommendation:</b> <u>In support of the 2021-2025 Kansas Suicide Prevention Plan: standardize definitions of data collected related to suicide data and making suicide a reportable condition; propose policy to ensure consistent data collection across the state, including for diverse populations (include demographics); leverage the Kansas Suicide Prevention Coalition to enable collaboration among all agencies engaged in suicide prevention; designate KDADS (the single state authority for federal mental health and substance use disorder programs) as lead agency for implementation of the State Suicide Prevention Plan and collaborate with the Youth Suicide Prevention Coordinator in the office of the Attorney General; add \$1,500,000 SGF to KDADS budget to implement additional recommendations and strategies from the State Suicide Prevention Plan, including \$250,000 for the Kansas Suicide Prevention Coalition, \$90,000 for a full-time state suicide prevention coordinator (population-wide), and the remainder for providing grant opportunities for local communities and implementing a statewide media campaign; require KDADS to look into potential grant funding; require KDADS to submit an annual report on the progress from collaborating state agencies and the coalition as to the status and effectiveness of state suicide prevention policies and interventions as well as any updates to the State Suicide Prevention Plan to the Governor’s Behavioral Health Services Planning Council and its Prevention Subcommittee.</u>
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**Rationale for Revision:** The Special Committee heard a presentation on the 2021-2025 Kansas Suicide Prevention Plan in its October meeting. Afterwards, the working group proposed a revision to the previous recommendation related to suicide prevention in Kansas to support and affirm the recommendations within the Kansas State Suicide Prevention Plan. While KDADS was identified as the lead agency because of its role as the state authority for mental health and substance use disorder programs, the working group clarified that the state suicide prevention coordinator would be separate from but complement the youth suicide prevention coordinator in the Office of the Attorney General, and that both require funding. ~~Additionally, the working group clarified that one recommended source for the critically needed \$1.5 million would be the telecommunications surcharge for the 988 suicide prevention lifeline (Recommendation 4.1). The implementation of Recommendation 4.1 will determine access to that funding stream, but~~ Regardless of the source, funding is needed. Affected communities can be engaged in the discussion of data collection and reporting to provide context for the data.

<b>Ease of Implementation (Score 1-10): 5</b>	<b>Potential for High Impact (Score 1-10): 10</b>
<ul style="list-style-type: none"> <li>• Cost is a barrier to implementation of this recommendation.</li> <li>• Many portions of this recommendation are already in progress but require continued funding to operate.</li> </ul>	<ul style="list-style-type: none"> <li>• Would impact children (including those in foster care), frontier communities, rural communities — particularly those in the agricultural sector — and veterans.</li> </ul>

**Measuring Impact:**

- Percent change in the age-adjusted mortality rate for suicide per 100,000 population.
- Subsets of data: suicide rate by gender, age group, socio-demographics (marital status, veteran, and education), race/ethnicity, occupational classification, cause of death (firearm, suffocation, etc.), and circumstances (mental health, substance use disorder, and interpersonal problems).
- Percent of high school students who report feeling sad or hopeless almost every day for two weeks or more in a row so that they stopped doing some usual activities.

<b>Action Lead:</b> KDADS	<b>Key Collaborators:</b> KDHE, Office of the Attorney General, Kansas Suicide Prevention Coalition
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Return to [Figure A-1](#) and [Figure D-1](#).

## ***Funding and Accessibility – High-Priority Discussion***

### ***Funding and Accessibility High-Priority Discussion Item: Medicaid Expansion [High-Priority Discussion]***

<p><b>Rationale (2020):</b> Medicaid expansion has been recommended by previous task forces, including the Mental Health Task Force, the Governor’s Substance Use Disorders Task Force and the Child Welfare System Task Force. Medicaid Expansion was flagged by the working group as a high priority discussion when considering opportunities to modernize the behavioral health system due to the opportunity that it represents to improve access to behavioral health services at all levels of care and allow investment in workforce and system capacity. Expanding Medicaid under the terms of the Affordable Care Act would provide insurance coverage to an estimated 130,000 to 150,000 Kansans. Working group members noted that many of these individuals may already be utilizing services within the behavioral health system, but in many cases those services are uncompensated or subsidized by state grants. Ninety percent of Medicaid expansion costs would be covered by the federal government. Other Kansans with behavioral health needs may be foregoing care completely until they reach a crisis. The Working group considered Medicaid expansion as a high priority discussion item for the Special Committee, as the Kansas Legislature is the body to determine whether expansion will move forward.</p>	
<p><b>Action Lead:</b> Legislature</p>	<p><b>Key Collaborators:</b> Working group members</p>

Return to [Figure A-1](#) and [Figure D-3](#).

## ***Community Engagement – Revised Recommendations***

### ***Community Engagement Recommendation 3.3: Foster Homes [Revised; Strategic Importance]***

<p><b>Recommendation:</b> The State of Kansas should invest in foster home recruitment and retention by:</p> <ul style="list-style-type: none"> <li>• Increasing funding for supplemental training on behavioral health needs and providing additional financial incentives to support serious emotional disturbance (SED) youth;</li> <li>• <u>Supporting families navigating child welfare and Medicaid programs;</u></li> <li>• <u>Continuing investment in recruiting, preparing and supporting families to serve high-acuity and older youth, and in recruiting, preparing, retaining and supporting African-American families;</u></li> <li>• <u>Providing in-home therapeutic parenting services for families to meet high-acuity needs; and</u></li> <li>• <u>Ensuring services are available across the continuum of care for youth discharged from inpatient or PRTF settings.</u></li> </ul> <p><b>(Revised)</b></p>
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**Rationale:** Previous language for this recommendation was originally developed by the Child Welfare System Task Force.<sup>2</sup> Providing additional training and support to foster homes (including kinship placements and adoptive homes) caring for youth with behavioral health needs, particularly SED youth, could improve retention of foster homes as well as incentivize placement of youth who may be more difficult to place otherwise. This year, working group members felt the recommendation should be modified to include ways to improve systems to support foster families. Based on discussions with the Department for Children and Families, items two through five were added as top priorities. Additionally, working group members discussed the importance of treating foster families as families when implementing recommendations. The addition of these new elements to the recommendation does increase the difficulty of implementation, but working group members noted the high potential for impact and importance of these changes to the foster care system.

<b>Ease of Implementation (Score 1-10): 5</b>	<b>Potential for High Impact (Score 1-10): 7</b>
<ul style="list-style-type: none"> <li>• Would require program change.</li> <li>• Could require a legislative session, regulatory process and contracts to implement.</li> </ul>	<ul style="list-style-type: none"> <li>• Would have a high impact on a small population (foster care youth).</li> <li>• Could produce savings through reductions in hospitalizations and residential care.</li> </ul>
<b>Measuring Impact:</b>	
<ul style="list-style-type: none"> <li>• Placement stability rate for children entering care.</li> <li>• Percent or number of foster youth on the SED waiver.</li> </ul>	
<b>Action Lead:</b> Kansas Department for Children and Families (DCF)	<b>Key Collaborators:</b> KDADS

Return to [Figure A-1](#) and [Figure D-2](#).

**Community Engagement Recommendation 3.4: Community-Based Liaison [Revised; Strategic Importance]**

**Recommendation:** Expand locations where community-based liaisons are available to facilitate connection to treatment and support services (e.g., community mental health services) upon re-entry as a component of pre-release planning and services for justice-involved adults and youth with substance use disorder (SUD) and co-occurring conditions.

**Rationale for Revision:** Initially the working group discussed revising the recommendation to identify funding alternatives to fee-for-service reimbursement for these activities. In discussion, the group identified that the upcoming adoption of the certified community behavioral health clinic (CCBHC) model would address the concern, but only for those providers who qualify as CCBHC. The modified language, developed after review by KDADS, was intended to signal support for expanding the availability of the service to other geographic locations and provider types, including SUD providers.

Return to [Figure A-1](#) and [Figure D-2](#).

## ***Prevention and Education –New Recommendations***

### ***Prevention and Education Recommendation 4.5: Trauma-Informed Care [New; Immediate Action]***

<p><b>Recommendation:</b> Under the auspices of the Governor’s Behavioral Health Services Planning Council (GBHSPC), convene a workgroup of providers who have implemented trauma-informed practices to make recommendations for a pilot program or other initiative to expand trauma-informed practices statewide.</p>	
<p><b>Rationale:</b> The Special Committee discussed the importance of trauma-informed care and strategies to prevent trauma and adverse childhood experiences. Materials provided for the working group included national and state resources.<sup>3,4,5</sup> Three distinct recommendations were proposed for the topic of trauma-informed care, including a) “Launch pilot projects with select behavioral health providers to increase their understanding and adoption of trauma informed practices. Take the lessons learned from these pilots and conduct a feasibility study as to the strategies needed to take it statewide.”; b) “All KDADS funded agencies will train all staff in the basics of trauma-informed care upon hire with annual update. KDADS can work collaboratively with CMHCs or utilize curriculum from the Substance Abuse and Mental Health Services Administration (SAMHSA) to disseminate to the funded agencies.”; and c) “Create a common language across all agencies and communities in Kansas to think about a trauma-informed approach in all aspects of care.” The working group survey revealed similar support for each concept, and ultimately the working group selected an option that will build upon what providers who have adopted trauma-informed practices have learned and disseminate learnings across systems to support trauma-informed communities.</p>	
<p><b>Ease of Implementation (Score 1-10): 7</b></p> <ul style="list-style-type: none"> <li>• Implementation will require creation of a pilot program.</li> <li>• Cost may be a barrier to implementation dependent on provider capacity.</li> </ul>	<p><b>Potential for High Impact (Score 1-10): 8</b></p> <ul style="list-style-type: none"> <li>• Implementation will benefit a large population.</li> <li>• Increased behavioral health workforce capacity for implementing trauma-informed practices will help address inequities, particularly for those children in foster care.</li> </ul>
<p><b>Measuring Impact:</b></p> <ul style="list-style-type: none"> <li>• Establishment of workgroup in first quarter of 2022.</li> <li>• GBHSPC to assess baseline and future measures of trauma-informed practices adoption.</li> </ul>	
<p><b>Action Lead:</b> KDADS</p>	<p><b>Key Collaborators:</b> GBHSPC</p>

Return to [Figure A-1](#) and [Figure D-1](#).

**Prevention and Education Recommendation 4.6: Promoting Social Isolation as a Public Health Issue [New; Strategic Importance]**

<p><b>Recommendation:</b> Create strategies to disseminate the importance of social isolation as a public health issue, using social media and media campaigns, educating providers, and encouraging adoption of a screening tool.</p>	
<p><b>Rationale:</b> The Special Committee discussed social isolation, particularly as experienced by older adults, people of color, and rural residents, both before and during the pandemic. The working group received materials related to social isolation and its link to serious health conditions<sup>6</sup> and how social isolation affects Kansas older adults<sup>7,8</sup>. The recommendation was developed by combining two initial proposed recommendations from working group members: a) “Treat social isolation similar to other public health issues. Create strategies to disseminate the importance of social isolation on health through public service announcements (with suggestions on where to go), educate providers on this issue and encourage adoption of a screening tool. For each group, identify primary places that are frequented and target strategies for each.”; and b) “We must have open conversations about loneliness and its impact on physical health, mental health and the potential for suicide. This needs to be community wide. Perhaps look at social media/media campaign to address.” Screening tools that have been identified by the National Academies of Sciences, Engineering and Medicine as likely to have greatest success in clinical settings include the Berkman–Syme Social Network Index (for measuring social isolation) and the three-item UCLA Loneliness Scale (for measuring loneliness).<sup>9</sup></p>	
<p><b>Ease of Implementation (Score 1-10): 3</b></p> <ul style="list-style-type: none"> <li>• Cost will be a barrier to implementation.</li> <li>• Implementation could require the creation of a pilot program or new program over many years.</li> </ul>	<p><b>Potential for High Impact (Score 1-10): 8</b></p> <ul style="list-style-type: none"> <li>• Implementation of this recommendation will benefit a large population of the general public including, but not limited to, older adults, people of color, and low-income families.</li> <li>• High potential for cost savings for the general public and safety net programs due to early identification of and intervention for mental health problems related to social isolation.</li> </ul>
<p><b>Measuring Impact:</b></p> <ul style="list-style-type: none"> <li>• Number of adopters of screening tool.</li> <li>• Suicide rates.</li> </ul>	
<p><b>Action Lead:</b> KDADS</p>	<p><b>Key Collaborators:</b> KDHE</p>

Return to [Figure A-1](#) and [Figure D-2](#).

**Prevention and Education Recommendation 4.7: Normalize Behavioral Health Discussions  
[New; Immediate Action]**

<p><b>Recommendation:</b> In lieu of discussing stigma, build on recent success stories (e.g., 988 lifeline, mobile crisis, CCBHC) to publicize behavioral health as health, creating a culture in which mention of depression, anxiety, post-trauma, addiction and other common illnesses become as mentionable as diabetes, heart disease and migraines.</p>	
<p><b>Rationale:</b> The Special Committee raised the issue of stigma related to mental illness and addictions and its impact on access to behavioral health services. The working group was provided with select national materials about stigma,<sup>10</sup> and members proposed two distinct recommendations that, after a survey revealed similar support for each, were combined into one by the working group co-chairs. The original proposed options were to: a) “Publicize help lines to encourage people to get help before they are suicidal or in crisis. Increase access to therapy and medications for the uninsured. Find success stories and promote them publicly.”; and b) “Just talk about mental health (not stigma). Create a culture in which mention of depression, anxiety, post-trauma, and other common illnesses become as mentionable as diabetes, hypertension, and migraines.” After a survey revealed similar support for both concepts, the working group co-chairs proposed combining them. Culturally appropriate outreach campaigns — including social media campaigns and public service announcements — can be designed for accessibility to diverse audiences.</p>	
<p><b>Ease of Implementation (Score 1-10): 3</b></p> <ul style="list-style-type: none"> <li>• Cost may be a barrier to implementation.</li> <li>• May require program change.</li> </ul>	<p><b>Potential for High Impact (Score 1-10): 8</b></p> <ul style="list-style-type: none"> <li>• High potential for impact for large population, particularly those in foster care, rural and urban communities, those with limited English proficiency, and low-income individuals.</li> <li>• May produce cost savings for both general public and for safety net programs.</li> </ul>
<p><b>Measuring Impact:</b></p> <ul style="list-style-type: none"> <li>• Behavioral Risk Factor Surveillance System optional mental illness and stigma module.</li> </ul>	
<p><b>Action Lead:</b> KDADS</p>	<p><b>Key Collaborators:</b> KDHE</p>

Return to [Figure A-1](#) and [Figure D-1](#).

## Prevention and Education – Revised Recommendations

### Prevention and Education Recommendation 4.1: 988 Suicide Prevention Lifeline Funding [Revised; Immediate Action]

<p><b>Recommendation:</b> Once the 988 National Suicide Prevention Lifeline (NSPL) phone number is implemented, Kansas should collect fees via phone bills to support increasing the in-state answer rate and ensure that callers are connected to in-state resources. <u>The Legislature should consider HB 2281 in the 2022 session to ensure funds are available in July 2022.</u></p>	
<p><b>Rationale for Revision:</b> The working group reaffirmed the importance of funding the 988 Suicide Prevention Lifeline. 988 will go into effect in July 2022 regardless of funding mechanism as per federal requirements. The working group maintains that a telecommunications surcharge remains the best method to ensure 988 has the resources needed to appropriately respond to all calls. The NSPL is a national network of local crisis centers that provides support to people in suicidal crisis or emotional distress. The NSPL will transition from a 10-digit phone number to 988 by July of 2022, making it easier for individuals to know what number to call when in crisis; some phone providers have already begun making this transition.<sup>11</sup> The change is expected to contribute to an increase in the number of individuals using the NSPL, which currently attempts to match callers to in-state crisis centers when possible. Between October 1, 2019, and December 31, 2019, 60 percent of NSPL calls initiated in Kansas were answered by Kansas providers.<sup>12</sup> Increasing the in-state answer rate will ensure that Kansans in crisis are connected to providers who can direct them to local resources.</p>	
<p><b>Ease of Implementation (Score 1-10): 5</b></p> <ul style="list-style-type: none"> <li>• Would likely involve a program overhaul, involving additional staff and training.</li> <li>• Sustainability is considered in the recommendation via fee collection. The recommendation does not include funding for a crisis text line.</li> <li>• Will require a legislative session, contracts, grant cycles and systems to implement.</li> </ul>	<p><b>Potential for High Impact (Score 1-10): 8</b></p> <ul style="list-style-type: none"> <li>• Will benefit a large population.</li> <li>• Could produce savings in other areas.</li> </ul>
<p><b>Measuring Impact:</b></p> <ul style="list-style-type: none"> <li>• National Suicide Prevention Lifeline Answer Rate.</li> <li>• Percent change in the statewide age-adjusted mortality rate for suicide per 100,000 population.</li> </ul>	
<p><b>Action Lead:</b> KDADS</p>	<p><b>Key Collaborators:</b> Crisis centers, CMHCs, Legislature</p>

Return to [Figure A-1](#) and [Figure D-1](#).

*Prevention and Education Recommendation 4.4: Behavioral Health Prevention [Revised; Strategic Importance]*

**Recommendation:** Increase state funds for behavioral health prevention efforts to support additional evidence-based primary prevention and grant opportunities for community prevention activities.

**Rationale for Revision:** The original language of the recommendation — “Increase state funds for behavioral health prevention efforts (e.g., substance use disorder [SUD] prevention, suicide prevention)” — was considered overly broad by some working group members, while others said the interpretation of the 2020 recommendation had been interwoven with specific state activities, including the Kansas Suicide Prevention Plan, and did not require more specificity. To reach consensus, the working group asked KDADS to suggest language that would highlight how the recommendation could support expanding prevention opportunities. The new language highlights opportunities to increase evidence-based primary prevention and provide grant funding for community organizations to implement prevention activities.

Return to [Figure A-1](#) and [Figure D-2](#).

## ***Treatment and Recovery – Revised Recommendations***

*Treatment and Recovery Recommendation 5.3: Frontline Capacity [Revised; **Immediate Action**]*

**Recommendation:** Fully fund a statewide psychiatric access program that includes linked specialty teams with high levels of expertise (e.g., psychiatrists, child and adolescent psychiatrists, peripartum psychiatrists, child psychologists, pediatricians, resource specialists, and patient and family advocates) to provide multi-disciplinary consultations, training, and resource and referral support to health care providers across the lifespan. Ensure continuation of current pregnant/postpartum and pediatric programs starting July 2023 (FY 2024). Expand current programs to include specialty teams for children (through 21 years of age) with Intellectual/Developmental Disability (I/DD) and children (through 21 years of age) with Autism Spectrum Disorder starting July 2024 (FY 2025), and for adults with mood disorders starting July 2025 (FY 2026).

**Rationale for Revision:** The revision refined the previous version of the recommendation (“Increase capacity of frontline health care providers (e.g., pediatricians, family physicians and OB-GYNs) to identify and provide services to those with behavioral health needs.”) by adding specificity about the KDHE program currently supported by two distinct federal grants, one focused on providers who work with pregnant and postpartum individuals (Kansas Connecting Communities), and another focused on pediatric primary care providers (KSKidsMAP). These grant programs are modeled after two psychiatric access programs developed in Massachusetts, where they proved to be effective.<sup>13,14</sup> While federal grants have covered initial implementation activities (e.g., provider-to-provider consultation), these funds will expire in 2023. Private insurers may also be interested in this service and could be collaborated with to move this recommendation forward.

<b>Ease of Implementation (Score 1-10): 5</b>	<b>Potential for High Impact (Score 1-10): 6</b>
<ul style="list-style-type: none"> <li>• Cost will be a barrier to implementation. \$1.18 million is needed to continue the perinatal and pediatric psychiatric access programs starting in FY 2024. An additional \$500,000 (estimated) is needed to expand the psychiatric access programs to include health care providers treating pediatric patients with I/DD and/or autism in FY 2025. An additional \$500,000 (estimated) is needed to expand to include adults with mood disorders starting in FY 2026. <ul style="list-style-type: none"> <li>▪ SFY2024 - \$1.18 million (est.)</li> <li>▪ SFY2025 - \$1.68 million (est.)</li> <li>▪ SFY2026 - \$2.18 million (est.)</li> </ul> </li> <li>• Expansion may require creation of a pilot program or program change.</li> </ul>	<ul style="list-style-type: none"> <li>• Potential for impact is dependent on the participation of primary care providers with higher participation rates leading to increased impact.</li> <li>• Recommendation has potential for high impact, particularly for those in foster care, rural communities, those with limited English proficiency or low-income, and those with SUD diagnoses.</li> </ul>
<b>Measuring Impact:</b> <ul style="list-style-type: none"> <li>• Number of pediatric primary care providers who enroll in a pediatric mental health care access program.</li> <li>• Number of perinatal providers who enroll in a perinatal psychiatric access program.</li> <li>• Utilization of Maternal Depression Screening Medicaid codes.</li> </ul>	
<b>Action Lead:</b> KDHE	<b>Key Collaborators:</b> KU School of Medicine – Wichita and Kansas City

Return to [Figure A-1](#) and [Figure D-1](#).

## Special Populations – New Recommendation

### Special Populations Recommendation 6.6: Medicaid Postpartum Coverage [New; Immediate Action]

<p><b>Recommendation:</b> Request Robert G. (Bob) Bethell Home and Community Based Services and KanCare Oversight Committee review of extending the Medicaid postpartum coverage period to 12 months postpartum. This supports access to behavioral health treatment and other preventive care, thus improving health outcomes for both the mother and child.</p>
<p><b>Rationale:</b> Working group members identified that Medicaid postpartum coverage is limited to 60 days in Kansas but had been extended temporarily due to the COVID-19 policy restricting disenrollment during the public health emergency. Kansas now has the option to decide to extend postpartum coverage up to 12 months, and the state’s actuaries estimate this action will have no impact or a small positive impact on budget neutrality for KanCare and an estimated annual cost of \$10.5 million a year. Working group members noted extended coverage would increase access to behavioral health services.</p>

*Note:* Special Committee conclusion regarding Bethell Committee recommendations.

There was consensus that this would have a positive impact on health but concern from the working group members that more information is needed to determine a cost/impact ratio, including what the cost of doing nothing would include<sup>15, 16</sup>. In a 2021 report, the Commonwealth Fund examines the financial cost of failing to treat maternal morbidity conditions in the United States. Maternal mental health carried the highest cost of the conditions studied with \$18.1 billion which authors suggest signals a need for increased access to post-partum behavioral health services.<sup>17</sup> The recommendation was modified to serious consideration by the Robert G. (Bob) Bethell Joint Committee on Home and Community Based Services and KanCare Oversight.

<b>Ease of Implementation (Score 1-10): 10</b>	<b>Potential for High Impact (Score 1-10): 9</b>
<ul style="list-style-type: none"> <li>• Requesting Bethell Committee review has a high ease of implementation; however, should the Bethell Committee decide to pursue this recommendation either through a state plan amendment or a 1115 waiver, implementation may be more difficult.</li> <li>• The estimated cost of \$10.5 million <b>SGF all funds</b>, because of other savings, would have no effect on budget neutrality or could produce net savings.</li> </ul>	<ul style="list-style-type: none"> <li>• The recommendation has potential for very high impact, particularly for pregnant and postpartum mothers.</li> <li>• The recommendation could address disparities in maternal health outcomes among people of color and low-income populations.</li> <li>• There is a potential for cost savings in the rest of the health care system as well as the child welfare system.</li> </ul>
<b>Measuring Impact:</b> <ul style="list-style-type: none"> <li>• Maternal morbidity rates.</li> </ul>	
<b>Action Lead:</b> Legislature	<b>Key Collaborators:</b> KDHE

Return to [Figure A-1](#) and [Figure D-1](#).

## ***Special Populations – Related Activities***

The 2020 *Strategic Framework* included a recommendation to expand the Medicaid waiver for individuals with intellectual or developmental disabilities. The 2021 Special Committee indicated interest in addressing the Autism waiver and services for children and adolescents with autism spectrum disorder. The Special Committee received an update on related recommendations from the Autism Task Team convened by KDADS and DCF in 2021.

The Services and Workforce Working Group also received an update from the Autism Task Team on its work and recommends that Special Committee members and readers of this report reference the Autism Task Team recommendations that will be published in January 2022. Key recommendations may include expanding access to autism services via telehealth, developing systems that allow for individualized budget authority, incentivizing providers to serve rural and underserved communities, and exploring options to expand services for youth with autism.

The working group also refers readers to the recommendations of the Governor’s Commission on Racial Equity and Justice, which were presented to the Special Committee in November 2020<sup>18</sup> prior to their adoption. Many of the recommendations align with those made by the working groups of the Special Committee in 2020 and 2021, including regarding a statewide needs assessment, expanded telehealth access, suicide prevention, school-based mental health services, workforce, and 12-month postpartum Medicaid coverage. The Commission also adopted a number of recommendations related to social determinants of health and early childhood mental health services.

## ***Data Systems – New Recommendations***

### ***Data Systems Recommendation 7.6: Outcomes Data [New; Strategic Importance]***

<b>Recommendation:</b> Work with the State Epidemiological Outcomes Workgroup (SEOW) to establish an annual legislative report on state behavioral health outcomes using existing data and outcome measures.	
<b>Rationale:</b> The working group was assigned this topic by the Special Committee for 2021. The working group acknowledged legislative concerns about lags in data availability and discussed how to address concerns for the need for current data. Working group members proposed that outcome indicators be selected in advance and analyzed in collaboration with the State Epidemiological Outcomes Workgroup (SEOW). Examples could include hospital admissions and key social determinants of health, including housing and employment stability. The SEOW was created to integrate efforts around data collection, bringing together a diverse group of data experts to support the state’s prevention infrastructure. It meets quarterly and maintains a wide array of behavioral health indicators. When available, all indicators report data related to prevalence, treatment and consequences by age, gender, race and ethnicity. <sup>19</sup>	
<b>Ease of Implementation (Score 1-10): 6</b>	<b>Potential for High Impact (Score 1-10): 5</b>
<ul style="list-style-type: none"> <li>• Cost will be a barrier to implementation.</li> <li>• Implementation may require program overhaul, creation of a pilot program, and/or program change.</li> </ul>	<ul style="list-style-type: none"> <li>• Benefits a large population.</li> <li>• Will impact foster care children, rural communities, urban communities, limited English proficient persons, low-income individuals, and children.</li> <li>• Will assist in measurement of disparities.</li> </ul>
<b>Measuring Impact:</b>	
<ul style="list-style-type: none"> <li>• Data provided to Legislature and used for policy decision making.</li> <li>• Use in production of disparities analysis.</li> </ul>	
<b>Action Lead:</b> State Epidemiological Outcomes Workgroup	<b>Key Collaborators:</b> Legislative Health Committees

Return to [Figure A-1](#) and [Figure D-2](#).

## Interactions with Legal System and Law Enforcement – New Recommendations

### Interactions with Legal System and Law Enforcement Recommendation 8.5: Regional Specialty Courts/Venue Transfer [New; Strategic Importance]

<p><b>Recommendation:</b> Explore creation of regional specialty courts across Kansas. Consider implications related to venue transfer for access to regional specialty courts.</p> <p>[<i>Note:</i> The Committee requested a letter be sent to the Specialty Courts Committee of the Judicial Branch requesting it explore the funding that may be available, from multiple sources, to fund the creation of regional specialty courts.]</p>	
<p><b>Rationale:</b> Specialty courts — including veterans courts, drug courts and mental health courts — are designed to provide individualized and rehabilitative treatment, and to reduce recidivism. In addition to the 2020 <i>Recommendation 8.2</i> related to specialty courts, the working group proposed a new recommendation related to regional specialty courts and venue transfer to address the need for services and supports, particularly in rural and frontier areas of Kansas that may lack resources. In order to pursue a regional court model, legislative action permitting venue transfer will be required. Working group members also discussed the challenges of limited funding for specialty courts and how state-level funding may not necessarily be the best solution. Working group members called for specialty court funding from multiple funding streams. Ultimately the group decided to refer the issue to the judicial branch’s Specialty Courts Committee.</p>	
<p><b>Ease of Implementation (Score 1-10): 3</b></p> <ul style="list-style-type: none"> <li>• Will require legislative change.</li> <li>• Cost will be a barrier.</li> </ul>	<p><b>Potential for High Impact (Score 1-10): 10</b></p> <ul style="list-style-type: none"> <li>• Could produce savings in correctional system costs.</li> <li>• Would impact disproportionately affected populations</li> </ul>
<p><b>Measuring Impact:</b></p> <ul style="list-style-type: none"> <li>• Recidivism rates.</li> <li>• Number of judicial districts with access to specialty courts.</li> <li>• Individuals referred for services.</li> <li>• Individuals receiving treatment.</li> </ul>	
<p><b>Action Lead:</b> Specialty Courts Committee (judicial branch)</p>	<p><b>Key Collaborators:</b> Office of Judicial Administration, Legislature</p>

Return to [Figure A-1](#) and [Figure D-2](#).

### Interactions with Legal System and Law Enforcement Recommendation 8.6: Specialty Court Coordinators [New; Immediate Action]

<p><b>Recommendation:</b> Provide funding for judicial districts that meet qualifying criteria to hire specialty court coordinators.</p>
<p><b>Rationale:</b> Working group members said because specialty courts require substantial work, related recommendations will necessitate the funding of coordinator positions to facilitate the workload. To expand current specialty court capacity or create new specialty courts, funding will be required to ensure the specialty courts function as intended and can access the full range of wrap-around services proposed. In testimony to the Special Committee, judges. . .</p>

described the effectiveness of specialty courts in reducing recidivism. They also described the need to rely on grant funding to originate specialty courts and concern about what happens after grants expire. HB 2361,<sup>20</sup> which passed the House in 2021 and has been referred to the Senate Judiciary Committee, would, among other actions, establish the Specialty Court Funding Advisory Committee within the judicial branch to evaluate resources available for people assigned to specialty courts and for the operation of specialty courts; secure funding to operate courts; and recommend to the Judicial Administrator the allocation of resources among the various specialty courts.

<b>Ease of Implementation (Score 1-10): 4</b>	<b>Potential for High Impact (Score 1-10): 9</b>
<ul style="list-style-type: none"> <li>• Will require funding.</li> <li>• Related legislation has passed one chamber of the Legislature.</li> </ul>	<ul style="list-style-type: none"> <li>• Could produce savings in correctional costs.</li> </ul>
<b>Measuring Impact:</b>	
<ul style="list-style-type: none"> <li>• Number of judicial districts with access to specialty courts.</li> <li>• Recidivism rates.</li> <li>• Number of individuals in court system receiving treatment.</li> </ul>	
<b>Action Lead:</b> Judicial Branch	<b>Key Collaborators:</b> Legislature

Return to [Figure A-1](#) and [Figure D-1](#).

*Interactions with Legal System and Law Enforcement Recommendation 8.7: Competency Evaluation and Restoration [New; Immediate Action]*

<b>Recommendation:</b> <del>Provide funding</del> Recommend KDADS look into a pilot for community mental health centers to conduct mobile competency evaluation and competency restoration and report to the 2022 Legislature.
<b>Rationale:</b> KDADS provided the working group with an update on the current status of competency evaluations and competency restoration. This update highlighted the limited capacity and long wait periods — with an average wait time for a competency evaluation of 170 days for males, with some waiting up to 360 days to complete. Additionally, KDADS highlighted the potential for mobile competency evaluations to help reduce long waiting periods but said this will not serve everyone. The working group called for immediate action to remedy unjust waiting periods and proposed other options for increasing capacity be explored including the potential for telehealth and Osawatomie State Hospital (OSH) or CMHCs to assist in the completion of competency evaluations. Implementation will be impacted by community mental health center interest in participating and funding. Working group members explained a first step would likely involve developing a pilot program for those CMHCs interested in conducting competency evaluations or restoration. Although the working group acknowledges that only a small portion of the overall state population will benefit from implementation, working group members noted the current due process issues with the long wait times for competency evaluations. Improving access to competency evaluations will have a very high impact on those currently affected.

<b>Ease of Implementation (Score 1-10): 8</b>	<b>Potential for High Impact (Score 1-10): 8</b>
<ul style="list-style-type: none"> <li>• Cost will be a barrier.</li> <li>• Recommendation does not currently include strategies for continuity.</li> <li>• Implementation will likely require a pilot program.</li> </ul>	<ul style="list-style-type: none"> <li>• Will not benefit a large population, but will have a substantially high impact on those who have long waiting periods for competency evaluations.</li> <li>• Will impact foster children, rural and urban communities, limited English proficient persons, low-income individuals and children.</li> <li>• Will produce cost savings in other areas</li> </ul>
<b>Measuring Impact:</b> <ul style="list-style-type: none"> <li>• Number of days people wait for competency evaluations.</li> <li>• Number of days people wait for competency restoration services.</li> </ul>	
<b>Action Lead:</b> KDADS	<b>Key Collaborators:</b> CMHCs, prosecutors, defense counsel, Office of Judicial Administration

Return to [Figure A-1](#) and [Figure D-1](#).

## ***Interactions with Legal System and Law Enforcement – Revised Recommendations***

### ***Interactions with Legal System and Law Enforcement Recommendation 8.1: Correctional Employees [Revised; Immediate Action]***

<b>Recommendation:</b> Expand training provided in <a href="#">state</a> correctional facilities, <a href="#">local jails and detention centers</a> to allow employees to better recognize those with substance use disorders, use a trauma-informed approach to identify other mental health needs, and connect those with needs to available services.
<b>Rationale for Revision:</b> The working group recommended revising the language of the recommendation to clarify that training should include staff of local as well as state facilities. Trainings throughout the justice system should be offered on a consistent and ongoing basis.

Return to [Figure A-1](#) and [Figure D-1](#).

### ***Interactions with Legal System and Law Enforcement Recommendation 8.3: Law Enforcement Referrals [Revised; Immediate Action]***

<b>Recommendation:</b> Increase utilization and development of evidence-based SUD referral as well as treatment and recovery services among persons with law enforcement contact, which could include securing funding to increase access to <a href="#">inpatient, residential and outpatient</a> services for this population.
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**Rationale for Revision:** The working group revised the recommendation to ensure it is interpreted broadly to include funding to support access to residential services as well as inpatient and outpatient services.

Return to [Figure A-1](#) and [Figure D-1](#).

#### **Interactions with Legal System and Law Enforcement Recommendation 8.4: Defining Crossover Youth Population. [Revised; Strategic Importance]**

**Recommendation:** Future efforts should include behavioral health within an operationalized definition for youth with offender behaviors at risk of entering foster care, as well as including diverted youth in the definition of the broader juvenile offender population. [Coordinate with juvenile corrections advisory boards to ensure local implementation aligns with statewide policy team recommendations.](#)

**Rationale for Revision:** Since the previous 2020 Special Committee meetings, the Kansas Department of Corrections (KDOC) completed this work and established statewide recommendations for working with crossover youth. Ideally, these recommendations are implemented by local Juvenile Corrections Boards, which operate in each judicial district. However, working group members advised that local agencies have not uniformly adopted these recommendations. The working group proposed re-opening this recommendation and adding the new language to clarify expectation that local agency responses align with statewide policy team expectations.

Return to [Figure A-1](#) and [Figure D-2](#).

## **System Transformation – Revised Recommendations**

#### **System Transformation Recommendation 9.3: Integration [Revised; Immediate Action]**

**Recommendation:** Increase integration, linkage, collaboration and identify care transition best practices among mental health, substance abuse, primary care and emergency departments across the state. [For example](#), adopt coding practices that allow for the integration of services across the continuum of care domains (including, but not limited to, primary care, substance use disorder, and mental health) to provide more integrated services to clients with co-occurring conditions.

**Rationale for Revision:** The revision clarifies that adopting coding practices that facilitate integration of primary medical and behavioral health care is one critical step toward the goal of providing best-practice, whole-person care, and that other strategies can and should be considered.

Return to [Figure A-1](#) and [Figure D-1](#).

### **System Transformation Recommendation 9.5: Family Psychotherapy [Revised; Strategic Importance]**

**Recommendation:** Enable utilization of procedure code 90846 in Medicaid as a tool to support youth in foster care. This would allow therapists/practitioners to have discussions without the child present. [Note: The Robert G. (Bob) Bethell Joint Committee on Home and Community Based Services and Kan Care Oversight included as a recommendation in its report to the 2022 Legislature that the State submit a State Plan Amendment to add '90846' as a billable Medicaid code that would allow billing for therapy without the patient participating and it requested a cost estimate from the KDHE.]

**Rationale for Revision:** State staff reported that one element from the previous version of this recommendation (“Enable utilization of procedure code 90846 in Medicaid as a tool to support youth in foster care, as well as any child accessing care in a Psychiatric Residential Treatment Facility (PRTF).”) — the provision about using the code for children in PRTFs — would not be approvable by the CMS, as it is considered content of service for the PRTF per diem. KDHE and KDADS staff anticipate the state plan amendment necessary to allow billing of 90846 in other settings will be submitted by January 2022.

Services in evidence-based programs that can be billed using the code include Parent Management Training of Oregon (PMTO), Emotion Focused Family Therapy, and Brief Solution Focused Therapy.

Return to [Figure A-1](#) and [Figure D-2](#).

### **Telehealth – Revision to Vision Statement**

A modernized behavioral health system will deliver technologically current telehealth services, with the Kansas Telemedicine Act as a foundation, as a strategy to provide meaningful access to care across rural, frontier and urban areas and regardless of socioeconomic status. These services will be high-quality, integrated with other modes of care delivery and ensure consumer choice and privacy, in addition to supporting the full spectrum of behavioral health care.

### **Telehealth – New Recommendation**

#### **Telehealth Recommendation 10.6: Telemedicine Committee [New; Strategic Importance]**

**Recommendation:** The Legislative Coordinating Council shall establish a Special Committee on Telemedicine Modernization structured in the same manner as the 2021 Special Committee on Kansas Mental Health Modernization and Reform (MHMR), which includes judiciary ad hoc members. The Committee stresses the need to continue the work of the Special Committee on MHMR on the topic of telemedicine.

**Rationale:** The working group called for the conversation on telehealth modernization to be continued beyond the 2021 Special Committee on Kansas Mental Health Modernization and Reform. Having received clarification on the Kansas Telemedicine Act, working group members noted a continued need for education and discussion about telemedicine rates and usage. However, the working group determined that telehealth usage remains unpredictable due to the pandemic, and more data collection is needed to better understand the future of telemedicine in Kansas prior to making decisions related to telehealth rates or payment parity.

The working group charges this new Special Committee on Telemedicine Modernization with the development of guidelines and standards for quality assurance as one of their first acts (See Recommendation 10.1).	
<b>Ease of Implementation</b> (Score 1-10): 2	<b>Potential for High Impact</b> (Score 1-10): 10
<ul style="list-style-type: none"> <li>The creation of the committee will likely have a high ease of implementation, but the decisions this committee will make may be highly challenging.</li> </ul>	<ul style="list-style-type: none"> <li>Implementation of this recommendation has a strong potential for high impact, particularly among populations with limited mobility and those lacking vehicle transportation.</li> <li>Potential for cost savings depending on decisions made by this committee.</li> </ul>
<b>Measuring Impact:</b> <ul style="list-style-type: none"> <li>Statutory change.</li> <li>Increase in telehealth accessibility and affordability based on review of telehealth claims data.</li> </ul>	
<b>Action Lead:</b> Legislative Coordinating Council (LCC), Legislature	<b>Key Collaborators:</b> Providers, consumers, Legislature, private insurers, employers (particularly self-insured), KDHE, KDADS, regulatory boards

Return to [Figure A-1](#) and [Figure D-2](#).

## Telehealth – Revised Recommendations

### Telehealth Recommendation 10.1: Quality Assurance [Revised; Immediate Action]

<p><b>Recommendation:</b> Develop <a href="#">quality assurance</a> standards to ensure high-quality telehealth services are provided, <a href="#">including:</a></p> <ul style="list-style-type: none"> <li>Establishing consistent guidelines and measures for telehealth in collaboration with licensing and regulatory agencies.</li> <li>Allowing telehealth supervision hours to be consistently counted toward licensure requirements.</li> <li>Allowing services to be provided flexibly <a href="#">utilizing the Kansas Telemedicine Act</a>.</li> <li><a href="#">Improving provider and patient education around telehealth literacy in relation to privacy, efficacy, access and cybersecurity practices.</a></li> </ul>
<p><b>Rationale for Revision:</b> The working group identified key barriers for implementation of the previous 2020 recommendation of Telehealth Quality Assurance, including confusion with the Kansas Telemedicine Act and gaps in provider training around maintaining a standard of care in a telehealth setting. To address this, the working group proposed increased provider and patient education around the appropriate use of technology to ensure the same quality of care of both in-person and telehealth visits and improve e-health literacy in relation to privacy, efficacy, and</p>

[*Note:* The Kansas Telemedicine Act citation may be accessed at [https://www.ksrevisor.org/statutes/chapters/ch40/040\\_002\\_0210.html](https://www.ksrevisor.org/statutes/chapters/ch40/040_002_0210.html)]

access. Working group members also called for increased training in relation to cybersecurity best-practices and for the creation of consistent guidelines in collaboration with licensing and regulatory agencies. This recommendation scores high for ease of implementation because many providers are already familiar with telehealth services and the trainings needed for further provider and patient education are widely available. The only potential challenge to implementation that the working group identified was that some providers may have limited information technology (IT), creating challenges for their capacity to carry out telehealth services.

<b>Ease of Implementation (Score 1-10): 9</b>	<b>Potential for High Impact (Score 1-10): 8</b>
<ul style="list-style-type: none"> <li>• Implementation will likely require program change.</li> <li>• Providers' IT systems may be a challenge for implementation.</li> </ul>	<ul style="list-style-type: none"> <li>• Recommendation has potential for high impact, particularly for those in foster care, rural communities, and those with limited mobility.</li> </ul>
<b>Measuring Impact:</b> <ul style="list-style-type: none"> <li>• Trends in telehealth utilization rates.</li> </ul>	
<b>Action Lead:</b> Special Committee on Telemedicine Modernization (established through Recommendation 10.6)	<b>Key Collaborators:</b> KDHE, KDADS, providers, BSRB, private insurers, regulatory bodies, Kansas Insurance Department, state associations, health care provider associations, providers' professional associations across continuum of care, Legislature

Return to [Figure A-1](#) and [Figure D-1](#).

### Telehealth Recommendation 10.2: Reimbursement Codes [Revised; Immediate Action]

<b>Recommendation:</b> <u>As CMS rules allow</u> , maintain Medicaid reimbursement codes added during the public health emergency for <u>telehealth</u> services and consider options to prevent loss of facility fees so that providers are not losing revenue by delivering telehealth services.
<b>Rationale for Revision:</b> Many of the reimbursement codes added during the pandemic that were intended to prevent loss of facility fees remain in use. The working group identified these code expansions as key to improved provision of telehealth services to patients during the pandemic. In order to ensure this continued access, the working group revised this recommendation to call for maintenance of the current codes as permitted by CMS rules. Working group members do note that should the state choose to allow facility fees for behavioral telehealth providers, other providers may ask for the same accommodation. For a long-term solution, working group members encourage the exploration of new or different codes to help in long-term prevention of providers losing revenue by providing telehealth services if CMS rules were to change.

<b>Ease of Implementation (Score 1-10): 10</b>	<b>Potential for High Impact (Score 1-10): 10</b>
<ul style="list-style-type: none"> <li>Implementation will require program maintenance as Medicaid already does this currently.</li> </ul>	<ul style="list-style-type: none"> <li>This recommendation will benefit a large population.</li> </ul>
<b>Measuring Impact:</b> <ul style="list-style-type: none"> <li>Number of telehealth codes open for Medicaid reimbursement pre- and post-pandemic.</li> <li>Utilization of these telehealth codes.</li> </ul>	
<b>Action Lead:</b> KDHE Division of Health Care Finance	<b>Key Collaborators:</b> KDADS, managed care organizations, CMHCs, provider and payer professional associations, Medicare/Medicaid and insurance representatives, hospital advisory boards, patient advocacy groups, Legislature, CMS

Return to [Figure A-1](#) and [Figure D-1](#).

**Telehealth Recommendation 10.3: Telehealth for Crisis Services [Revised; Immediate Action]**

<p><b>Recommendation:</b> <u>Continue</u> coverage of telehealth for crisis services to allow for the use of telehealth with law enforcement and mobile crisis services. Explore virtual co-responder models for law enforcement to aid police departments and other law enforcement agencies as they respond to mental health crisis in rural and frontier communities. <u>Engage professional associations statewide to adopt appropriate education for providers, practitioners and law enforcement officers on using telehealth for crisis services.</u></p>
<p><b>Rationale for Revision:</b> The Medicaid state plan amendment to allow coverage of mobile crisis services was submitted to CMS in October, with a proposed effective date of October 1, 2021. In recognition of the work done to allow for the use of telehealth for crisis services, the working group revised the recommendation to call for continued services and a stronger emphasis on training around best practices for law enforcement and provider use of telehealth in crisis response. The working group called for KDHE to engage professional associations to adopt education to provide this training. One potential way professional associations could pursue this education with minimal administrative burden is through the integration of telehealth for crisis services training into continuing education requirements. Although working group members said that many such training courses already exist for law enforcement and practitioners, variation across the state may make this more challenging for some to adopt compared to others.</p>

<b>Ease of Implementation (Score 1-10): 6</b>	<b>Potential for High Impact (Score 1-10): 9</b>
<ul style="list-style-type: none"> <li>Implementation may require program change.</li> </ul>	<ul style="list-style-type: none"> <li>This recommendation could impact a large population, with a particularly significant impact for homeless and limited English proficient individuals and children in foster care.</li> </ul>
<b>Measuring Impact:</b> <ul style="list-style-type: none"> <li>Number of telehealth crisis codes open for Medicaid reimbursement.</li> <li>Utilization of these telehealth crisis codes.</li> </ul>	
<b>Action Lead:</b> KDHE	<b>Key Collaborators:</b> KDADS, KDOC, DCF, local law enforcement, providers, affected licensing agencies and professional associations, BSRB, nursing/physician representation, emergency medical services (EMS), behavioral health practices, Legislature

Return to [Figure A-1](#) and [Figure D-1](#).

**Telehealth Recommendation 10.4: Originating and Distant Sites [Revised; Strategic Importance]**

<p><b>Recommendation:</b> The following item should be addressed to ensure that individuals receive — and providers offer — telehealth in the most appropriate locations:</p> <ul style="list-style-type: none"> <li>Examine issues related to providers practicing, and patients receiving, services across state lines, such as by exploring participation in interstate licensure compacts.</li> </ul> <p><i>(Some 2020 language removed)</i></p>
<p><b>Rationale for Revision:</b> The working group expressed concerns about provider confusion around the Kansas Telemedicine Act in relation to Originating and Distant Sites and existing inter-state compacts. Generally, behavioral health providers must have a state license to practice within the state that the originating site is located, even when the distant site is out of state. With a compact, licensed behavioral health providers in one compact state can practice or be a distant site in any other compact state. Most compacts are specific to licensure category. For example, the American Counseling Association’s work with the Council of State Governments (CSG) National Center on Interstate Compacts on an interstate compact for licensed counselors is expected to cover licensed professional counselors and is hoped to include 10-12 initial states by 2023. Use of these compacts could greatly benefit a large population, particularly those in rural areas of Kansas where access to providers is limited. The working group called for further examination of these issues to further the modernization of telehealth in Kansas.</p>

<b>Ease of Implementation (Score 1-10): 10</b>	<b>Potential for High Impact (Score 1-10): 10</b>
<ul style="list-style-type: none"> <li>Implementation may require program change.</li> </ul>	<ul style="list-style-type: none"> <li>Implementation of this recommendation has a high potential for high impact because of its potential to increase access to care.</li> </ul>
<b>Measuring Impact:</b> <ul style="list-style-type: none"> <li>Number of contracts with providers outside of state.</li> <li>Use of compacts.</li> </ul>	
<b>Action Lead:</b> Legislature	<b>Key Collaborators:</b> KDHE, KDADS, providers, health care providers' professional associations, insurance agencies, Medicare/Medicaid, BSRB, licensing boards, professions' regulatory boards

**Telehealth Recommendation 10.5: Child Welfare System and Telehealth [Revised; Strategic Importance]**

<b>Recommendation:</b> Utilize telehealth to maintain service and provider continuity as children, particularly foster children, move around the state. <a href="#">Explore</a> how the unique needs of parents of children in the child welfare system can be met via telehealth.	
<b>Rationale for Revision:</b> Working group members identified an opportunity for telehealth to aid in addressing the unique needs of parents of children in the child welfare system. They recommend further exploration of how telehealth could help address these needs. The working group also identified this as an issue that telehealth could help address and requested greater effort towards maintaining contact and continuation of therapy for these children.	
<b>Ease of Implementation (Score 1-10): 10</b>	<b>Potential for High Impact (Score 1-10): 10</b>
<ul style="list-style-type: none"> <li>Implementation could require program change.</li> </ul>	<ul style="list-style-type: none"> <li>Implementation will significantly impact children, those in foster care, and low-income individuals.</li> </ul>
<b>Measuring Impact:</b> <ul style="list-style-type: none"> <li>Utilization of telehealth across foster children eligibility groups.</li> <li>When a child comes into care or goes to a new placement, the CMHC will provide therapy within 72 hours of receiving the request.</li> <li>Percentage of child in need of care (CINC) children/adolescents, age 17 or younger, that received crisis intervention services 30 calendar days prior to a screen resulting in inpatient psychiatric admission, excluding PRTF (i.e., CINC crisis intervention rate).</li> <li>The percentage of CINC children/adolescents that received therapeutic intervention services (includes more than initial assessment and diagnosis such as peer support, psychosocial individual/group, community psychiatric support and treatment, therapy and/or intake) within 30 calendar days prior to a screen resulting in an inpatient psychiatric admission, excluding PRTF (i.e., CINC therapeutic intervention rate).</li> </ul>	

<b>Action Lead:</b> KDHE	<b>Key Collaborators:</b> KDADS, DCF, child welfare and advocacy organization representatives, school health professionals, BSRB, foster care contractors, CMHCs
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Return to [Figure A-1](#) and [Figure D-2](#).

# Appendix A. Summary of All Recommendations from 2020 and 2021, As Revised

Figure A-1. Working Group High-Priority Recommendations by Topic

<b>WORKFORCE</b>
<b>Immediate Action</b>
<p><b>Recommendation 1.1 Clinical Supervision Hours.</b> Where applicable, reduce the number of clinical supervision hours required of master’s-level behavioral health clinicians to obtain clinical licensure from 4,000 to 3,000, similar to the reduction in clinical hours of social workers. <b>(Complete)</b></p>
<p><b><u>Recommendation 1.2 Access to Psychiatry Services.</u></b> Request a Legislative Post Audit to review Kansas behavioral health recipients of National Health Service Corps (NHSC) and State Loan Repayment Program (SLRP) for the past 10 years; review professions awarded, communities in which those providers were located, number of years they participated in the program, and number of years they continued to practice in their position after they exited the program; expand the analysis to the behavioral health professions served in these programs (not just psychiatry); review best practices from other states regarding recruitment and retention of licensed behavioral health professional staff to Urban, Rural, and, Frontier communities for possible, if successful, implementation in Kansas; review medical school and residency training location of psychiatrists and child and adolescent psychiatrists currently practicing in Kansas, as well as current practice locations of residents and fellows in child psychiatry who completed residency or fellowship in Kansas within the last 10 years; review existing research regarding where fellows practice in relation to where they trained; and look at the University of Kansas program that incentivizes medical students to end up practicing in Kansas to see if it is effective. <b>(Revised)</b></p>
<p><b>Recommendation 1.3 Provider MAT Training.</b> Increase capacity and access to medication-assisted treatment (MAT) in Kansas through provider training on MAT. <b>(In progress)</b></p>
<b>Strategic Importance</b>
<p><b><u>Recommendation 1.4 Workforce Investment Plan.</u></b> The State of Kansas should make a long-term investment plan for the behavioral health system workforce by increasing funding for training, recruitment, retention, and support to effectively attract and retain high-quality staff. Specific steps include:</p> <ul style="list-style-type: none"> <li>• The state should establish a Kansas university partnership to develop the comprehensive investment plan, including a focus on high school internships, mentorship and free continuing education courses, building on the model the Special Committee heard about in Nebraska;</li> <li>• Seed university programs to develop and expand bachelor’s and graduate programs in behavioral health;</li> </ul>

- Create a pool of funds that behavioral health providers could access to support retention and recruitment;
- Develop a career ladder for clinicians, such as through the development of an associate-level practitioner role; and
- Take action to increase workforce diversity, including diversity related to race/ethnicity, LGBTQ and the ability to work with those with limited English proficiency.

**(Revised)**

**Recommendation 1.5 Family Engagement Practices.** Provide adequate workforce compensation and reimbursement rates for time spent planning and implementing family engagement practices. Such support should be based on local needs, priorities, and goals determined at the program and school levels, in partnership with families. **(In progress)**

## FUNDING AND ACCESSIBILITY

### Immediate Action

**Recommendation 2.1 Certified Community Behavioral Health Clinic Model.** Support expansion of the federal Excellence in Mental Health Act and then pursue participation. If participation in the Excellence in Mental Health Act is not possible, pursue a state plan amendment or change to the 1115 Waiver to allow interested providers to gain access to the Certified Community Behavioral Health Clinic (CCBHC) model. **(In progress)**

**Recommendation 2.2 Addressing Inpatient Capacity by Implementing a Regional Model.** Implement and fund a comprehensive plan to address voluntary and involuntary hospital inpatient capacity needs while providing all levels of care across all settings, supplementing the traditional state hospital setting with regionalized facilities accepting both voluntary and involuntary admissions for persons in acute services as well as longer-term/tertiary specialized care. Ongoing analysis should be conducted to identify geographic areas of need and gaps in levels of care. **(Revised)**

**Recommendation 2.3 Reimbursement Rate Increase and Review.** Implement an immediate increase of 10-15 percent for reimbursement rates for all providers of behavioral health services. After increasing reimbursement rates, establish a working group to regularly review the reimbursement structures for behavioral health services for both the uninsured and the Medicaid population. **(Revised)**

**Recommendation 2.4 Suicide Prevention.** In support of the 2021-2025 Kansas Suicide Prevention Plan: standardize definitions of data collected related to suicide data and making suicide a reportable condition; propose policy to ensure consistent data collection across the state, including for diverse populations (include demographics); leverage the Kansas Suicide Prevention Coalition to enable collaboration among all agencies engaged in suicide prevention; designate KDADS (the single state authority for federal mental health and substance use disorder programs) as lead agency for implementation of the State Suicide Prevention Plan and collaborate with the Youth Suicide Prevention Coordinator in the office of the Attorney General; add \$1,500,000 SGF to KDADS budget to implement additional

recommendations and strategies from the State Suicide Prevention Plan, including \$250,000 for the Kansas Suicide Prevention Coalition, \$90,000 for a full-time state suicide prevention coordinator (population-wide), and the remainder for providing grant opportunities for local communities and implementing a statewide media campaign; require KDADS to submit an annual report on the progress from collaborating state agencies and the coalition as to the status and effectiveness of state suicide prevention policies and interventions as well as any updates to the State Suicide Prevention Plan to the Governor’s Behavioral Health Services Planning Council and its Prevention Subcommittee. **(Revised)**

**Recommendation 2.5 Problem Gambling and Other Addictions Fund.** Recommend the State continue to incrementally increase the proportion of money in the Problem Gambling and Other Addictions [Grant] Fund that is applied to treatment over the next several years until the full fund is being applied as intended. **(In progress)**

**Recommendation 2.6 Expand Mental Health Intervention Team Program.** Expand the Mental Health Intervention Team grant program to additional school districts. Support continuity and provide a way for students to access services when schools are not open by extending the times of services at schools, utilizing Community Mental Health Centers, or utilizing other mental health resources. **(New)**

### High-Priority Discussion

**Medicaid Expansion.** In addition to these recommendations for immediate action and of strategic importance, the working group also puts forward the issue of Medicaid expansion as a high-priority discussion item for the Special Committee. The recommendation discussed by the working group related to Medicaid Expansion reads, “Recommend a full expansion of Medicaid in order to increase access to health care for uninsured, low-income Kansans.”

More information is available in the Funding and Accessibility section, and can be accessed by selecting the link above.

## COMMUNITY ENGAGEMENT

### Immediate Action

**Recommendation 3.1: Crisis Intervention Centers.** Utilize state funds to support the expansion of crisis centers around the state. **(In progress)**

**Recommendation 3.2 IPS Community Engagement.** Increase engagement of stakeholders, consumers, families, and employers through the Kansas Department of Health and Environment (KDHE) or Kansas Department for Aging and Disability Services (KDADS) by requiring agencies implementing the Individual Placement and Support (IPS) program to create opportunities for assertive outreach and engagement for consumers and families. **(In progress)**

## Strategic Importance

**Recommendation 3.3 Foster Homes**. The State of Kansas should invest in foster home recruitment and retention by:

- Increasing funding for supplemental training on behavioral health needs and providing additional financial incentives to support serious emotional disturbance (SED) youth;
- Supporting families navigating child welfare and Medicaid programs;
- Continuing investment in recruiting, preparing and supporting families to serve high-acuity and older youth, and in recruiting, preparing, retaining and supporting African-American families;
- Providing in-home therapeutic parenting services for families to meet high-acuity needs; and
- Ensuring services are available across the continuum of care for youth discharged from inpatient or PRTF settings.

***(Revised)***

**Recommendation 3.4 Community-Based Liaison**. Expand locations where community-based liaisons are available to facilitate connection to treatment and support services (e.g., community mental health services) upon re-entry as a component of pre-release planning and services for justice-involved adults and youth with SUD and co-occurring conditions.

***(Revised)***

## PREVENTION AND EDUCATION

### Immediate Action

**Recommendation 4.1 988 Suicide Prevention Lifeline Funding**. Once the 988 National Suicide Prevention Lifeline (NSPL) phone number is implemented, Kansas should collect fees via phone bills to support increasing the in-state answer rate and ensure that callers are connected to in-state resources. The Legislature should consider HB 2281 in the 2022 session to ensure funds are available in July 2022. ***(Revised)***

**Recommendation 4.2 Early Intervention**. Increase access to early childhood mental health services by including additional language in the Medicaid state plan to explicitly cover early childhood mental health screening, assessment, and treatment. ***(In progress)***

**Recommendation 4.3 Centralized Authority**. Centralize coordination of behavioral health – including substance use disorder and mental health – policy and provider coordination in a cabinet-level position. ***(Complete)***

**Recommendation 4.5 Trauma-Informed Care**. Under the auspices of the Governor’s Behavioral Health Services Planning Council (GBHSPC), convene a workgroup of providers who have implemented trauma-informed practices to make recommendations for a pilot program or other initiative to expand trauma-informed practices statewide. ***(New)***

**Recommendation 4.7 Normalize Behavioral Health Discussions**. In lieu of discussing stigma, build on recent success stories (e.g., 988 lifeline, mobile crisis, CCBHC) to publicize behavioral health as health, creating a culture in which mention of depression, anxiety, post-trauma, addiction and other common illnesses become as mentionable as diabetes, heart disease and migraines. **(New)**

### Strategic Importance

**Recommendation 4.4 Behavioral Health Prevention**. Increase state funds for behavioral health prevention efforts to support additional evidence-based primary prevention and grant opportunities for community prevention activities. **(Revised)**

**Recommendation 4.6 Promoting Social Isolation as a Public Health Issue**. Create strategies to disseminate the importance of social isolation as a public health issue, using social media and media campaigns, educating providers, and encouraging adoption of a screening tool. **(New)**

## TREATMENT AND RECOVERY

### Immediate Action

**Recommendation 5.1 Psychiatric Residential Treatment Facilities**. Monitor ongoing work to improve care delivery and expand capacity at Psychiatric Residential Treatment Facilities (PRTF) to meet the needs of youth for whom a PRTF is medically appropriate, such as through reductions in the PRTF waitlist and a focus on reintegration and discharge planning, including with schools. **(In progress)**

**Recommendation 5.3 Frontline Capacity**. Fully fund a statewide psychiatric access program that includes linked specialty teams with high levels of expertise (e.g., psychiatrists, child and adolescent psychiatrists, peripartum psychiatrists, child psychologists, pediatricians, resource specialists, and patient and family advocates) to provide multi-disciplinary consultations, training, and resource and referral support to health care providers across the lifespan. Ensure continuation of current pregnant/postpartum and pediatric programs starting July 2023 (FY 2024). Expand current programs to include specialty teams for children (through 21 years of age) with Intellectual/Developmental Disability (I/DD) and children (through 21 years of age) with Autism Spectrum Disorder starting July 2024 (FY 2025), and for adults with mood disorders starting July 2025 (FY 2026). **(Revised)**

### Strategic Importance

**Recommendation 5.2 Service Array**. Explore options to expand the behavioral health service array, including the expansion of MAT in block grant services. Make the expanded service array available to individuals across the state, such as KanCare enrollees, those with private insurance and the uninsured. **(Complete)**

**Recommendation 5.4 Housing.** Expand and advance the SSI/SSDI Outreach, Access, and Recovery (SOAR) program (including additional training regarding youth benefits) and the Supported Housing program. *(In progress)*

## SPECIAL POPULATIONS

### Immediate Action

**Recommendation 6.1 Domestic Violence Survivors.** Build awareness of and responsiveness to the behavioral health needs and risks of domestic violence survivors of all ages through data analysis, information sharing, workforce training, and targeted interventions between domestic violence providers, state agencies and community providers serving individuals impacted by domestic violence. *(Complete)*

**Recommendation 6.2 Parent Peer Support.** Increase access to parent peer support for caregivers and families of youth in the behavioral health system, including ensuring appropriate supports for fathers of dependent children. *(In progress)*

**Recommendation 6.6 Medicaid Postpartum Coverage.** Request Robert G. (Bob) Bethell Home and Community Based Services and KanCare Oversight Committee review of extending the Medicaid postpartum coverage period to 12 months postpartum. This supports access to behavioral health treatment and other preventive care, thus improving health outcomes for both the mother and child. *(New)*

### Strategic Importance

**Recommendation 6.3 Crossover Youth.** Continue to develop linkages between the behavioral health system, juvenile justice system and the child welfare system to increase understanding of treatment options available to youth externalizing trauma in the crossover youth population as current treatment options are not meeting the needs of this population. Then, develop specialty services to meet the needs of this population. *(Complete)*

**Recommendation 6.4 I/DD Waiver Expansion.** Fully fund the I/DD waiver and expand I/DD waiver services. Increase reimbursement rates for I/DD services to support workforce expansion. *(In progress)*

**Recommendation 6.5 Family Treatment Centers.** Increase the number and capacity of designated family SUD treatment centers as well as outpatient treatment programs across the state. *(In progress)*

## DATA SYSTEMS

### Immediate Action

**Recommendation 7.1 State Hospital EHR.** The new state hospital electronic health record (EHR) system should be interoperable with other data systems in the state. Interoperability should include the ability to automate the current process to reinstate Medicaid benefits following discharge. *(In progress)*

**Recommendation 7.2 Data and Survey Informed Opt-Out.** Collect, analyze, use, and disseminate surveillance data to inform prevention. Change legislation regarding public health and behavioral health state surveys, including changing the Kansas Communities That Care (KCTC) and Youth Risk Behavior Surveillance System (YRBSS) surveys from an opt-in consent to an informed opt-out consent, to allow for meaningful data collection. *(In progress)*

**Recommendation 7.3 Information Sharing.** Utilize Medicaid funds to incentivize participation in health information exchanges (e.g., LACIE/KHIN). Explore health information exchanges as information source on demographic characteristics, such as primary language and geography for crossover youth and other high priority populations. *(In progress)*

**Recommendation 7.4 Needs Assessment.** Conduct a statewide needs assessment to identify gaps in funding, access to SUD treatment providers and identify specific policies to effectively utilize, integrate and expand SUD treatment resources. *(In progress)*

### Strategic Importance

**Recommendation 7.5 Cross-Agency Data.** Encourage state agencies to develop policies that improve their ability to access and review cross-agency data for making service and program decisions based on a thorough, shared needs assessment. *(In progress)*

**Recommendation 7.6 Outcomes Data.** Work with the State Epidemiological Outcomes Workgroup (SEOW) to establish an annual legislative report on state behavioral health outcomes using existing data and outcome measures. *(New)*

## LEGAL SYSTEM AND LAW ENFORCEMENT

### Immediate Action

**Recommendation 8.1 Correctional Employees.** Expand training provided in state correctional facilities, local jails and detention centers to allow employees to better recognize those with substance use disorders, use a trauma-informed approach to identify other mental health needs, and connect those with needs to available services. *(Revised)*

**Recommendation 8.2 Criminal Justice Reform Commission Recommendations.** Implement recommendations developed by the Criminal Justice Reform Commission (CJRC) related to specialty courts (e.g., drug courts) and develop a process for regular reporting on implementation status and outcomes. *(In progress)*

**Recommendation 8.3 Law Enforcement Referrals.** Increase utilization and development of evidence-based SUD referral as well as treatment and recovery services among persons with law enforcement contact, which could include securing funding to increase access to inpatient, residential and outpatient services for this population. ***(Previous version complete, now revised)***

**Recommendation 8.6 Specialty Court Coordinators:** Provide funding for judicial districts that meet qualifying criteria to hire specialty court coordinators. ***(New)***

**Recommendation 8.7 Competency Evaluation and Restoration:** Provide funding for community mental health centers to conduct mobile competency evaluation and competency restoration. ***(New)***

### Strategic Importance

**Recommendation 8.4 Defining Crossover Youth Population.** Future efforts should include behavioral health within an operationalized definition for youth with offender behaviors at risk of entering foster care, as well as including diverted youth in the definition of the broader juvenile offender population. Coordinate with juvenile corrections advisory boards to ensure local implementation aligns with statewide policy team recommendations. ***(Previous version complete, now revised)***

**Recommendation 8.5 Regional Specialty Courts/Venue Transfer:** Explore creation of regional specialty courts across Kansas. Consider implications related to venue transfer for access to regional specialty courts. ***(New)***

## SYSTEM TRANSFORMATION

### Immediate Action

**Recommendation 9.1 Regional Model.** *(See revised Recommendation 2.2)*

**Recommendation 9.2 Long-Term Care Access and Reform.** Reform nursing facilities for mental health (NFMHs) to allow for the provision of active treatment and necessary rehabilitative services and crisis services in NFMHs and inclusion within continuum of care. Increase access to long-term care (LTC) facilities, particularly for individuals with past involvement with the criminal justice system or those with a history of sexual violence. ***(In progress)***

**Recommendation 9.3 Integration.** Increase integration, linkage, collaboration and identify care transition best practices among mental health, substance abuse, primary care and emergency departments across the state. For example, adopt coding practices that allow for the integration of services across the continuum of care domains (including, but not limited to, primary care, substance use disorder, and mental health) to provide more integrated services to clients with co-occurring conditions. ***(Revised)***

## Strategic Importance

**Recommendation 9.4 Evidence Based Practices.** Kansas should continue and expand support for use of evidence-based practices (EBP) in the state, including for housing and supported employment. Coordinate EBP utilization across systems (e.g., law enforcement, SUD, mental health care) with a goal of implementing programs with fidelity, when possible. *(In progress)*

**Recommendation 9.5 Family Psychotherapy.** Enable utilization of procedure code 90846 in Medicaid as a tool to support youth in foster care. This would allow therapists/practitioners to have discussions without the child present. *(Revised)*

## TELEHEALTH

### Immediate Action

**Recommendation 10.1 Telehealth Quality Assurance.** Develop quality assurance standards to ensure high-quality telehealth services are provided, including:

- Establishing consistent guidelines and measures for telehealth in collaboration with licensing and regulatory agencies.
- Allowing telehealth supervision hours to be consistently counted toward licensure requirements.
- Allowing services to be provided flexibly utilizing the Kansas Telemedicine Act.
- Improving provider and patient education around telehealth literacy in relation to privacy, efficacy, access and cybersecurity practices.

*(Revised)*

**Recommendation 10.2 Reimbursement Codes.** As CMS rules allow, maintain Medicaid reimbursement codes added during the public health emergency for telehealth services and consider options to prevent loss of facility fees so that providers are not losing revenue by delivering telehealth services. *(In progress, now revised)*

**Recommendation 10.3 Telehealth for Crisis Services.** Continue coverage of telehealth for crisis services to allow for the use of telehealth with law enforcement and mobile crisis services. Explore virtual co-responder models for law enforcement to aid police departments and other law enforcement agencies as they respond to mental health crisis in rural and frontier communities. Engage professional associations statewide to adopt appropriate education for providers, practitioners and law enforcement officers on using telehealth for crisis services. *(Complete, now revised)*

### Strategic Importance

**Recommendation 10.4 Originating and Distant Sites.** The following item should be addressed to ensure that individuals receive — and providers offer — telehealth in the most appropriate locations:

- Examine issues related to providers practicing, and patients receiving, services across state lines, such as by exploring participation in interstate licensure compacts. **(Revised)**

**Recommendation 10.5 Child Welfare System and Telehealth.** Utilize telehealth to maintain service and provider continuity as children, particularly foster children, move around the state. Explore how the unique needs of parents of children in the child welfare system can be met via telehealth. **(Revised)**

**Recommendation 10.6 Telemedicine Committee.** The Legislative Coordinating Council shall establish a Special Committee on Telemedicine Modernization. **(New)**

## Appendix B: Recommendations Considered Complete

Figure B-1. Recommendations Reported as Complete by Lead Agency

Recommendation	Update from Lead Agency
<b>WORKFORCE</b>	
<p><b>Recommendation 1.1 Clinical Supervision Hours.</b> Where applicable, reduce the number of clinical supervision hours required of master’s-level behavioral health clinicians to obtain clinical licensure from 4,000 to 3,000, similar to the reduction in clinical hours of social workers. <b>(Complete)</b></p>	<p><b>BSRB:</b> The Board requested introduction of HB 2208 during the 2021 Legislative Session, which was enacted by the Legislature. HB 2208 lowered the number of clinical supervision hours required for a clinical level license, from 4,000 hours to 3,000 hours, for the professions of Master’s Level Psychology, Professional Counseling, Marriage and Family Therapy, and Addiction Counseling. This action brought the number of supervision hours in line with the reduction in supervision hours for the social work profession in 2019. Normally, for licensees accruing supervision hours, a training plan amendment would have been necessary to use the new standard, but to expedite the process, the Board waived the requirement of updates to training plans and has allowed licensees to use the requirement immediately upon enactment of the bill. A letter on HB 2208 was sent to all licensees under the BSRB and a message was posted to the front page of the BSRB website to provide notice of the changes in the bill.</p>
<b>PREVENTION AND EDUCATION</b>	
<p><b>Recommendation 4.3 Centralized Authority.</b> Centralize coordination of behavioral health – including substance use disorder and mental health – policy and provider coordination in a cabinet-level position. <b>(Complete)</b></p>	<p><b>Office of the Governor:</b> KDADS Secretary Laura Howard has been designated the centralized authority.</p>
<b>TREATMENT AND RECOVERY</b>	
<p><b>Recommendation 5.2 Service Array.</b> Explore options to expand the behavioral health service array, including the expansion of MAT in block grant services. Make the expanded service array available to individuals across the state, such as KanCare enrollees, those with private insurance and the uninsured. <b>(Complete)</b></p>	<p><b>KDADS:</b> KDADS has explored options and did expand MAT in Block Grant services.</p>

## SPECIAL POPULATIONS

**Recommendation 6.1 Domestic Violence Survivors.** Build awareness of and responsiveness to the behavioral health needs and risks of domestic violence survivors of all ages through data analysis, information sharing, workforce training, and targeted interventions between domestic violence providers, state agencies and community providers serving individuals impacted by domestic violence. **(Complete)**

**DCF:** DCF administers grants for domestic violence services that provide adults who have been victimized by domestic violence and/or sexual abuse with safety planning, mentoring services, healthy relationship training, conflict resolution training, financial literacy training and responsible parenting skills training. The grants are with Catholic Charities, Family Crisis Center, SafeHome, The Willow, and the YWCA. Since January 2021, DCF has had a contract with KCSDV for a two-part virtual training series called Training Strategies and Skills to Address Domestic Violence in Child Welfare. The participants include employees of DCF, the Child Welfare Case Management providers and other partners. Through August 2021, 205 participants have engaged in the series. DCF anticipates approximately 500 child welfare staff and advocates will participate in this learning opportunity in 2022. DCF also has a training and development contract with KCSDV.

**Recommendation 6.3 Crossover Youth.** Continue to develop linkages between the behavioral health system, juvenile justice system and the child welfare system to increase understanding of treatment options available to youth externalizing trauma in the crossover youth population as current treatment options are not meeting the needs of this population. Then, develop specialty services to meet the needs of this population. **(Complete)**

**DCF:** DCF has a dedicated full-time staff position to coordinate the CYPM and participates on the policy team. Through the FFPSA, the DCF budget includes grants for two Evidenced- based programs in mental health: Functional Family Therapy and Multi Systemic Treatment designed to serve families with older youth. In addition, DCF has two smaller grants for an emerging specialty in in-home Behavior Intervention Services for any child in the custody of the Secretary using Adoption and Legal Guardianship Incentive funds.

## LEGAL SYSTEM AND LAW ENFORCEMENT

**[Recommendation 8.3 Law Enforcement Referrals.](#)** Increase utilization and development of evidence-based SUD referral as well as treatment and recovery services among persons with law enforcement contact, which could include securing funding to increase access to inpatient, residential and outpatient

**KDOC:** In cooperation with the healthcare vendor Centurion, KDOC established an SUD assessment and referral system for residents entering the system effective July 1, 2021. If a resident is determined to suffer from Opioid Use Disorder, that resident is eligible for MAT. Processes are also in place among our Parole Officers who routinely make referrals to the RADACs to connect

<p>services for this population. <i>(This version complete, revised in 2021)</i></p>	<p>those under supervision to recovery services, programs and treatment.</p>
<p><b><u>Recommendation 8.4 Defining Crossover Youth Population.</u></b>          Future efforts should include behavioral health within an operationalized definition for youth with offender behaviors at risk of entering foster care, as well as including diverted youth in the definition of the broader juvenile offender population. Coordinate with juvenile corrections advisory boards to ensure local implementation aligns with statewide policy team recommendations. <i>(This version complete, revised in 2021)</i></p>	<p><b>KDOC:</b> As recommended by the Joint Committee on Corrections and Juvenile Justice Oversight, KDOC has contracted with Georgetown University McCourt School of Public Policy’s Center for Juvenile Justice Reform (CJJR) to implement the Cross Over Youth Model through the use of the Evidence Based Fund. There is an established Statewide Policy Team (SPT) that has defined Cross Over Youth for the State of Kansas. Crossover Youth: a young person age 10 or older with any level of concurrent involvement with the child welfare and juvenile justice systems. “Involvement” in the juvenile justice system includes court-ordered community supervision and IIPs. “Involvement” in the child welfare system includes out-of-home placement, an assigned investigation of alleged abuse or neglect with a young person named as the alleged perpetrator, and/or participation in voluntary/preventative services cases that are open for service.</p> <p>The multi-disciplinary collective that became the Kansas State Crossover Youth Practice Model State Policy Team in 2019 continues to hold monthly public meetings under the facilitation of the Statewide Coordinators with the support of CJJR. The team’s focus continues to be on intentional interagency collaboration, the facilitation of information sharing, adaptability and accountability, and the active incorporation of youth and family voices in decisions.</p>
<p><b>TELEHEALTH</b></p>	
<p><b><u>Recommendation 10.3 Telehealth for Crisis Services.</u></b> Establish coverage of telehealth for crisis services to allow for the use of telehealth with law enforcement and mobile crisis services. Explore virtual co-responder models for law enforcement to aid police departments and other law enforcement agencies as they respond to mental health crisis in</p>	<p><b>KDHE:</b> KMAP Bulletin Nos. 20065 and 20086 state that effective with dates of service on or after March 12, 2020, procedure codes H2011 (Crisis Intervention at the Basic Level); H2011 HK (Crisis Intervention at the Intermediate Level); and H2011 HO (Crisis Intervention at the Advanced Level) will be allowed to be reimbursed via telemedicine (both tele-video and telephone). Billing for these two codes is contingent upon KDADS approval of the individual crisis protocol utilized at a specified CMHCs. In addition, the State has submitted an SPA to allow for delivery of mobile crisis services for youth.</p>

rural and frontier communities. (***This version complete, revised in 2021***)

# Appendix C. Recommendation Rubric

Figure C-1. Mental Health Modernization and Reform, Working Group Recommendation Rubric, 2020-2021

<b>Recommendation:</b>	
<b>Rationale:</b>	
<b>Ease of Implementation (Score 1-10):</b>	<b>Potential for High Impact (Score 1-10):</b>
<p>Consider:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Program Change (Easiest)</li> <li><input type="checkbox"/> Pilot Program</li> <li><input type="checkbox"/> Program Overhaul</li> <li><input type="checkbox"/> New Program (Most difficult)</li> </ul> <p>Will cost be a barrier to implementation?</p> <p>Does the recommendation include strategies for continuity? (How does it consider sustainability?)</p> <p>Which of the following mechanisms may affect the achievability of the recommendation?</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Legislative session</li> <li><input type="checkbox"/> Federal approval process</li> <li><input type="checkbox"/> Regulatory process</li> <li><input type="checkbox"/> Contracts</li> <li><input type="checkbox"/> Agency budget development</li> <li><input type="checkbox"/> Grant cycles</li> <li><input type="checkbox"/> Systems (e.g., IT)</li> </ul>	<p>Consider:</p> <p>Will it benefit a large population? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Will it significantly impact special populations?</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Foster care</li> <li><input type="checkbox"/> Frontier communities</li> <li><input type="checkbox"/> Rural communities</li> <li><input type="checkbox"/> Urban communities</li> <li><input type="checkbox"/> Limited English Proficient (LEP) persons</li> <li><input type="checkbox"/> Low-income individuals</li> <li><input type="checkbox"/> Children</li> <li><input type="checkbox"/> Veterans</li> <li><input type="checkbox"/> Others? (List here)</li> </ul> <p>Does it serve those who have been disproportionately impacted by the issue? (Does it address inequities?)</p> <p>Could the recommendation produce savings in other areas?</p>

Figure C-1 (continued). Mental Health Modernization and Reform, Working Group Recommendation Rubric, 2020

<b>How does this recommendation contribute to modernization?</b>	
<b>Action Lead:</b> (Who takes point on this recommendation?)	<b>Key Collaborators:</b> (Who should be included as decisions are made about how to implement this recommendation?)
<b>Intensity of Consensus:</b> (Is there group consensus that this recommendation is important for the modernization and reform of the behavioral health system in the state? Does a wide cross-section of stakeholders feel that this recommendation would be mutually beneficial? To be addressed during final review)	

## Appendix D. UPDATED High-Priority Topic Lists

The working groups have made recommendations related to the following topics for immediate action (Figure D-1). **Recommendations for immediate action are those that should be initiated and completed in the next two years.** The full text for each recommendation and working group rationale is available in the body of the report (beginning on [page 11](#)).

Figure D-1. Recommendation Topics for Immediate Action

Workforce	Funding and Accessibility	Community Engagement
<ul style="list-style-type: none"> <li><input type="checkbox"/> Recommendation 1.1 Clinical Supervision Hours</li> <li><input type="checkbox"/> <a href="#">Recommendation 1.2 Access to Psychiatry Services</a></li> <li><input type="checkbox"/> Recommendation 1.3 Provider MAT Training</li> </ul>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Recommendation 2.1 Certified Community Behavioral Health Clinic Model</li> <li><input type="checkbox"/> <a href="#">Recommendation 2.2 Addressing Inpatient Capacity</a></li> <li><input type="checkbox"/> <a href="#">Recommendation 2.3 Reimbursement Rate Increase and Review</a></li> <li><input type="checkbox"/> <a href="#">Recommendation 2.4 Suicide Prevention</a></li> <li><input type="checkbox"/> Recommendation 2.5 Problem Gambling and Other Addictions Fund</li> <li><input type="checkbox"/> <a href="#">Recommendation 2.6 Expand Mental Health Intervention Team Program</a></li> </ul>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Recommendation 3.1 Crisis Intervention Centers</li> <li><input type="checkbox"/> Recommendation 3.2 IPS Community Engagement</li> </ul>
Prevention and Education	Treatment and Recovery	Special Populations
<ul style="list-style-type: none"> <li><input type="checkbox"/> <a href="#">Recommendation 4.1 988 Suicide Prevention Line Funding</a></li> <li><input type="checkbox"/> Recommendation 4.2 Early Intervention</li> <li><input type="checkbox"/> Recommendation 4.3 Centralized Authority</li> <li><input type="checkbox"/> <a href="#">Recommendation 4.5 Trauma-Informed Care</a></li> <li><input type="checkbox"/> <a href="#">Recommendation 4.7 Normalize Behavioral Health Discussions</a></li> </ul>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Recommendation 5.1 Psychiatric Residential Treatment Facilities</li> <li><input type="checkbox"/> Recommendation 5.3 Frontline Capacity</li> </ul>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Recommendation 6.1 Domestic Violence Survivors</li> <li><input type="checkbox"/> Recommendation 6.2 Parent Peer Support</li> <li><input type="checkbox"/> <a href="#">Recommendation 6.6 Medicaid Postpartum Coverage</a></li> </ul>
Data Systems	Legal System and Law Enforcement	System Transformation
<ul style="list-style-type: none"> <li><input type="checkbox"/> Recommendation 7.1 State Hospital EHR</li> <li><input type="checkbox"/> Recommendation 7.2 Data and Informed Survey Opt-Out</li> <li><input type="checkbox"/> Recommendation 7.3 Information Sharing</li> <li><input type="checkbox"/> Recommendation 7.4 Needs Assessment</li> </ul>	<ul style="list-style-type: none"> <li><input type="checkbox"/> <a href="#">Recommendation 8.1 Correctional Employees</a></li> <li><input type="checkbox"/> Recommendation 8.2 Criminal Justice Reform Commission Recommendations</li> <li><input type="checkbox"/> <a href="#">Recommendation 8.3 Law Enforcement Referrals</a></li> <li><input type="checkbox"/> <a href="#">Recommendation 8.6 Specialty Court Coordinators</a></li> </ul>	<ul style="list-style-type: none"> <li><input type="checkbox"/> <a href="#">Recommendation 9.1 Regional Model</a></li> <li><input type="checkbox"/> Recommendation 9.2 Long-Term Care Access and Reform</li> <li><input type="checkbox"/> <a href="#">Recommendation 9.3 Integration</a></li> </ul>

	<input type="checkbox"/> <a href="#">Recommendation 8.7 Competency Evaluation and Restoration</a>	
<b>Telehealth</b>		
<input type="checkbox"/> <a href="#">Recommendation 10.1 Quality Assurance</a> <input type="checkbox"/> <a href="#">Recommendation 10.2 Reimbursement Codes</a> <input type="checkbox"/> <a href="#">Recommendation 10.3 Telehealth for Crisis Services</a>		

The working groups have made recommendations related to the following topics (*Figure D-2*) and indicated that they should be considered of strategic importance. **Recommendations of strategic importance are those for which work should start immediately but will be completed in the long-term.** The full text for each recommendation and working group rationale is available in the body of the report (beginning on [page 11](#)).

**Figure D-2. Recommendation Topics of Strategic Importance**

Workforce	Funding and Accessibility	Community Engagement
<input type="checkbox"/> <a href="#">Recommendation 1.4 Workforce Investment Plan</a> <input type="checkbox"/> Recommendation 1.5 Family Engagement Plan	n/a	<input type="checkbox"/> <a href="#">Recommendation 3.3 Foster Homes</a> <input type="checkbox"/> <a href="#">Recommendation 3.4 Community-Based Liaison</a>
Prevention and Education	Treatment and Recovery	Special Populations
<input type="checkbox"/> <a href="#">Recommendation 4.4 Behavioral Health Prevention</a> <input type="checkbox"/> <a href="#">Recommendation 4.6 Promoting Social Isolation as a Public Health Issue</a>	<input type="checkbox"/> Recommendation 5.2 Service Array <input type="checkbox"/> Recommendation 5.4 Housing	<input type="checkbox"/> Recommendation 6.3 Crossover Youth <input type="checkbox"/> Recommendation 6.4 I/DD Waiver Expansion <input type="checkbox"/> Recommendation 6.5 Family Treatment Centers
Data Systems	Legal System and Law Enforcement	System Transformation
<input type="checkbox"/> Recommendation 7.5 Cross-Agency Data <input type="checkbox"/> <a href="#">Recommendation 7.6 Outcomes Data</a>	<input type="checkbox"/> <a href="#">Recommendation 8.4 Defining Crossover Youth Population</a> <input type="checkbox"/> <a href="#">Recommendation 8.5 Regional Specialty Courts/Venue Transfer</a>	<input type="checkbox"/> Recommendation 9.4 Evidence Based Practices <input type="checkbox"/> <a href="#">Recommendation 9.5 Family Psychotherapy</a>
Telehealth		
<input type="checkbox"/> <a href="#">Recommendation 10.4 Originating and Distant Site</a> <input type="checkbox"/> <a href="#">Recommendation 10.5 Child Welfare System and Telehealth</a> <input type="checkbox"/> <a href="#">Recommendation 10.6 Telemedicine Committee</a>		

**Figure D-3. High Priority Discussion Item**

**Medicaid Expansion.** In addition to these recommendations for immediate action and of strategic importance, the working group also puts forward the issue of Medicaid expansion as a high-priority discussion item for the Special Committee. The recommendation discussed by the working group related to Medicaid Expansion reads, “Recommend a full expansion of Medicaid in order to increase access to healthcare for uninsured, low-income Kansans.”

More information is available in the Funding and Accessibility section, which can be accessed at the link above.

# Appendix E. Special Committee and Working Group Membership

## 2021 Special Committee on Kansas Mental Health Modernization and Reform

- Senator Larry Alley
- Representative Tory Marie Arnberger
- Representative Barbara Ballard
- Representative Will Carpenter
- Senator Renee Erickson
- Senator Michael Fagg
- Senator Tom Hawk
- Representative Brenda Landwehr, Chairperson
- Representative Megan Lynn
- Senator Carolyn McGinn, Vice-chairperson
- Representative Cindy Neighbor
- Representative Adam Smith
- Representative Rui Xu
- *David Long, Committee Assistant*

## 2021 Special Committee on Kansas Mental Health Modernization and Reform Roundtable

- Jean Clifford, District 5, Kansas State Board of Education
- Wes Cole, Governor's Behavioral Health Services Planning Council
- Sarah Fertig, State Medicaid Director, Kansas Department of Health and Environment
- Coni Fries, Blue Cross and Blue Shield of Kansas City, Vice President Governmental Relations
- Honorable Bruce Gatterman, Chief Justice, Pawnee County
- Erin George, Person with Lived Experience

- Greg Hennen, Executive Director, Four County Mental Health Center, Inc
- Laura Howard, Secretary of Kansas Department for Aging and Disabilities Services and Kansas Department for Children and Families
- Don Jordan, Former Superintendent, Osawatomie State Hospital, Former Secretary, Social and Rehabilitation Services (SRS)
- Sheriff Scott King, Sheriff, Pawnee County
- Spence Koehn, Court Services Specialist, Office of Judicial Administration
- Rachel Marsh, Executive Director, Children’s Alliance of Kansas
- Laura McCray, President and CEO, Konza
- Sunee Mickle, Vice President Government and Community Relations, Blue Cross and Blue Shield of Kansas
- Honorable Sally Pokorny, Judge, Douglas County
- Kandice Sanaie, Senior Director of State Government Affairs, Cigna
- Don Scheibler, Chief of Police, Hays
- Sherri Schuck, Attorney, Pottawatomie County
- Rennie Shuler-McKinney, Director of Behavioral Health, AdventHealth Shawnee Mission
- Lisa Southern, Executive Director and Clinician, Compass Behavioral Health
- Deborah Stidham, Director of Addiction and Residential Services, Johnson County Mental Health Center
- Kelsee Torrez, Behavioral Health Consultant, Kansas Department of Health and Environment
- Honorable Robert Wonnell, Judge, Johnson County

**Services and Workforce Working Group**

- Senator Larry Alley
- Charles Bartlett, Co-chair, Director of Adult Services, Kansas Department for Aging and Disabilities Services
- Andy Brown, Commissioner of Behavioral Health Services, Kansas Department for Aging and Disabilities Services

- Rachel Brown, Chairperson, Department Psychiatry and Behavioral Sciences, KUMC-Wichita
- Wes Cole, Chair, Governor's Behavioral Health Services Planning Council
- Senator Renee Erickson
- Senator Michael Fagg
- Sarah Fertig, State Medicaid Director, Kansas Department of Health and Environment
- Erin George, Person with Lived Experience
- Gary Henault, Director of Youth Services, Kansas Department for Aging and Disabilities Services
- Greg Hennen, Executive Director, Four County Mental Health Center, Inc
- Laura Howard, Secretary of Kansas Department for Aging and Disabilities Services and Kansas Department for Children and Families
- Shane Hudson, Co-chair, Chief Executive Officer, CKF Addiction Treatment
- Don Jordan, Former Superintendent, Osawatomie State Hospital, Former Secretary, Social and Rehabilitation Services (SRS)
- Representative Megan Lynn
- Rachel Marsh, Executive Director, Children's Alliance of Kansas
- Christina Morris, Regional Director, Government Affairs, CVS Health
- Sherri Schuck, Attorney, Pottawatomie County
- Cassandra Sines, Parent, Advocate
- Brenda Soto, Deputy Director for Medicaid and Children's Mental Health, Kansas Department for Children and Services (DCF)
- Lisa Southern, Executive Director and Clinician, Compass Behavioral Health
- Deborah Stidham, Director of Addiction and Residential Services, Johnson County Mental Health Center
- Kelsee Torrez, Behavioral Health Consultant, Kansas Department of Health and Environment
- William Warnes, Co-chair, Medical Director for Behavioral Health, Sunflower Health Plan

## **System Capacity and Transformation Working Group**

- Jane Adams, Keys for Networking
- Representative Barbara Ballard
- Sandra Berg, Executive Director, United Behavioral Health, KanCare
- Laura Brake, Co-chair, Director of Crisis Services, Kansas Department for Aging and Disabilities Services
- Andy Brown, Commissioner of Behavioral Health Services, Kansas Department for Aging and Disabilities Services
- Representative Will Carpenter
- Jean Clifford, District 5, Kansas State Board of Education
- Denise Cyzman, Chief Executive Officer, Community Care Network of Kansas
- Amy Dean-Campmire, Mental Health and Housing Program Manager, Kansas Department of Corrections
- Sandra Dixon, Chief Clinical Officer, DCCCA
- Sheriff Jeff Easter, Sheriff of Sedgwick County, Kansas
- Sarah Fertig, State Medicaid Director, Kansas Department of Health and Environment
- Honorable Bruce Gatterman, Chief Justice, Pawnee County
- Senator Tom Hawk
- Laura Howard, Secretary of Kansas Department for Aging and Disabilities Services and Kansas Department for Children and Families
- Don Jordan, Former Superintendent, Osawatomie State Hospital, Former Secretary, Social and Rehabilitation Services (SRS)
- Kyle Kessler, Co-chair, Executive Director, Association of Community Mental Health Centers of Kansas, Inc.
- Sheriff Scott King, Sheriff, Pawnee County
- Spence Koehn, Court Services Specialist, Office of Judicial Administration
- Laura McCray, President and CEO, Konza
- Christina Morris, Regional Director, Government Affairs, CVS Health

- Josh Mosier, Manager of Client Services KHIN
- Representative Cindy Neighbor
- Honorable Sally Pokorny, Judge, Douglas County
- Don Scheibler, Chief of Police, Hays
- Sherri Schuck, Attorney, Pottawatomie County
- Representative Adam Smith
- Brenda Soto, Deputy Director for Medicaid and Children’s Mental Health, Kansas Department for Children and Services (DCF)
- Honorable Robert Wonnell, Judge, Johnson County
- Representative Rui Xu

### **Telehealth Working Group**

- Representative Tory Marie Arnberger
- Sandra Berg, Executive Director, United Behavioral Health, KanCare
- Andy Brown, Commissioner of Behavioral Health Services, Kansas Department for Aging and Disabilities Services
- Sarah Fertig, State Medicaid Director, Kansas Department of Health and Environment
- Jennifer Findley, Vice President for Education and Special Projects, Kansas Hospital Association
- Coni Fries, Blue Cross and Blue Shield of Kansas City, Vice President Governmental Relations
- Jason Grundstrom, Executive Director of Continuum of Care, The University of Kansas Health System
- Laura Howard, Secretary of Kansas Department for Aging and Disabilities Services and Kansas Department for Children and Families
- Dorothy Hughes, Assistant Professor for Population Health, KU Medical Center
- Chad Johanning, Family Medicine Physician, Lawrence
- Representative Brenda Landwehr, Chairperson, Special Committee
- Stuart Little, Association Representative, Behavioral Health Association of Kansas

- Senator Carolyn McGinn, Vice-Chairperson, Special Committee
- Sunee Mickle, Co-chair, Vice President Government and Community Relations, Blue Cross and Blue Shield of Kansas
- Christina Morris, Regional Director, Government Affairs, CVS Health
- Brittney Nichols, EMSC Coordinator, Kansas Department of Health and Environment
- Dennis Shelby, CEO, Wilson Medical Center
- Kandice Sanaie, Senior Director of State Government Affairs, Cigna
- Rennie Shuler-McKinney, Director of Behavioral Health, AdventHealth Shawnee Mission
- Claudia Tucker, Teladoc Health Inc
- Shawna Wright, Co-chair, Associate Director, KU Center for Telemedicine & Telehealth

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# Report of the Special Committee on Taxation to the 2022 Kansas Legislature

**CHAIRPERSON:** Senator Caryn Tyson

**VICE-CHAIRPERSON:** Representative Adam Smith

**OTHER MEMBERS:** Senators Tom Holland, Dan Kerschen, Rick Kloos, and Mark Steffen; and Representatives Francis Averkamp, Jim Gartner, Henry Helgerson, Les Mason, and Barbara Wasinger

## **STUDY TOPIC**

The Committee is directed to study tax exemptions and abatements.

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# Special Committee on Taxation

## REPORT

### Conclusions and Recommendations

The Special Committee on Taxation recommends the Legislature:

- Use State General Fund ending balances and current receipts in excess of expenditures to pay down state debt and not for any increase to ongoing state expenditures;
- Consider constitutional amendment proposals restricting the growth of government;
- Consider repealing all tax credits, exemptions, and abatements that are not currently being used and have not been used for several years;
- Devise a system of taxation that is equal and fair across the spectrum of forms of energy production;
- Review Kansas income taxation of retirement income to resolve systematic inequities and review income taxation of Social Security benefits to eliminate marriage penalties;
- Evaluate the existing Kansas property tax circuit breaker programs and consider adding an additional program or expanding existing programs; and
- Restrain the growth of state government spending and employment and, while noting that existing state obligations and debts must be paid, lower taxes and transition the Kansas Public Employees Retirement System to a defined contribution system.

**Proposed Legislation:** The Special Committee on Taxation recommends the House Committee on Taxation and Senate Committee on Assessment and Taxation prepare resolutions advising the 2022 Legislature to use State General Fund ending balances to pay down state debt and not expand ongoing government spending. The Committee also recommends necessary legislation to implement all other Committee recommendations.

### BACKGROUND

The Special Committee on Taxation (Committee) was created by the Legislative Coordinating Council (LCC) to study tax exemptions and abatements. The Committee was directed to make recommendations to the Legislature on any improvements or changes that should be considered.

The Committee was authorized by the LCC to meet for two days.

### COMMITTEE ACTIVITIES

The Committee met at the Statehouse for a two-day meeting on November 29 and 30, 2021.

## **Consensus Revenue Estimates**

A senior economist from the Kansas Legislative Research Department (KLRD) outlined the consensus revenue estimating process, its history, and its operation in conjunction with the state budgetary cycle. He noted the historical margin between the estimates and actual state receipts. The senior economist presented the most recent economic and revenue forecasts of the Consensus Revenue Estimating Group, made in November 2021, and the implications of those estimates for the projected State General Fund ending balances in FY 2022 and subsequent years.

## **Energy Sector Tax Overview**

Kansas Department of Revenue officials presented information concerning tax incentives related to the energy sector. The presentation also included information concerning severance taxes, income taxes, retail sales taxes, and property taxes.

## **Multistate Tax Comparisons**

The senior economist from KLRD presented information comparing the total and per capita state and local tax burdens of Kansas, neighboring states, and the nation. The presentation included information on separate and combined state and local property, sales, and income taxes.

## **Credit Card Surcharge Prohibitions**

An assistant revisor of statutes from the Office of Revisor of Statutes presented information on the Kansas statutory prohibition on sellers imposing a surcharge on purchases made using credit or debit cards. The presentation included information on statutory history and legal analysis contained in a Kansas Attorney General opinion. The revisor also discussed recent legislation concerning the prohibition and a recent federal district court case that determined the prohibition to be unconstitutional as applied to a company selling and using computer software allowing merchants to display prices that include surcharges made on purchases using credit and debit cards.

## **Tax and Expenditure Limitations**

The senior economist from KLRD presented information on statutory and constitutional limitations of other states on taxation and

expenditures, including constraints on actual and approved revenues and expenditures. The limitations were linked to economic statistics and projections of revenues.

## **Liquor Taxes**

The senior economist from KLRD presented information detailing liquor taxes in Kansas. Kansas liquor taxes are imposed using a three-tier system, with a volume-based excise tax applied at the wholesale level and sales price-based excise tax applied at the retail level. An additional sales price-based excise tax is applied to drinks sold by caterers, private clubs, and drinking establishments.

## **Income Taxation of Social Security Benefits and Retirement Income**

The senior economist from KLRD presented information regarding how Kansas income taxes apply to Social Security benefits and retirement income. The Committee reviewed the \$75,000 threshold at which all federally taxable Social Security benefits become taxable and recent legislative proposals to modify the threshold or otherwise modify the taxation of benefits. The Committee also reviewed the tax consequences of various retirement plans and recent legislative proposals to exempt such income from the Kansas income tax.

## **Residential Property Tax Relief Mechanisms**

The senior economist from KLRD presented information regarding residential property tax relief mechanisms in Kansas and other states. The presentation centered on property tax relief based on income, tax burden, or other qualifications (“circuit breakers”) and property tax freeze and assessment freeze programs. The Committee also reviewed recent legislative proposals to expand the Kansas circuit breaker programs to incorporate a tax freeze component.

## **Recent Itemized Deductions Policy Changes**

The senior economist from KLRD presented information regarding recent state and federal changes to itemized deductions from individual income taxes. Kansas legislation enacted in 2013, 2015, and 2017 modified the percentage of

federally allowed itemized deductions to be claimed by Kansas taxpayers. Federal legislation enacted in 2017 doubled the standard deduction and capped the amount of state and local taxes allowed to be deducted as an itemized deduction. SB 50, enacted in 2021, permitted Kansas taxpayers to itemize at the state level, even if they take the standard deduction at the federal level.

### **Implementation of 2021 SB 13**

Office of Revisor of Statutes staff presented an overview of the provisions of 2021 SB 13 (law), and Kansas Department of Administration officials presented information concerning the implementation of the law and potential follow-up legislation. SB 13, among other things, removed the property tax lid and established notice and public hearing requirements for certain taxing subdivisions seeking to collect property taxes in excess of the subdivision's revenue-neutral rate. The Kansas Department of Administration staff noted that the agency has convened working groups regarding the implementation of the law and to collect feedback from local units of government regarding potential changes to the requirements. Example forms created by the Kansas Department of Administration also were provided to Committee members.

### **Local Sales Tax Laws and Distribution Formulas**

Kansas Department of Revenue officials presented information detailing the various local sales taxes authorized in Kansas, including those levied by cities, counties, and special districts. The presentation also included information on the apportionment formula distributing revenues of countywide sales taxes to counties and cities within the counties and information on 2021 SB 87 (pending legislation), which would provide for an option to disregard that formula and allow counties to retain all sales tax revenues pursuant to future tax elections.

### **CONCLUSIONS AND RECOMMENDATIONS**

Committee discussion frequently returned to a theme of using caution in adopting state taxing and spending policies, as such policies impact both the State's abilities to carry out the functions of

government and the livelihood of the citizens of the state.

The Committee first recommended the Legislature exercise substantial caution in planning for ongoing budgeting of the current receipts in excess of expenditures and large State General Fund ending balances. Committee members noted the progress of the COVID-19 pandemic could still alter the course of the State's receipts, and the level of state receipts could currently be inflated by federal fiscal stimulus.

The Committee recommended the Legislature consider repealing all tax credits, exemptions, and abatements that are not currently being used and have not been used for several years.

In regard to the presentation on the taxation of the energy sector, the Committee recommended the Legislature devise a system of taxation that is equal and fair across the spectrum of forms of energy production.

The Committee discussed the implementation of limitations on the growth of state government spending, taxation, and state government employment. The Committee specifically noted South Carolina policy linking the growth of state employees to the rate of state population growth. The Committee recommended the Legislature consider constitutional amendment proposals to restrain the growth of government.

The Committee discussed the income taxation of Social Security benefits and retirement income and noted Kansas imposes a marriage penalty on Social Security benefits and may inequitably tax certain public sector retirement programs. The Committee recommended the Legislature review and address these issues.

The Committee discussed providing income tax relief by increasing the standard deduction amounts for all tax filers.

The Committee discussed the existing Kansas property tax circuit breaker programs and recommended the Legislature evaluate the existing programs and consider adding an additional program or expanding the existing programs.

In the context of using caution in adopting state fiscal policy regarding the State's current receipts in excess of expenditures and large State General Fund ending balances, the Committee recommended the Legislature restrain the growth of state government spending and employment and, while noting that existing state obligations and debts must be paid, lower taxes and transition the Kansas Public Employees Retirement System to a defined contribution system.

The Committee noted the ultimate objective of each of these recommendations is to use tax uniformity and equality to lower the overall tax burden of the state.

While not recommending any specific legislation, the Committee did recommend the Legislature consider resolutions urging caution in adopting state fiscal policy and appropriate bills to carry out the recommendations of the Committee.

The Committee additionally recommended the House Committee on Taxation and Senate Committee on Assessment and Taxation author resolutions guiding the implementation of these recommendations.

## Minority Report

While generally encouraged by the Special Committee on Taxation's collective desire to adopt responsible and sustainable fiscal policy for the state, I am concerned about several of the Committee's conclusions and recommendations and state my opposition to those recommendations in this report.

I support the Committee recommendations to consider repealing tax credits, exemptions, and abatements that are not in use and to evaluate the existing Kansas property tax circuit breaker programs and consider expanding the existing programs or adding an additional program.

However, I believe the other Committee recommendations are either too restrictive, would impede the ability of the Kansas Legislature and Governor to respond to future fiscal needs of the State, or wrongly prioritize the tax policy needs of the state and such recommendations should not be pursued by the Kansas Legislature.

Representative Jim Gartner

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# Report of the Special Committee on the 30 x 30 Federal Initiative to the 2022 Kansas Legislature

**CHAIRPERSON:** Representative Ken Rahjes

**VICE-CHAIRPERSON:** Senator Dan Kerschen

**OTHER MEMBERS:** Senators Rick Billinger, Marci Francisco, Ron Ryckman, Sr., and Kellie Warren; and Representatives Doug Blex, Sydney Carlin, Christina Haswood (substitute member), Ron Highland, Joe Newland, and Lindsay Vaughn

## **STUDY TOPIC**

The Committee is directed to:

- Study the federal 30 x 30 conservation initiative, which proposes achieving the goal of conserving 30 percent of U.S. lands and waters by 2030; and
- Study the potential effects the 30 x 30 initiative may have on the State of Kansas, including, but not limited to, private property rights and effects on the agriculture industry, and potentially make recommendations to the 2022 Legislature on legislation.

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# Special Committee on the 30 x 30 Federal Initiative

## REPORT

### Conclusions and Recommendations

The Special Committee on the 30 x 30 Federal Initiative recommends the House Committee on Agriculture and the Senate Committee on Agriculture and Natural Resources study and monitor both the federal 30 x 30 conservation initiative and National Heritage Areas during the 2022 Legislative Session.

*Proposed Legislation:* None.

### BACKGROUND

The Legislative Coordinating Council (LCC) appointed the Special Committee on the 30 x 30 Federal Initiative (Committee), composed of 11 members from the House Committee on Agriculture, the House Committee on Water, and the Senate Committee on Agriculture and Natural Resources. The LCC approved two meeting days for the Committee and charged the Committee to study the federal 30 x 30 conservation initiative (30 x 30) and any potential effects 30 x 30 may have on Kansas, and potentially make recommendations to the 2022 Legislature on legislation.

### COMMITTEE ACTIVITIES

The LCC approved two meeting days for the Committee during the 2021 Interim. The Committee met on December 8 and December 9, 2021, in the Statehouse.

#### December 8, 2021, Meeting

##### *Overview of 30 x 30*

A Principal Research Analyst with the Kansas Legislative Research Department provided an overview of 30 x 30, explaining the federal initiative was created through Executive Order (EO) 14008 signed by President Biden on January

27, 2021. The EO, “Tackling the Climate Crisis at Home and Abroad,” contained a section entitled “Conserving Our Nation’s Lands and Waters” (Section 216) that required a report to be drafted within 90 days by federal entities and stakeholders that would recommend steps “to achieve the goal of conserving at least 30 percent” of U.S. “lands and waters by 2030.” This section of the EO is known as “30 x 30.”

The analyst explained that the required report, “Conserving and Restoring America the Beautiful” (America the Beautiful report), was released to the public in May 2021. The report listed problems that should be addressed, recommended key principles critical to the success and durability of the 30 x 30 effort, and provided recommendations for early focus and progress. [Note: More detail on the America the Beautiful report is provided in the section of this document on the Kansas Department of Wildlife and Parks.]

At the time of the Committee meeting, no further information or guidance on 30 x 30 from the federal government was available; however, the analyst detailed the pieces of legislation introduced in Congress by some members of the Kansas Congressional Delegation to nullify the EO or nullify the EO and prohibit federal acquisition of land or declaration of a national monument in certain areas of the country.

## *Overview of National Heritage Areas*

The analyst provided an overview of National Heritage Areas (NHAs), which are designated places where historic, cultural, and natural resources combine to form cohesive, nationally important landscapes. Unlike national parks, NHAs are largely lived-in landscapes that require communities and entities to collaborate to determine how to make heritage relevant to local interests.

NHAs are created through designation in legislation passed by Congress and signed by the President into law. The NHA program was started when President Reagan signed the first NHA into law in 1984 as an alternative to national parks. Since that time, 55 NHA designations have been created in 34 states, with the last 6 NHA designations signed into law in 2019 by President Trump.

Each NHA designation is passed as its own legislation; therefore, the terms and composition of each NHA is unique to its authorizing legislation.

### *Freedom's Frontier National Heritage Area*

The analyst noted Kansas currently has one NHA, the Freedom's Frontier NHA, which encompasses 41 total counties along the Kansas-Missouri state line, with 29 counties in eastern Kansas and 12 counties in western Missouri. The Freedom's Frontier NHA was passed by Congress and signed into law by President George W. Bush in 2006. It focuses on historic sites, museums, historical societies, libraries, and other cultural-historical sites in these counties, in order to tell the stories of the Kansas-Missouri border war, the Civil War, the settlement of the Western frontier and rural America, and the "enduring struggle of freedom."

### *Kansas Nebraska Heritage Area*

The analyst explained there had been a potential NHA in north-central Kansas and south-central Nebraska, which would have included 49 total counties, with 26 counties in Kansas and 23 in Nebraska.

The potential NHA was called the Kansas Nebraska Heritage Area, but no legislation for this

NHA has been introduced in Congress. In addition, the Kansas Nebraska Heritage Area Partnership, a group supporting the creation of the NHA, has suspended its activities.

### *Criticism of National Heritage Areas*

The analyst explained that when President Biden signed the EO for 30 x 30 in January 2021, there were concerns about how achieving that goal would be possible. With no forthcoming information, critics of 30 x 30 drew attention to the private lands that might be used for such conservation.

The analyst noted some critics believe that NHA legislation could be used to acquire land for 30 x 30. While there is no explicit tie between 30 x 30 and NHAs in general, critics say that land in an NHA could be acquired for 30 x 30 because there is a connection to the federal government. The critics state there is no way for the federal government to achieve 30 percent conservation of land without forcing changes to private land, and with that relationship through NHAs, that could result in a government "land grab."

The analyst stated the Freedom's Frontier NHA authorizing legislation does not allow the NHA to acquire private property.

### *Kansas Department of Wildlife and Parks*

The Secretary of Wildlife and Parks provided further specifics about 30 x 30. The co-equal principles of the America the Beautiful report are to:

- Pursue a collaborative and inclusive approach to conservation;
- Conserve America's lands and waters for the benefit of all people;
- Support locally led and locally designed conservation efforts;
- Honor Tribal sovereignty and support the priorities of Tribal Nations;

- Pursue conservation and restoration approaches that create jobs and support healthy communities;
- Honor private property rights and support the voluntary stewardship efforts of private landowners and fishers;
- Use science as a guide; and
- Build on existing tools and strategies with an emphasis on flexibility and adoptive approaches.

The Secretary stated the initial recommendations of the America the Beautiful report are to:

- Create more parks in nature-deprived communities;
- Support Tribal-led conservation;
- Expand collaborative conservation and possibly create conservation corridors;
- Increase equitable access for recreation;
- Create jobs through restoration practices; and
- Incentivize and reward stewards of working lands.

The Secretary stated that in moving forward as a state agency, there should be cooperation early and often, meaning the Kansas Department of Wildlife and Parks (KDWP) should be one of the primary collaborators in the strategic development and implementation of science-driven processes, policies, and strategic guidance for the conservation of resilient fish and wildlife populations of all kinds and their habitats.

The Secretary stated there should be clearly defined purposes and intent with regard to 30 x 30. This includes using the term “conservation” instead of “protection,” because “conservation” signifies continued, sustainable uses, such as

regulated hunting, fishing, trapping, timber harvest, and outdoor recreation on public lands. He stated state fish and wildlife agencies are also recommending the Biden Administration clearly articulate that 30 x 30 does not:

- Include the use of eminent domain or any new federal land designations without the expressed support of a community, or unilaterally creating a federal nexus over any state, territorial, or local government lands;
- Require lands considered for inclusion under 30 x 30 to have additional federal easements or other regulatory measures. Additionally, the designations should be voluntary instead of mandatory; and
- Focus on the designation and development of additional protections on federal lands at the expense of conservation-based natural resources management and sustainable use when many communities depend on the land for economic sustainability and growth.

The Secretary also stated that moving forward, private landowner perspectives should be considered. The Secretary noted any efforts under 30 x 30 should be encouraged through voluntary, incentive-based approaches that foster and support good stewardship and partnerships with private landowners.

The Secretary stated that 30 x 30 is an opportunity to improve conservation, but Kansas needs to stay engaged to impact how it is implemented; KDWP is well situated to represent the State’s interests, and the Secretary is a member of the recently created federal Joint Task Force on Landscape Conservation.

### ***Freedom’s Frontier National Heritage Area***

An individual who is a former member and Treasurer of the Freedom’s Frontier NHA Board of Trustees, and former Speaker of the Kansas House of Representatives from 2001-2003, provided testimony about the NHA.

The former board member stated President Reagan started NHAs as an alternative to national parks where land actually becomes federal property, and NHAs have always been a bipartisan program. The individual said NHA legislation passes Congress with bipartisan support because the two parties work together to preserve the history and heritage of the country.

The conferee noted the law that created the Freedom's Frontier NHA was written specifically to give landowners a choice—they could be involved or not. The conferee said no landowner can be forced to join the NHA, and any landowner who chooses to join can opt out at any time.

The conferee stated Freedom's Frontier is statutorily prohibited from owning property and interfering in any way with private property rights, water rights, hunting and fishing, and any city, county, state, or federal law, including zoning.

### ***State Associations***

#### *Kansas Livestock Association*

The Vice President of Legal and Government Affairs, Kansas Livestock Association (KLA), said that farmers and ranchers are some of the best stewards of the country's natural resources. The KLA conferee also noted that a KLA policy calls for limits on government intrusion in the marketplace and use of mechanisms like eminent domain to take land away from, or pose unnecessary restrictions on, private property.

The KLA conferee stated the KLA has concerns about 30 x 30, but if the only mechanism for achieving the conservation goals are through voluntary, incentive-based concepts, then KLA would not be opposed to the proposed conservation goals. However, the America the Beautiful report indicates an intent to go further than that and provides differing views on what should count for baseline conservation. The KLA conferee said there has been no further information that explains the actual actions that will be taken to achieve 30 x 30, which leads to uncertainty for private landowners who see only specific stakeholders involved in developing the America the Beautiful report. The KLA conferee said there is also concern over other actions by the

Biden Administration that signal a lack of understanding of private property rights.

The KLA conferee stated while 30 x 30 and ensuing federal actions are cause for concern, “the battles to stop federal government overreach must be fought in the halls of Congress and the courts.” The KLA conferee said in the meantime, Kansas policymakers should be careful in their attempt to fight this overreach and not take away conservation tools used currently by private citizens in the state.

The KLA conferee then discussed conservation easements as a conservation tool, which KLA supports. He discussed the Ranchland Trust of Kansas that was created by KLA members in 2003. It is a land trust that acquires and holds development rights (conservation easements) on working agricultural lands, but it does not own the land itself.

#### *Kansas Farm Bureau*

The Senior Director for the Advocacy Division, Kansas Farm Bureau (KFB), stated that since the EO was issued by President Biden in January 2021, the KFB has participated in several conversations with the U.S. Secretary of Agriculture and the U.S. Secretary of the Interior, asking for policy intent and administrative goals. The KFB conferee noted that little clarification has been received to-date.

The KFB conferee stated that KFB views the America the Beautiful report as a philosophical document that emphasizes important principles, such as incentive-based voluntary conservation, protecting personal and property rights, and continued ranching on public lands, but lacks specifics about those principles.

The KFB conferee stated KFB will continue to work with federal agencies to ensure that programmatic details live up to promises made to protect American agriculture. There are still questions and topics that need to be addressed, as the America the Beautiful report does not provide those details.

The KFB conferee said Kansans have expressed concerns that 30 x 30 will result in a federal land grab; however, nothing in the America

the Beautiful report shows this to be true, as only voluntary conservation efforts were mentioned. The KFB and American Farm Bureau Federation will continue to support private property rights and oppose any infringement on those rights and burdensome regulatory schemes.

#### *Kansas Corn Growers Association*

The Vice President for Market Development and Public Policy, Kansas Corn Growers Association (KCGA), provided an overview of conservation efforts that have been voluntarily implemented by Kansas corn farmers over the past 50 years and the goals for the future. The KCGA conferee stated increased adoption of these practices in Kansas, the United States, and around the world could yield the carbon reduction goals set forth in conservation goals from several global environmental groups.

The KCGA conferee noted from 1971 to 2020 in Kansas, corn production increased 515 percent and corn acreage increased 336 percent, but the land required to produce a bushel of corn decreased 44 percent and soil erosion decreased 58 percent.

In looking forward to 2030, it is estimated that land use efficiency will increase by 12 percent, energy use efficiency will increase by 13 percent, irrigation water use efficiency will increase by 15 percent, soil erosion will be further reduced by 13 percent, and greenhouse gas emissions will be reduced by 13 percent.

The KCGA conferee also shared that if agriculture is allowed to be a part of the discussions and solutions for 30 x 30 and practices are adopted to increase soil carbon sequestration, much progress can be made without significant changes to our modern food, transportation, and power generation systems. A one percent increase in organic carbon levels in farmland would yield eight tons of carbon reduction per acre per year over a relatively short time frame. If these numbers are applied globally, an annual carbon reduction of approximately 2.04 trillion tons, or 53 percent of the stated carbon reduction goal in 30 x 30, would be possible.

The KCGA conferee stated 30 x 30 starts from an assumption that croplands are part of the

problem, and this, coupled with a lack of information and answers from the Biden Administration, has left agriculture outside the group of stakeholders who could provide real, tangible results that could assist in achieving the goals of 30 x 30.

#### **December 9, 2021, Meeting**

##### ***Freedom's Frontier National Heritage Area***

The current Treasurer of the Board of Trustees, Freedom's Frontier NHA, and Chairman and Chief Executive Officer of The Monarch Cement Company, stated Freedom's Frontier NHA is not part of 30 x 30. As the owner of both personal and commercial land within Freedom's Frontier NHA, the Freedom's Frontier official stated that if the NHA was part of 30 x 30, the conferee would not support the Freedom's Frontier NHA.

The Freedom's Frontier official stated the Freedom's Frontier NHA has over 300 partners along the Kansas-Missouri state line, which allows coordination and collaboration between these entities, helping weave a common thread through our collective histories. The Freedom's Frontier official stated by stimulating interest in the NHA's rich heritage and culture, it increases tourism and dollars that flow through the area, and small communities benefit from any tourism dollars spent locally. For every \$1 of federal money that is passed through Freedom's Frontier NHA, a community receives a \$5 return.

The Freedom's Frontier official stated that Freedom's Frontier NHA has not received any complaints since its inception in 2006. Landowners must opt in if they desire to be part of the NHA and if they opt in, they may opt out at any time. The Freedom's Frontier official reviewed the prohibitions detailed in the Freedom's Frontier NHA authorizing legislation with regard to private property rights.

##### ***Kansas Natural Resource Coalition***

The Senior Administrator, Kansas Natural Resource Coalition (KNRC), provided observations regarding President Biden's January 2021 EO, stating:

- Long-term participation in the Paris Agreement requires ratification by the U.S. Senate.
- The presidential mandate to leverage purchasing power, banking influence, and fiscal power of the U.S. government is creating winners and losers in the private fossil fuel energy business sector.
- The presidential authority to issue EOs that direct federal agencies' activities under his control is constrained to the scope of the mandates that have been delegated to the federal agencies by Congress. The President does not have the authority to expand, supersede, or preempt authorities delegated to the federal agencies by Congress.

The Senior Administrator said part of the EO may preempt and redefine agency mandates over public lands, resources, fiscal procurement, and the private sector, which would negate the Congressional mandates on several federal acts.

The following recommendations for consideration were offered by the Senior Administrator:

- Counties within the Freedom's Frontier NHA have passed resolutions opposing the NHA designation—the Legislature should consider an initiative that informs each of the counties, landowners, and interested citizens groups of the benefits, zoning issues, and land use problems that can be associated with NHAs. If counties or landowners desire carve outs, the Legislature could encourage the Kansas Congressional delegation to sponsor legislation to do so.
- A state-sponsored impact analysis should be conducted, per the Regulatory Flexibility Act of 1980, on small businesses, communities, and the economy of Kansas counties that will be affected by the implementation of the EO; depending on the results, actions should

be considered to challenge or rescind the EO through the state Attorney General.

### ***Kansas Sierra Club***

The Legislative Director, Kansas Sierra Club, stated conservation is essential for all Kansans, meaning that all Kansas families and communities depend upon healthy, natural ecosystems for fundamental living needs and prosperity. The Legislative Director stated environmental stewardship is important and should be central to our ethics as individuals and through government action.

The Legislative Director stated 30 x 30 spells out overarching goals and strategies based on eight principles, while the plan for implementing and achieving these goals is left to state and local entities. The Legislative Director asked the Committee not to view 30 x 30 as a government strategy for a land grab, but to view it as an opportunity for Kansas to amplify its leadership in conservation and reinvigorate its commitment to preserve its natural heritage.

The Legislative Director stated the Kansas Sierra Club recommends the Committee embrace 30 x 30 as a means for further social and economic progress, by putting programs and goals into place that allow Kansas to pursue conservation in a Kansas-specific and Kansas-friendly way.

### ***Public Testimony***

Members of the public were allowed to provide in-person testimony or submit written testimony about 30 x 30. Nine members of the public provided in-person remarks to the Committee, and 30 members of the public, associations, and two counties provided written testimony.

Members of the public who provided in-person testimony had concerns regarding 30 x 30 and other issues, including conservation easements, eminent domain, zoning, the size of NHA designation areas, preservation as a means to recreation, NHAs as government “handouts” for county heritage, government control and overreach, Home Rule, limitations on citizens' liberties, and government growth and inflation.

Generally, the testimony further emphasized that the Legislature should be used as a stopgap between citizens and the government, and noted problems with the CRP (federal Conservation Reserve Program) not re-enrolling land previously in the CRP, market value of land in conservation programs, and options for landowners.

Other members of the public who provided in-person testimony provided information on how Freedom's Frontier NHA is funded and provided information on zoning in response to earlier public testimony.

## **CONCLUSIONS AND RECOMMENDATIONS**

The Committee recommends the House Committee on Agriculture and Senate Committee on Agriculture and Natural Resources study and monitor both the 30 x 30 and NHAs during the 2022 Legislative Session.

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# Report of the Joint Committee on Information Technology to the 2022 Kansas Legislature

**CHAIRPERSON:** Representative Kyle Hoffman

**VICE-CHAIRPERSON:** Senator Mike Petersen

**RANKING MINORITY MEMBER:** Representative Pam Curtis

**OTHER MEMBERS:** Senators Tom Holland, Jeff Pittman, Dennis Pyle, and Caryn Tyson; and Representatives Kenneth Collins, Steve Huebert, and Rui Xu

**CHARGE**

***Review, Monitor, and Report on Technology Plans and Expenditures***

The Committee is directed to:

- Study computers, telecommunications, and other information technologies used by state agencies and institutions. The state governmental entities defined by KSA 75-7201 include executive, judicial, and legislative agencies and 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; and
- Report annually to the Legislative Coordinating Council and make special reports to other legislative committees as deemed appropriate.

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# Joint Committee on Information Technology

## ANNUAL REPORT

### Conclusions and Recommendations

The Joint Committee on Information Technology (Committee) submits the following recommendations and considerations to the 2022 Legislature:

- Legislation with similar contents to 2021 rs2422, which was considered by the Committee, should be introduced and assigned to the appropriate House committee for consideration during the 2022 Session;
- The work of the Kansas Task Force on Cybersecurity is important and the recommendations within the Task Force’s final report should be reviewed by the Legislature. Further, the Committee encourages the Legislature to make cybersecurity a policy priority for the State of Kansas;
- Further study of ways state government can assist local entities regarding cybersecurity preparedness and adoption of technology should be considered;
- The State Board of Education should develop guidelines for information technology (IT) security for school districts and provide IT security training to school district employees;
- The process used to monitor the Unemployment Insurance Modernization project has been beneficial and it would be valuable to apply a similar process to other large scale state IT projects;
- More conversation between legislative committees and vendors submitting proposals for state IT projects should be explored;
- State IT leaders should explore ways to recruit and retain IT professionals and develop the State’s IT professional talent pool; and
- The Committee commends the Kansas Legislative Office of Information Services on the implementation of the Virtual State House Project and its continued efforts to support remote participation in the legislative process.

**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 technology (IT) used by state agencies and institutions. The state governmental entities defined by KSA 75-7201 include executive, judicial, and legislative agencies and Kansas Board of Regents institutions;
- Review proposed new acquisitions, including implementation plans, project budget estimates, and three-year strategic IT 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 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 75-7210 requires the Executive, Judicial, and Legislative Chief Information Technology Officers (CITOs) to submit to the Committee annually 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 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 2021 Legislative Session on February 23 and May 26, 2021. In addition to these days, the Committee met during the 2021 Interim, as authorized by the Legislative Coordinating Council, on August 19, November 17, and December 15.

### **Election of Chairperson, Vice-chairperson, and Ranking Minority Member**

At the February 23, 2021, meeting, the Committee elected a new chairperson, vice-chairperson, and ranking minority member for the 2021 calendar year.

### **Information Technology Legislation**

At the February 23, 2021, meeting the Committee received a briefing on 2021 HB 2188 from Office of the Revisor of Statutes staff. The bill would allow the Committee to assess and provide recommendations for agency IT projects prior to the projects' submission to the Kansas Information Technology Office (KITO). The revisor also provided an overview of the current IT project approval by the KITO.

The Committee continued its discussion on pending IT legislation before the Legislature at the August 19, 2021, meeting. The three bills discussed were HB 2188, SB 249, and SB 250. The Chairperson also suggested that the Joint Committee look at combining HB 2188 and SB 249 into one bill that contained the best elements of both. Discussion also occurred on whether legislation should contain detailed instructions on when projects should come before the Committee or broader language that would be built upon by organizations such as the Information Technology Executive Council (ITEC).

The Committee continued its discussion on pending IT legislation at its November 17, 2021, meeting. Discussion was primarily on HB 2188 and SB 249 regarding Committee oversight of IT projects. Topics discussed included criteria to

trigger a review, the timeframe for the Committee to complete a review, what actions the Committee could take for projects that failed review, and how detailed the review should be. The discussion ended with the revisor being requested to draft a new bill combining elements of HB 2188, SB 249, and committee discussion into a new bill.

During the December 15, 2021, meeting the Committee heard draft legislation (rs2422), which combined elements of the three bills previously discussed. During discussion, the Committee made changes to the draft legislation regarding the newly proposed oversight mechanisms, what information is required to be reported to the Committee, when projects must be reported to the Committee, who is required to report on projects to the Committee, and which other legislative committees the Committee will be reporting its recommendations to. The Committee requested the revisor integrate the discussed changes into the draft legislation so it could be discussed in a meeting to be scheduled early in the 2022 Legislative Session, prior to introduction of the new bill.

## **Executive Branch Quarterly IT Project Reports**

### ***May 26, 2021***

At the May 26, 2021, meeting, the Chief Information Technology Architect (CITA) from the Office of Information Technology Services (OITS) reviewed the Quarter 4, 2020, (October–December) and Quarter 1, 2021, (January–March) IT project reports. The CITA reported in Quarter 4, 2020, one project was in alert status. Projects are placed in alert status if they exceed 20 percent variance of one or more project performance metric (Schedule, Deliverable, Tasks, Resources, or Financial plan):

- The Department for Children and Families (DCF) Prevention and Protection Services (PPS) Comprehensive Child Welfare Information System (CCWIS) Planning Project was 33.0 percent behind on deliverables due to the COVID-19 pandemic.

The CITA cited three projects in caution status from the Quarter 4, 2020, quarterly report. Projects

are placed in caution status if they exceed 10–19 percent variance of one or more project performance metric (Schedule, Deliverable, Tasks, Resources, or Financial plan):

- The Kansas Department of Health and Environment (KDHE) Bureau of Environment Remediation (BER) database;
- The KDHE Bureau of Water Environmental Protection Agency (EPA) E-Reporting Project; and
- The OITS Voice End User Device Refresh.

No information was provided as to why the projects were in caution status.

The CITA reported in Quarter 1, 2021, five projects were in alert status:

- The KDHE BER data management system was 26.0 percent behind on deliverables and anticipates completion in May;
- The KDHE Bureau of Water EPA E-Reporting Project was 20.0 percent behind on deliverables and completion was anticipated in September 2021;
- The OITS Voice End User Device Refresh is delayed due to the COVID-19 pandemic and teleworking;
- The Kansas Bureau of Investigation (KBI) DNA Data Bank Software Replacement is delayed due to prior commitments and other priorities within the agency; and
- The Kansas Virtual Statehouse Project is delayed due to backorders for parts needed to complete elements within the Visitor Center Auditorium.

The CITA cited one project in caution status from the Quarter 1, 2021, quarterly report:

- The Kansas Department of Transportation (KDOT) Construction Management System (CMS) Replacement Implementation Effort is 12.0 percent over schedule due to needing additional time to perform setup for additional functionality that can only occur during the spring or fall when the system is not being utilized.

A demonstration by the CITA of the Kansas Information Technology Office Project Dashboard (Dashboard) was provided to the Committee. The Dashboard provides similar detail as what can be found in the quarterly reports, but makes it easier for individuals to review details for specific information on a project of interest and provides an “at-a-glance” overview of project status. The Dashboard also provides planned project cost and links to its specific page reference in the most recent quarterly report. At the time of this report’s publication, the dashboard can be accessed at: <https://ebit.ks.gov/kito/project-dashboard>.

**August 19, 2021**

At the August 19, 2021, meeting the CITA reviewed the Quarter 2, 2021, (April-June) IT project reports.

The CITA reported that the following six projects were in alert status:

- The Kansas Department for Aging and Disability (KDADS) Services State Hospital Infrastructure Upgrade is behind schedule due to changes in timeline due to an IT equipment shortage;
- The KDHE BER Database and EPA E-Reporting Project are behind schedule and deliverables due to business constraints resulting from the COVID-19 pandemic and shifting agency priorities;
- The OITS Voice End User Device Refresh is behind schedule; the original end date was March 2021, which was moved to August 2021. The shift was due to constraints related to the COVID-19 pandemic. As of August 19, 2021, the project is complete;

- The OITS Data Center as a Service is behind schedule because tax filing deadline extensions due to the COVID-19 pandemic delayed the migration of the Kansas Department of Revenue (KDOR) data. The project is scheduled to be complete in September 2021;

- The Kansas Virtual Statehouse is behind schedule and behind on the financial plan; and

- The KDOT Equipment Management System is behind on its deliverables due to the short project duration. As of Aug 19, 2021, these delayed deliverables have been received.

The CITA reported the following three projects were in caution status:

- The KDHE Kansas Eligibility Enforcement System Hardware and Software Project is behind schedule due to the final phase being delayed due to a high number of defects. As of Aug 19, 2021, this project has been completed;
- The KBI DNA Databank is behind on its scheduled tasks. The core system is complete; and
- The KDOT Construction Management System is behind schedule due to the complexity of migrating from a mainframe database.

**November 17, 2021**

At the November 17, 2021, meeting the CITA reviewed the Quarter 3, 2021, (July–September) IT project reports.

The CITA reported the following four projects were in alert status:

- The KBI DNA Databank was behind schedule and currently awaits one deliverable before reaching completion;

- The KDHE BER Database was behind schedule because of shortages and being shutdown due to the COVID-19 pandemic. The project is also behind on deliverables. Completion is anticipated in 2021;
- The KDOT Construction Management system is behind schedule and has over planned resource hours; and
- The KDOT Equipment Management System was behind schedule due to the specific windows in which it can be developed. It also has over planned resource hours.

The CITA reported the following projects were in caution status. Projects are placed in “caution” status if they exceed 10–19 percent variance of one or more project performance metric (Schedule, Deliverable, Tasks, Resources, or Financial plan):

- The OITS Integration Hub Project was behind schedule but was anticipated to be completed in 2021.

## **Executive Branch IT Update**

### ***May 26, 2021***

At the May 26, 2021, meeting, the Secretary of Administration (Secretary), who also serves as the Chief Information Technology Officer (CITO) for the Executive Branch, updated the Committee on a number of IT-related initiatives, including:

- ITEC policy updates in the areas of project approval, status reporting, oversight, business contingency planning, business contingency implementation, and data administration;
- Ongoing migration of state data centers to the facility located in Overland Park. The project was reported to be 98.0 percent complete, with servers to be migrated and located with the Kansas Department of Corrections (expected completion June 1, 2021), Kansas Department of Labor

(expected completion June, 2021), KDOR (expected start June 2021), and OITS (expected start after all other agencies have been migrated); and

- Overview OITS service rates for FY 2022 and 2023.

### ***August 19, 2021***

At the August 19, 2021, meeting, the Secretary updated the Committee on a number of IT-related initiatives, including:

- The Cybersecurity Task Force established by Executive Order 21-25. The Task Force is comprised of individuals from both the public and private sector and is tasked with providing the Governor with recommendations on the State’s cybersecurity practices. A preliminary report would be released in October 2021, with the final report being released in December 2021;
- Methodology for collapsing OITS from 29 to 15 rates for FY 2022 and FY 2023, and communication efforts to state agencies regarding services cost estimates. The Secretary reported Network and Telecommunications device rates would be reduced in FY 2022 and all other rates would remain unchanged. In FY 2023, rates would be adjusted to better align with costs, and rates would have a net increase of \$3.3 million dollars due to a vendor cost increase for the data center and O365 lines of service; and
- Organizational restructuring of OITS, which will see the creation of more client service-focused elements within OITS.

### ***November 17, 2021***

At the November 17, 2021, meeting, the Secretary updated the Committee on a number of IT-related topics such as:

- OITS having closed and vacated the Landon Data Facility as of October 1, 2021;

- An update regarding the Three-Year IT Plan initiative. The Secretary stated the plan is being tested this year on cabinet agencies, with the expectation that all Executive Branch agencies shall participate next year;
- ITEC seated two new members at the September meeting, including Secretary of Labor Amber Schultz and State Librarian Eric Norris. Mike Mayta with the City of Wichita was also retained on ITEC; and
- The Cybersecurity Task Force delivered its interim report to the Governor on October 5, 2021. The final report is due to the Governor by December 5, 2021.

## **Legislative Branch IT Update**

### *May 26, 2021*

At the May 26, 2021, meeting the Legislative CITO provided an update on the Kansas Virtual Statehouse Project. The CITO stated that for the first time, residents can participate in the legislative process from anywhere in the state. Implementation of this project was done in 7 weeks and resulted in 2,510 total virtual meetings and 139,697 total meeting minutes during the 2021 Legislative Session.

The Director of Technical Services for the Kansas Legislative Office of Information Services (KLOIS) also provided an update on in-progress, upcoming, and completed IT hardware projects. In-progress projects include a legislative laptop refresh, Windows server upgrades for legislative staff agencies, networks switch upgrades for the Statehouse, audio system upgrades for committee rooms and legislative chambers, and upgrades to the new Webex system. Upcoming projects for the 2021 Interim include expansion of the data backup system, House voting system display board upgrades, legislative staff computer update, and a security assessment for legislative information systems.

Additionally, the Director of Application Services for KLOIS provided an update on the Kansas Legislative Information System and Services (KLISS) performance in the 2021

session, mid-session KLISS updates, and planned interim updates. Mid-session updates include: improvements to the Office of the Revisor of Statutes Lawmaking system, the Legislative Research Department's Decision Support system, General Orders interface and report functionality, and bill and resolution transparency functionality. Planned interim updates include: upgrades to the KLISS web-based framework for the Legislature's website, Chamber interfaces, Senate Voting System, and the Committee System; redesign of the Senate Journal application to simplify the creation process; analysis for a bill location report tool; testing of an updated OpenOffice client; Improved Data Archival solution; and a new member interface tool to help legislators track legislative process information.

### *August 19, 2021*

At the August 19, 2021, meeting the Legislative CITO discussed the support that KLOIS provided for the redistricting process, specifically the redistricting tour that occurred in early August. Updates were also provided on the June 15 ITEC meeting

Also at the August 19 meeting, the KLOIS Director of Technical Services provided an overview of active and upcoming projects. Active projects included: the Virtual Statehouse Project audio update; legislative committee room conference phone audio integration; and the legislative staff computer refresh. Upcoming projects included the first phase of a security assessment that will carry over into the 2022 Legislative Session. Completed projects include the Rubic Backup System expansion and the installation of new voting system display boards in the chamber of the House of Representative, of which the Committee received a demonstration.

The KLOIS Director of Application Services provided an overview of active, upcoming, and completed interim projects. Active projects include: web upgrades to keep systems up to date, maintain security, and allow for the integration of more modern applications such as a member interface; and an overhaul of the Senate Journal creation process. Completed projects included implementation of new KLISS builds for legislative divisions. Upcoming projects included creation of a member portal for legislators to use

that would be designed and implemented during the 2022 Interim.

### ***November 17, 2021***

During the November 17, 2021, meeting, the Legislative CITO provided updates to the Committee on the information system request for proposal (RFP) and updates to the KLISS software system. At the direction of the Legislative Coordinating Council, KLOIS drafted an RFP seeking replacement of KLISS. The RFP was released on October 11, 2021, and no bids had yet been received, though some were expected by the close of the RFP on November 22, 2021. The project would have a four-year implementation window. An overview of the KLISS system was also provided with a history of updates made to the system by the vendor and KLOIS since its inception.

Further details were provided on updates made in 2020 and updates planned for the near future.

### ***December 15, 2021***

The Legislative CITO provided a further update on the KLISS RFP during the December 15, 2021, meeting. He stated the RFP closed on November 22, 2021, and that five vendors submitted proposals. The proposals were under review by a procurement team composed of members from the the Chief Clerk of the House, Legislative Administrative Services, Legislative Office of Information Services, Legislative Research Department, Office of the Revisor, and the Secretary of the Senate.

The CITO stated that the procurement team would be reviewing vendor demonstrations next week from all five vendors, and he hopes to have a recommendation to the Legislative Coordinating Council by the start of the 2022 Session.

The Committee also discussed concerns with the new voting boards in the chamber of the House of Representatives. Members voiced concerns about issues during the 2021 Special Session regarding the boards correctly showing members who wished to speak. Concerns of general legibility were also voiced. KLOIS staff provided further information on how the issues are being resolved.

## **Redistricting Software Update**

At the August 19, 2021, meeting, Kansas Legislative Research Department staff provided an overview on redistricting and the software used for the process.

## **Judicial Branch IT Update**

### ***May 26, 2021***

At the May 26, 2021, meeting, the Judicial Branch CITO provided an update on the eCourt Case management System. Tracks 1 and 3 had been completed. Track 2 (Wichita, Judicial District 12 and 18) was scheduled to be completed in June 2021. Track 4 (Judicial Districts 1, 2, 3, 5, 7, and 29) was scheduled to be completed in August 2021. Track 5 (Judicial Districts 12, 15, 17, 20, 22, 23, and 28) was scheduled to be completed in February 2022. No updates for Track 6 (Judicial District 9, 16, 24, 25, 26, 27, and 30) or the Appellate Courts was provided.

### ***August 19, 2021***

At the August 19, 2021, meeting, the Judicial Branch CITO indicated the eCourt case management system is actively working within some judicial tracks, however several reporting function errors have been identified and the project has been paused until the developer has corrected the defects. At the time of the August 19 Committee meeting, payment of approximately \$2.0 million had been withheld by the Office of Judicial Administration (OJA) until corrections have been made.

The three major reporting issues the system is facing include: the E-citation system currently has an error relating to vehicle makes; export of the collections reports does not consistently run correctly; and the “Elevated Access” part of the external stakeholder access system is not functioning.

### ***November 17, 2021***

The Judicial Branch CITO provided further updates on the eCourt case management system at the November 17, 2021, meeting. He stated that work is progressing, with the new system being brought online in additional counties. The next collection of counties to be brought online will

include Douglas County, Leavenworth County, and Wyandotte County. It was noted that due to technical aspects of their current systems, implementation in both Johnson and Sedgwick Counties will be delayed to allow for integration of the new system with other agencies within the counties.

## **IT Audits**

### ***May 26, 2021***

At the May 26, 2021, meeting, Legislative Division of Post Audit (LPA) staff provided a monitoring report on the KBI's Automated Biometric Identification System IT project. LPA has been monitoring this project since January 2020, and at the time of the May 26 Committee meeting, the project was still considered to be in the planning stage and was not being tracked as an active project by the KITO.

The project schedule was in caution status due to award of the associate contract being delayed, and the respective project deadline had not yet been updated.

### ***August 19, 2021***

In a closed session at the August 19, 2021, meeting, an IT auditor with LPA presented the results of IT security audits for KDADS; Blue Valley School District, Unified School District (USD) 229; and Emporia School District, USD 253.

### ***November 17, 2021***

At the November 17, 2021, meeting LPA staff provided an update on the monitoring report for the KBI's Automated Biometric Identification System IT Project. LPA staff reported that the project's scope, cost, and security were all in satisfactory status while the project's timeline was in cautionary status. LPA staff stated that the timeline was behind primarily due to a two-month delay in the KBI signing the contract for the project. Completion of the project was scheduled for November 2022.

LPA staff also provided two audit reports for the Committee concerning school district IT security and delayed payments and fraud regarding the unemployment insurance system. The school

district IT security audit was a limited scope audit seeking to address what IT capabilities and resources USDs have. The report stated that USDs are not required to implement any specific forms of IT security controls.

Furthermore, it was reported that of the 51.0 percent of USDs that responded to LPA, the majority reported lacking basic IT security controls such as security awareness training, confidential data encryption, computer vulnerability scans, or having an incident response plan. The USDs had stated that their most significant barrier was the hiring and retention of qualified IT staff.

The unemployment insurance audit addressed causes for the delay of payments from the Kansas Department of Labor (KDOL) to claimants throughout 2020 and into 2021, and sought to identify the amount of fraudulent payments made. LPA staff noted the delayed payments primarily were caused by an outdated IT infrastructure, with issues of staff training and capabilities due in part to the outdated IT infrastructure. The report found that the increased staff KDOL brought on during the COVID-19 pandemic appeared to have little to no impact on the responsiveness of the call center to claimant phone calls. LPA utilized machine learning to analyze claims and sought to determine payments likely to be fraud with a 95.0 percent confidence level. The report estimated approximately \$700.0 million had been paid out in fraud with approximately half being paid out in federal funds and half in state funds.

The Committee also received IT security audits from LPA staff for Wichita State University, KDOR, and the Kansas Racing and Gaming Commission in closed session.

### ***December 15, 2021***

During the December 15, 2021, meeting, LPA staff presented an IT audit report evaluating the statutory definition and monetary threshold for major IT projects. The audit was completed in April 2018, and discussion among the Committee primarily focused on whether anything had changed since the audit's findings and how the audit could help inform Committee discussion on proposed legislation.

## COMMITTEE DISCUSSION

The Committee indicated it intended to meet in early January to conclude its work on a draft of IT-related legislation (rs2422).

## COMMITTEE CONCLUSIONS AND RECOMMENDATIONS

At its meeting on December 15, 2021, meeting, Committee members discussed their conclusions and recommendations for the 2021 Legislature and agreed to the following:

- Legislation with similar contents to rs2422, which was considered by the Committee, should be introduced and assigned to the appropriate House committee for consideration during the 2022 Session;
- The work of the Kansas Task Force on Cybersecurity is important, and the recommendations within the Task Force's final report should be reviewed by the Legislature. Further, the Committee encourages the Legislature to make cybersecurity a policy priority for the State of Kansas;
- Further study of ways state government can assist local entities regarding cybersecurity preparedness and adoption of technology should be considered;
- The State Board of Education should develop guidelines for IT security for school districts and provide IT security training to school district employees;
- The process used to monitor the Unemployment Insurance Modernization project has been beneficial, and it would be valuable to apply a similar process to other large-scale state IT projects;
- More conversation between legislative committees and vendors submitting proposals for state IT projects should be explored;
- State IT leaders should explore ways to recruit and retain IT professionals and develop the State's IT professional talent pool; and
- The Committee commends the KLOIS on the implementation of the Virtual State House Project and their continued efforts to support remote participation in the legislative process.

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**Report of the  
Joint Committee on Pensions, Investments  
and Benefits  
to the  
2022 Kansas Legislature**

**CHAIRPERSON:** Representative Steven Johnson

**VICE-CHAIRPERSON:** Senator Jeff Longbine

**OTHER MEMBERS:** Senators Brenda Dietrich, Michael Fagg, Cindy Holscher, and Pat Pettey; and Representatives Jesse Borjon, Broderick Henderson, Jim Kelly, Annie Kuether, Sean Tarwater, Carl Turner, and Rui Xu

**CHARGE**

***Monitor, Review, and Make Recommendations Regarding the Retirement System***

KSA 2020 Supp. 46-2201 directs the Committee to monitor, review, and make recommendations regarding investment policies and objectives formulated by the Kansas Public Employees Retirement System (KPERS) Board of Trustees; review and make recommendations relating to benefits for KPERS members; consider and make recommendations relating to the confirmation of members of the KPERS Board; review and make recommendations relating to the inclusion of city and county correctional officers as eligible members of the Kansas Police and Firemen's Retirement System; and review reports regarding exceptions for working after retirement (KSA 74-4914 and 74-4937).

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# Joint Committee on Pensions, Investments and Benefits

## ANNUAL REPORT

### Conclusions and Recommendations

The Joint Committee on Pensions, Investments and Benefits (Committee) submits the following comments and recommendations.

- **Annual valuation report and total fund performance.** The Committee commends the outstanding work of the Kansas Public Employees Retirement System (KPERS) Board of Trustees (Board) and KPERS staff in the continued improvement of the unfunded actuarial liability and the overall funded ratio. The Committee recommends the Legislature meet funding requirements and work with KPERS on its cash position needs to provide certainty and funding.
- **KPERS Board of Trustees.** The Committee requests the Board review retiree cost-of-living adjustments and suggests the Board make a recommendation regarding this issue to the 2022 Legislature. The Committee also recommends that any retiree cost-of-living-adjustment legislation be directed to the House Committee on Appropriations and the Senate Committee on Ways and Means and suggests such adjustment be funded in advance (*e.g.*, with a lump-sum payment).
- **Layered payments.** The Committee recommends the Legislature review the 2017 and 2019 employer contribution deferrals (currently totaling \$254.0 million) and consider whether to pay them in full in 2022 or on an expedited repayment schedule. The Committee notes the current repayment schedule is based on a 20-year schedule.
- **Pension bonds.** The Committee recommends the appropriate standing committees review the possibility of issuing additional pension funding bonds if interest rates remain favorable, or consider using some of the projected State General Fund surplus ending balance to make additional contributions toward the reduction of KPERS unfunded actuarial liability.
- **Legislation – Sale of State surplus property.** The Committee will introduce one bill, which would remove the statutory language (KSA 75-6609) requiring 80 percent of the proceeds from the sale of State surplus property (such as land and buildings) be credited to the Kansas Public Employees Retirement Fund and applied to the unfunded actuarial liability.
- **Deferred Retirement Option Program (DROP) review.** The Committee recommends standing committees review the expansion of DROP to all Kansas Police and Firemen’s Retirement System employers (state and local). The Committee notes that currently, only Kansas Highway Patrol troopers and Kansas Bureau of Investigation agents are eligible for the pilot program.

- **Retirement System – Tier 3 formula.** The Committee recommends the ongoing evaluation by the appropriate standing committees of the Tier 3 dividend formula to provide equity as intended and consider the overall benefit value.
- **Working-after-retirement statutes.** The Committee recommends the appropriate standing committees review KPERS working-after-retirement provisions, and specifically the existing waiting period and employer contributions for assessments, all within the context of the Internal Revenue Service (IRS) guidelines.
- **KPERS-Corrections.** The Committee recommends the appropriate standing committees review the possibility of the KPERS-Correctional option for local jailers.

*Proposed Legislation:* One bill.

## BACKGROUND

The Joint Committee on Pensions, Investments and Benefits (Committee), created in 1992, is authorized by KSA 2020 Supp. 46-2201 to:

- Monitor, review, and make recommendations relative to investment policies and objectives formulated by the Kansas Public Employees Retirement System (KPERS or the Retirement System) Board of Trustees (Board);
- Review and make recommendations related to KPERS benefits;
- Consider and make recommendations on the confirmation of members nominated by the Governor to serve on the Board; and
- Introduce legislation it determines to be necessary.

The Legislative Coordinating Council authorized the Committee to meet on one day.

## COMMITTEE ACTIVITIES

The Committee met on December 8, 2021, to receive reports and updates from the KPERS administration on the December 31, 2020, actuarial valuation and performance of the pension obligation bonds; review the KPERS Tier 3

dividend formula; and discuss the Board investment return assumptions and the Deferred Retirement Option Program (DROP). The Committee also received updates on the retirement experience during the COVID-19 pandemic and the pension administration system.

## KPERS 2020 Actuarial Valuation

The Committee reviewed the latest actuarial valuation, which serves as a snapshot of the financial condition of the Retirement System as of December 31, 2020. The Executive Director of KPERS (Executive Director) characterized the report overall as good news, with several indicators moving in the right direction. [*Note:* This annual actuarial valuation, which measures assets and liabilities, provides the basis for calculating future employer contribution rates. The 2020 valuation is used to set the fiscal year (FY) 2024 contribution rates for State/School employers and calendar year (CY) 2023 contribution rates for local employers and serves as the baseline for any cost studies in the 2022 Legislative Session.]

As of December 31, 2020, the actuarial value was estimated to be \$22.42 billion. Actuarial assets are calculated by averaging, or “smoothing,” investment gains and losses over a five-year period. There is a net gain of \$930.0 million to be realized in the outlying years. Net investments on a calendar-year basis were 11.1 percent (market value). Due to smoothing, the return on actuarial assets was 9.3 percent.

The Retirement System's overall funded ratio of assets to liabilities improved from 70.0 percent (2019 valuation) to 72.5 percent. (The standards for public pension plans suggest a retirement system should be funded between 80.0 and 100.0 percent of future liabilities owed.) The unfunded actuarial liability (UAL) for the Retirement System decreased from \$9.0 billion (2018 valuation) to \$8.5 billion. The Executive noted that for funding to remain at a "steady state," State/School Group employer contributions in FY 2022 will need to be \$589.0 million, which includes \$87.1 million for the normal employer cost rate, \$476.1 million for the UAL, and \$25.8 million for the deferred school contributions of FY 2017 and FY 2019.

The report further indicated the actuarially required contribution (ARC) rates for KPERS State/School employers decreased from 13.33 percent in FY 2023 to 12.57 percent in FY 2024. The statutory employer contribution rate continues to be at the full ARC rate for FY 2024, the fourth consecutive year the statutory and actuarial rates have been equal. It was noted the Legislature approved additional contributions to KPERS in 2018 and 2019. The additional contributions totaled \$304.0 million over two years with \$134.0 million received for CY 2018 and \$166.0 million received during CY 2019. The funds were directed to the School group UAL but impacted the funding for the State/School group. The Executive Director also stated the \$500.0 million pension funding bond proceeds authorized by 2021 HB2405 were not included in the 2020 valuation as the proceeds were received too late to be included, but were included in the cost projections. The Committee and the Executive Director discussed the funding projections presented and the anticipated investment experience.

### **Pension Obligation Bond Proceeds**

The Executive Director presented on pension obligation bonds, which serve as a form of arbitrage intended to reduce future employer contributions and improve the solvency of KPERS. The pension obligation bond proceeds improve the funded status of the Retirement System. The State has issued three pension obligation bond series. The first was in 2004 for a total of \$500.0 million, gross of fees (2004C bond issue), the second was issued in 2015 for \$1.0 billion, net of fees (2015H bond issue), and the third in 2021 for a total of

\$500.0 million, net of fees (2021K bond issuance). In 2004, the Legislature approved a \$500.0 million bond issue, which was issued with a 30-year maturity and an interest cost of 5.39 percent. KPERS received \$440.165 million in net proceeds. Annual debt service is approximately \$33.0 million from the Expanded Lottery Act Revenues Fund.

In 2015, the Legislature approved a \$1.0 billion bond issue, which was issued with a 30-year maturity and an interest cost of 4.68 percent. KPERS received \$1.0 billion in net proceeds. Annual debt service is approximately \$65.0 million from the State General Fund (SGF). In 2021, the Legislature approved a \$500.0 million bond issue, which was issued with a 30-year maturity and an interest cost of 2.65 percent. KPERS received \$500.0 million in net proceeds. Annual debt service is approximately \$24.0 million from the SGF.

The average annualized total returns for the 2004C and 2015H bond issues, as of October 31, 2021, were 8.14 percent and 9.76 percent respectively. As of October 31, 2021, the two bond series had exceeded interest cost by approximately \$1.1 billion (2004C, \$642.0 million; 2015H, \$454.0 million). The 2021 issuance return of two months totaled \$2.5 million above the interest cost. The Executive Director and the Committee discussed the proceeds, the SGF ending balance, and future bonding possibilities.

### **KPERS 3 Dividend Formula and Experience**

The Planning and Research Officer, KPERS, provided information on the KPERS 3 dividend credit, which was part of 2012 law creating a cash balance plan. Differing from KPERS 1 and 2 plan design, the cash balance retirement plan is based on the member's contributions and earning retirement credits from the employer, which are tracked throughout the member's career. Interest is applied to the two accounts, and the benefit is based on the total account balance at retirement and has nothing to do with the number of years worked or finalized average salary. The two components of interest credited under the cash balance plan are the guaranteed portion and the dividend. The guaranteed interest credit rate on the member and employer accounts is 4.0 percent and the discretionary dividend credit is a dividend

design (KSA 74-49,306) equal to 75.0 percent of the 5-year average net compound rate of return above 6.0 percent, as determined by the Board for the calendar year and the 4 preceding years.

The Planning and Research Officer noted CY 2020 was the sixth year of the KPERS 3 plan. The dividend is reviewed by the Board each March, and over the first six years of KPERS 3, the formulaic interest dividend credit has applied three times. Increases occurred in CY 2017 (1.1 percent), CY 2019 (0.825 percent), and 2020 (2.475 percent). The officer also indicated, assuming the returns through September hold, an estimated 4.4 percent could occur in CY 2021.

### **KPERS Board's Investment Return Assumption**

The Executive Director noted the Legislature delegated the establishment of the investment rate of return assumption to the Board in 1998. The KPERS rate of return assumption had been consistent from 1986 to 2016 at 8.0 percent. In the December 21, 2016, valuation, the Board reduced the return assumption from 8.0 percent to its current 7.75 percent. The Executive Director provided information that the Board reviewed in more detail on the investment-rate-of-return assumption at its October meeting; he stated the Board requested additional information to review and possibly act upon in future Board meetings.

Since 2010, the median investment return assumption was reduced from 8.0 percent to 7.0 percent. A total of 23 states had a return assumption of 7.5 percent or more, and Kansas was one of two states that had an assumption of 7.75 percent or more in a survey of 131 retirement plans.

The estimated impact on the UAL would be an increase of \$610.0 million for each 0.25 percent reduction in the investment return assumption. The 0.25 percent return reduction also would reduce the funded ratio by an estimated 2.0 percent.

The Executive Director stated that when the Board established the appropriate investment rate assumption, it would also make changes to the amortization method to pay for any adjustment. This could include level dollar or level percentage

of pay. The Legislature has also delegated the amortization decisions to the Board.

### **KPERS Deferred Retirement Option Program**

A sheriff, on behalf of the Kansas Association of Chiefs of Police, the Kansas Sheriffs Association, and the Kansas Peace Officers Association, stated many Kansas law enforcement agencies need help in recruiting and retaining officers. To help alleviate the problem, he requested all local agencies under the Police and Firemen's Retirement System (KP&F) be allowed to participate in the Deferred Retirement Option Program (DROP).

The KPERS Planning and Research Officer provided information on the DROP for Kansas KP&F members in the Kansas Highway Patrol (KHP) and the Kansas Bureau of Investigation (KBI). Under DROP, eligible members with normal unreduced retirement initiate the calculation of retirement benefits, but choose to defer the actual receipt of the benefits for a three-, four-, or five-year period. During the DROP period, the member does not earn additional service credits but continues to work and contribute 7.15 percent of compensation into DROP. The KHP or KBI continues to make employer contributions to KP&F. Retirement benefits are held in a separate account and, at the end of the period, the member receives the lump sum with interest. The DROP account can earn interest according to a statutory formula, and currently the formula allows for 3.0 percent interest in any year in which KPERS investments reach the 7.75 percent investment return assumption. The DROP, which was created as a five-year pilot program in 2015 and was expanded to include certain KBI employees in 2019, has a statutory sunset date of January 1, 2025.

He indicated that the average DROP participant enrolled in the program about seven months younger than other members who elected to retire. The average time in DROP is 4.7 years, resulting in a KHP member in DROP staying longer on the job and retiring later. This prompted discussion with the Committee on the possible impact of the DROP expansion to local law enforcement agencies.

## COVID-19 Pandemic and the Impact on KPERs Retirement Experience

The KPERs Planning and Research Officer noted that the average of retirements over the previous five years has been about 5,200 per year. However, the number of retirements in the first half of CY 2020 was lower than average and began to increase in the second half of the year. He said retirements in FY 2021 increased above numbers for the same month in FY 2020 in 10 of the 12 months. This equates to a 13 percent increase, or an additional 636 retirements, when comparing FY 2021 to FY 2020.

While retirements had increased over the past 18 months, there was no indication that the retirement pattern would change. The KPERs Planning and Research Officer said the COVID-19 pandemic was assumed to be the primary driver for the increase. This would not indicate a change in the long-term retirement pattern.

## KPERs Pension Administration System Modernization Project

The Executive Director said KPERs maintains a pension administration system that provides the functionality needed to collect data and contributions from employers and to process and pay benefits. KPERs started using the system in 2005. The existing system remains capable of providing these processes but, due to the required customizations over the years, has become less efficient and more unstable over time. KPERs administration and the Board made the decision to begin the multiyear modernization effort with the FY 2021 budget.

The Executive Director noted the 2020 Legislature authorized the system assessment, which was completed in September 2020 by The Segal Group, a consulting firm. The assessment helped clarify how the database could be restructured to provide better service to all customers. After a pilot project, KPERs decided to continue its relationship with the current provider to create a new base system. The current estimate for expenditures in FY 2022 is \$6.6 million from the KPERs trust fund for temporary positions, data cleaning, and new software. The estimate for FY 2023 is \$9.2 million and is anticipated to be maintained at around \$9.0 million for FY 2024 and

FY 2025 and then drop to an estimated \$3.0 million in FY 2026 as the modernization project is completed.

## CONCLUSIONS AND RECOMMENDATIONS

The Committee submits the following comments and recommendations:

- **Annual valuation report and total fund performance.** The Committee commends the outstanding work of the Kansas Public Employees Retirement System (KPERs) Board of Trustees (Board) and KPERs staff in the continued improvement of the unfunded actuarial liability and the overfunded ratio. The Committee recommends the Legislature meet funding requirements and work with KPERs on its cash position needs to provide certainty and funding.
- **KPERs Board of Trustees.** The Committee requests the Board review retiree cost-of-living adjustments and suggests the Board make a recommendation regarding this issue to the 2022 Legislature. The Committee also recommends that any retiree cost-of-living-adjustment legislation be directed to the House Committee on Appropriations and the Senate Committee on Ways and Means and suggests such adjustment be funded in advance (e.g., with a lump-sum payment).
- **Layered payments.** The Committee recommends the Legislature review the 2017 and 2019 employer contribution deferrals (currently totaling \$254.0 million) and consider whether to pay them in full in 2022 or on an expedited repayment schedule. The Committee notes the current repayment schedule is based on a 20 year schedule.
- **Pension bonds.** The Committee recommends the appropriate standing committees review the possibility of issuing additional pension funding bonds if interest rates remain favorable, or consider using some of the projected State General

Fund surplus ending balance to make additional contributions toward the reduction of KPERS unfunded actuarial liability.

- **Legislation- Sale of State surplus property.** The Committee will introduce one bill, which would remove the statutory language (KSA 75-6609) requiring 80 percent of the proceeds from the sale of state surplus property (such as land and buildings) be credited to the Kansas Public Employees Retirement Fund and applied to the unfunded actuarial liability.
- **Deferred Retirement Option Program (DROP) review.** The Committee recommends standing committees review the expansion of DROP to all Kansas Police and Firemen's Retirement System employers (state and local). The Committee notes that currently, only Kansas Highway Patrol troopers and

Kansas Bureau of Investigation agents are eligible for the pilot program.

- **Retirement System — Tier 3 formula.** The Committee recommends the ongoing evaluation by the appropriate standing committees of the Tier 3 dividend formula to provide equity as intended and consider the overall benefit value.
- **Working-after-retirement statutes.** The Committee recommends the appropriate standing committees review KPERS working-after-retirement provisions, and specifically the existing waiting period, and employer contributions for assessments, all within the context of the Internal Revenue Service (IRS) guidelines.
- **KPERS-Corrections.** The Committee recommends the appropriate standing committees review the possibility of the KPERS-Correctional option for local jailers.

# Report of the Legislative Budget Committee to the 2022 Kansas Legislature

**CHAIRPERSON:** Representative Troy Waymaster

**VICE-CHAIRPERSON:** Senator Rick Billinger

**OTHER MEMBERS:** Senators J.R. Claeys and Tom Hawk; and Representatives Kyle Hoffman, Steven Johnson, William Sutton (substitute member), and Kathy Wolfe Moore

**CHARGE**

## *State Budget Issues*

The Legislative Budget Committee is statutorily directed to:

- Compile fiscal information and study and make recommendations on the state budget, revenues, and expenditures and the organization and functions of the State, its departments, subdivisions, and agencies, with a view of reducing the cost of state government and increasing efficiency and economy.

In addition to these statutory duties, the Committee will review and discuss during the 2021 Interim:

- COVID-19 pandemic relief funding and expenditures, specifically in the context of receiving updates on federal funding and expenditures made by state agencies related to the COVID-19 pandemic.

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# Legislative Budget Committee

## ANNUAL REPORT

### Conclusions and Recommendations

The Legislative Budget Committee makes the following recommendations:

The House Committee on Appropriations and the Senate Committee on Ways and Means should receive updates on the following items:

- The status of the foster care system and implementation of the Family First Prevention Services grants (from the Department for Children and Families);
- A report from the Kansas Housing Resources Corporation on the use of federal housing funds and a possible first-time home buyers program;
- The impact of the loss of federal COVID-19 pandemic relief funds on the state budget and avoidance of creating a “fiscal cliff”;
- The possibility of salary enhancements for community corrections officers relative to adjustments made to salaries for positions in the Kansas Department of Corrections;
- Review of the temporary salary increase created by the Governor’s Executive Directive 21-547 to avoid the creation of a “spiral,” with the state competing with itself for employees;
- The timeline for eliminating the moratorium on voluntary admissions to Osawatomic State Hospital and the status of youth mental health inpatient beds in Hays (from the Kansas Department for Aging and Disability Services);
- Bonded indebtedness of the State with consideration of what debt might be advantageous to be retired early (from the Kansas Development Finance Authority);
- Deferred maintenance at the state postsecondary institutions;
- The impact of the waiver application regarding maintenance of effort requirements in federal COVID-19 pandemic relief legislation on K-12 and Higher Education budgets;
- The possible addition of funding to the Budget Stabilization Fund; and
- The possible addition of funding to the Kansas Public Employees Retirement System (KPERs) to decrease unfunded actuarial liability.

The Committee also recommends the The Strengthening People and Revitalizing Kansas (SPARK) Taskforce Efficiency and Modernization Advisory Panel receive an update on Statehouse technology needs.

The Committee further recommends the Senate Committee on Utilities receive an update on the status of the litigation regarding natural gas rates during the 2021 Extreme Winter Weather Event from the Attorney General.

**Proposed Legislation:** None.

## BACKGROUND

The Legislative Budget Committee (Committee) is statutorily directed in KSA 46-1208 to compile fiscal information. It is also directed to study and make recommendations on the state budget, revenues, and expenditures, and on the organization and functions of the State, including its departments, subdivisions, and agencies, with a view of reducing the cost of state government and increasing efficiency and economy.

## COMMITTEE ACTIVITIES

The Legislative Coordinating Council authorized six meeting days for the Committee during the 2021 Interim. The Committee met five times during the 2021 Interim on the following days: August 31, October 8, November 5, and December 20 and 21.

### State General Fund Consensus Revenue Estimates and Monthly Receipts

At the August 31 meeting, the Director of Legislative Research, Kansas Legislative Research Department (KLRD), presented information on State General Fund (SGF) receipts in FY 2021 and provided an update on SGF receipts for the first two months of FY 2022.

In FY 2021, total receipts to the SGF were \$766.1 million, or 9.5 percent, above the final adjusted estimate. This increase is attributable to increases above the final consensus estimates for individual income tax receipts, corporation income tax receipts, and sales tax revenues.

Total receipts for FY 2022 through July 2021 were \$59.1 million, or 11.0 percent, above the estimate. This is due to increased receipts for individual income tax, corporation income tax, insurance premium tax, and total sales and use

taxes. This was the first report for FY 2022 receipts based on the April 2021 consensus revenue estimate adjusted for legislation. It was also the fourth month in a row that receipts had been above the adjusted April estimate.

At the October 8 meeting, the Director of Legislative Research presented information on SGF receipts from July through September. Total receipts through September totaled \$335.8 million, or 19.5 percent, above the estimate.

At the November 5 meeting, KLRD staff reported on SGF receipts from July through October. Total receipts through October were \$438.3 million, or 18.9 percent, above the estimate. Committee discussion focused on the impact of inflation and increased sales taxes as related to increased tax receipts.

At the December 21 meeting, the Director of Legislative Research provided an update on SGF revenues and receipts. FY 2021 actual receipts were \$776.0 million above the April estimates. The overall estimate for FY 2022 was increased by \$1.308 billion during the November consensus revenue estimates. Of this amount, the estimate for total taxes was increased by \$1.298 billion, while the estimate for other revenues was increased by \$10.1 million.

### Quarterly Economic Indicators

At the August 31 meeting, the Committee received information from the Senior Economist, KLRD, concerning economic indicators and the current state of the economy. The Senior Economist detailed plans to publish certain economic indicators on a quarterly basis in conjunction with the monthly SGF receipts information. The Committee discussed recent inflationary pressures, specifically those in the housing and automobile markets. The Committee also discussed labor force participation rates in

relation to job growth and the economy's recovery from the COVID-19 pandemic.

At the December 21 meeting, the Senior Economist reviewed the Quarterly Economic Indicators Report, which provides graphs regarding economic output and inflation, jobs and unemployment, and Kansas private sector hours worked and wages. For the third quarter of 2021, inflation was the most noteworthy economic issue for the nation and Kansas. The Senior Economist said energy prices were a primary driver of inflation, with national year-over-year amounts exceeding 23.0 percent for each month in the quarter.

### **COVID-19 Expenditures Updates**

At the August 31 meeting, a representative of the Office of Recovery provided an update on COVID-19 expenditures. Background information was provided regarding the Office of Recovery, which was created in response to the federal moneys allocated to the State of Kansas and received through both the federal Consolidated Appropriations Act and the American Rescue Plan Act (ARPA). Approximately \$28.0 billion in federal funds, received through the major federal COVID-19 relief bills, provides financial support to state agencies, cities, counties, municipalities, and other smaller units of local government, as well as other governmental entities.

The Office of Recovery conferee noted Kansas received \$18.1 billion from the Coronavirus Aid, Relief, and Economic Security (CARES) Act, which includes direct payments to entities and citizens within the state. The Strengthening People and Revitalizing Kansas (SPARK) Taskforce allocated approximately \$1.0 billion of the State Coronavirus Relief Fund (CRF). In the first round of allocation, \$400.0 million was expended to the counties. In the second round, \$333.0 million was expended for public health, education, economic development, and connectivity. In the third round, \$271.0 million was expended for other COVID-19 relief priorities. Approximately 96.0 percent was allocated or expended at the time of the report, with a spending deadline of December 2021.

The Committee expressed concerns regarding federal relief money that has been expended without State Finance Council authority, which is

outside of the guidelines specified in 2021 HB 2007. It was noted no ARPA discretionary dollars allocated to the State have been spent, except those required by law to be moved to the Unemployment Insurance Trust Fund. Discussion continued by Committee members regarding the non-entitlement units of local government (NEU) certification process and discretionary fund allocation.

At the October 8 meeting, KLRD fiscal staff provided an update on federal COVID-19 funding allocated to the Kansas State Department of Education (KSDE). A spreadsheet detailing total Elementary and Secondary School Emergency Relief (ESSER) amounts by school district was provided. The spreadsheet included the amounts drawn down to date with amounts still available to spend.

At the November 5 meeting, the Committee received updates from a representative of the Office of Recovery and the SPARK Executive Committee. The Committee was provided an overview of the SPARK Advisory Panel chairs and vice-chairs, followed by an explanation of the role of the Project Coordinator, who will administer the Advisory Panel process. After a review of the regional SPARK Committee meetings in Wichita and Dodge City, discussion moved to the Frontline Health Care Workers' Hospital Initiative. Of the 122 eligible facilities, 118 facilities applied, and funds would be distributed within two weeks.

The Committee discussed the timeline of the ARPA fund distribution for the program, and it was noted that \$5.0 million has already been distributed through the Frontline Health Care Workers' Hospital Initiative. The Committee received information regarding the program's design and eligibility requirements.

At the December 20 meeting, the Secretary of Administration introduced the new SPARK Project Director and provided information on recent approved expenditures from the federal ARPA discretionary fund. Expenditures included \$27.1 million for COVID-19 testing program extension and \$30.3 million for state 24/7 facility staff salary increases. The Secretary also provided an update on proposed, but not yet State Finance Council approved, ARPA discretionary fund expenditures,

including \$100.0 million for economic development infrastructure, \$50.0 million for education learning loss grants, and \$4.0 million to install broadband for school districts.

A representative of the League of Kansas Municipalities provided information on the expected uses of COVID-19 federal funds by municipalities. Allowable uses include responding to a public health emergency, premium pay for certain employees under certain conditions, and investment in water, sewer, and broadband projects. Municipalities had primarily used funds for water and sewer projects. Other projects including replenishing supplies for COVID-19 testing and personal protective equipment. Municipalities had been encouraged to expend funds slowly while information on guidelines and additional federal funds are received.

### **Performance Based Budgeting**

At the August 31 meeting, KLRD fiscal staff provided an overview of the performance based budgeting template provided to agencies with FY 2022 budget instructions. The updated template was prepared to detail outcome, output, and efficiency performance measures.

At the December 20 meeting, representatives of the Behavioral Sciences Regulatory Board, the Department for Children and Families, the Kansas Board of Nursing, the Kansas Department of Agriculture, and the Kansas Sentencing Commission reviewed their submissions of the new performance based budgeting template. Agencies presented an array of performance measures and answered questions on specific measures and the overall process of completing the template.

### **Reopening Status of Kansas Department of Revenue Driver's License Offices**

At the August 31 meeting, a representative of the Kansas Department of Revenue (KDOR) presented an update on reopening driver's license offices. The KDOR conferee noted KDOR partners with Kansas counties to provide driver's license services in 117 offices located in 104 Kansas counties. Of these 117 offices, 40 are state offices and 77 are county offices. State examiners travel to seven county-run offices located in

Doniphan, Harper, Kingman, Kiowa, Morris, Republic, and Russell counties to assist with more complex services not otherwise offered by those counties. All county driver's license offices offer noncommercial driver's license renewal services, and five county offices in western Kansas provide commercial driver's license renewals. Travel to county offices was temporarily suspended due to the COVID-19 pandemic, primarily due to a lack of staff available for travel. The Committee expressed concern regarding the availability of commercial license renewal.

At the December 21 meeting, a representative of KDOR provided an update on driver's license services offices, most of which are operated by counties. The representative noted that all but one county office has reopened and that one office remains closed due to staffing issues. Kansas drivers also appear to be utilizing online services more, including online commercial driver's license renewals.

### **Kansas Highway Patrol Training Implementation**

At the August 31 meeting, a representative of the Kansas Highway Patrol (KHP) provided an overview and update of training efforts for personnel within the KHP Training Academy, as well as usage of the Kansas Law Enforcement Training Center, regarding the language contained in 2021 HB 2007 Sec. 121(h), which requires the training of KHP law enforcement officers at the KHP Training Academy during FY 2021. The KHP Training Academy provides continuing education and serves as the academy for Recruit Troopers. KHP also oversees the Kansas Capitol Police Troop K, which is headquartered in the Docking State Office Building. KHP training entails 1,047 hours, while Capitol Police are required to complete 560 hours of training. All full-time Capitol Police positions are currently filled.

### **KPERS Pension Obligation Bond Update**

At the August 31 meeting, a representative of the Kansas Development Finance Authority (K DFA) provided an update on the sale of up to \$500.0 million in bonds, plus the cost of issuance, approved by the State Finance Council. Proceeds from those bonds must be applied to the unfunded

actuarial pension liability (UAL) of the Kansas Public Employees Retirement System (KPERs), and the interest rate of those bonds may not exceed 4.3 percent. The K DFA representative stated the bond purchase agreement was executed on August 17, 2021, at an all-inclusive cost of 2.65 percent. The agreement closed, and \$500.0 million in proceeds were deposited to KPERs on August 26, 2021. The debt service schedule for these bonds includes \$504.5 million in principal and \$220.8 million in interest, both over a 30-year period. The Committee and the K DFA representative discussed updated credit ratings from Standard & Poor's and Moody's Investor Services.

The Executive Director of KPERs also testified on the funding impact of the bonds on the KPERs Trust Fund portfolio, stating the actuarial funded ratio of the State/School group would increase from 73.3 percent to 75.6 percent. Additionally, the Executive Director stated the State/School employer contribution rate is projected to decline from about 13.3 percent in FY 2022 to approximately 11.5 percent. The Committee and the Executive Director discussed overall investment performance and the legacy UAL timeline.

### **Governor's Commission on Racial Equity and Justice**

At the August 31 meeting, Co-chairpersons of the Governor's Commission on Racial Equity and Justice (Commission) presented the recommendations of the Commission. The Commission presented an initial report to the Governor on December 21, 2020, focusing on law enforcement and policing, which included recommendations that legislation be passed to prohibit the hiring of law enforcement officers previously fired for egregious offenses and amend statute to allow citizenship requirements for law enforcement officers to align with U.S. military standards. The Commission presented a subsequent report to the Governor on July 21, 2021, which made recommendations on improving racial equity by addressing the social determinants of health.

The presentation focused on recommendations for action by the Legislature, which included implementation of a refundable food sales income

tax credit to offset state and local tax paid on groceries by low-income households, expansion of the Kansas Child Day Care Assistance Tax Credit program, and continued support of the Kansas Promise Scholarship Act of 2021. In response to the COVID-19 pandemic, the Commission recommended that culturally competent messaging be utilized regarding vaccination and health equity be considered when distributing federal funds provided through ARPA.

### **Natural Gas Recovery Litigation Request for Proposals**

At the August 31 meeting, a representative of the Office of the Attorney General presented a proposal to issue a request for proposal (RFP) seeking outside counsel for litigation related to natural gas prices during the cold weather event in 2021. The Attorney General sought competitive proposals from attorneys and law firms interested in assisting in the representation of the State of Kansas in potential civil litigation in which the State seeks to recover funds charged to the State, its political subdivisions, or its citizens by natural gas generators, suppliers, wholesalers, or natural gas pipelines, or any other entity during a winter storm in February 2021.

The Office of the Attorney General representative noted the Professional Services Sunshine Act (KSA 75-37,130 through 75-37,135) requires that prior to entering contracts for legal services, where the amount of fees paid to an attorney or firm of attorneys reasonably may exceed \$1.0 million, the Director of Purchases, Department of Administration, must submit the proposed RFP to the Committee. If the Committee makes no suggested changes to the proposed RFP, or fails to report any suggested changes within 60 days of the submission of the proposed RFP to the Committee, the Director of Purchases may release the RFP. The Office of the Attorney General reasonably believed the contract for legal services may exceed \$1.0 million, and therefore, presented the RFP to the Committee. The Committee did not make any changes to the RFP.

### **KPERs Request for Legal Services**

At the December 20 meeting, the Executive Director of KPERs presented an RFP for the agency to retain counsel for class action lawsuits.

The Executive Director noted this position has not been needed in the last 15 years, but legal counsel would be necessary should a class action suit be filed.

### **Kansas Legislative Research Department Budget Analysis Update**

At the August 31 meeting, KLRD fiscal staff provided a proposed update to KLRD's Budget Analysis publication prepared annually for the Legislature, which includes actual, approved, and proposed expenditures for state agencies and the Governor, Judicial Branch, and Legislature. The proposed update would be implemented during the 2022 Legislative Session, incorporating modern fiscal analysis and communication techniques to better inform legislators and other stakeholders about the state budget. Identified improvements include dedicated performance based budgeting detail, more clearly displayed relationships between budgetary items and policy decisions, reduced use of technical language, and an increased use of data visualizations. As a result, the proposed Budget Analysis update utilizes graphs, color, and lists more robustly than the current document.

### **Maintenance of Effort and Federal Funds**

At the October 8 meeting, the Director of the Budget discussed the state submission of a request for a waiver of the maintenance of effort (MOE) requirements to the U.S. Department of Education on September, 15, 2021. Information presented by the Director of the Budget noted the U.S. Department of Education is working with the State, and it was undetermined when a decision would be made regarding the possible MOE payment requirement.

The Director of the Budget provided a spreadsheet with language from appropriations bills that could allow the use of federal funds for specific programs. A summary was provided to the Committee regarding which agencies have been able to expend federal funds and for what programs federal funds were not available.

The Deputy Commissioner and Director of Fiscal Services, KSDE, provided information to the Committee on 2021 HB 2134 and the approved State Plan for the federal ESSER funding. A

spreadsheet was available with the three separate ESSER distributions and how long the funding is available for use. A presentation was made on the COVID-19 funding and remote learning. The presentation reviewed the multiple ESSER funding distributions along with what the funding has been or will be used for, including the formula for funding if the students are going to school remotely.

### **Distribution of Higher Education Funds from the 2021 Session**

At the October 8 meeting, the President and CEO of the Kansas Board of Regents presented the Committee with the distribution of state funds from the 2021 appropriations bills to meet the MOE required by the federal government to receive certain federal COVID-19 pandemic relief funds. The Committee discussed how and why certain decisions were made on the distribution of such funds.

### **K-12 Vaccination and Testing Plans**

At the October 8 meeting, a representative from the Kansas Department of Health and Environment (KDHE) provided the Committee with information on school testing policies and programs. The three major testing objectives were discussed: 1) Test to know; 2) Test to stay and learn; and 3) Test to stay, play, and participate. Testing data was provided as well as the youth vaccination rate.

### **Educational Building Fund and Deferred Maintenance**

At the October 8 meeting, KLRD fiscal staff provided a history of the Educational Building Fund (EBF) and current laws on maintenance of higher education buildings.

The information included the history of changes over the 80 years the EBF has been law, including increases or decreases in the mill levy, how the EBF has been distributed, and the current changes of the EBF as a "no limit" fund in the Kansas Board of Regents budget. The new Kansas Board of Regents policy for deferred maintenance on the university campuses was provided to the Committee.

## **Job Creation Fund**

At the October 8 meeting, a KLRD fiscal staff member outlined the current Job Creation Fund balance and obligations for the Fund.

## **Kansas Emergency Rental Assistance Program**

At the October 8 meeting, the Director of the Kansas Housing Resources Corporation presented the Kansas Emergency Rental Assistance program update to the Committee. The Director indicated the program helps keep Kansans in their homes during the COVID-19 pandemic by providing assistance for rent, past-due utility bills, and internet costs.

## **Human Services Caseloads**

At the November 5 meeting, KLRD fiscal staff provided updates on the human services consensus caseload estimates. The revised estimate for all human service caseloads in FY 2022 is \$4.0 billion from all funding sources, including \$1.1 billion SGF. This an all funds decrease of \$72.5 million, including \$173.2 million SGF, below the approved budget.

The FY 2023 estimate is \$4.1 billion from all funding sources, including \$1.3 billion SGF. The estimate is an all funds increase of \$92.9 million, including \$170.0 million SGF, above the FY 2022 revised estimate.

## **Medicaid 1115 Waiver Budget Neutrality**

At the November 5 meeting, the Committee received an update from a representative of KDHE on budget neutrality of the Medicaid 1115 waiver. The federal government pays approximately 59.0 percent of Medicaid medical costs through matching federal funds. The current federal match rate is approximately 65.0 percent, due to pandemic relief of an additional 6.2 percent federal match. Due to federal Centers for Medicare and Medicaid Services (CMS) calculations of Kansas budget neutrality, some expected costs were not included in the cap, which included an increased managed care organization privilege fee reducing the State's cap by \$234.0 million, and the Adults and Children group cap was \$139.5 million lower than the amount KDHE calculated.

The KDHE representative indicated the agency is submitting a proposal to CMS to correct these issues to more accurately project the State's budget neutrality cushion throughout the life of the waiver.

Discussion centered around about possible alternatives to the 1115 waiver and any implications that would result from early termination of the program.

## **Federal Medical Assistance Percentage Adjustments**

At the November 5 meeting, the Committee received a presentation from a representative of the Kansas Department for Aging and Disability Services (KDADS) on the Federal Medicaid Assistance Percentage (FMAP) adjustments. Section 9817 of ARPA provides an opportunity for enhanced federal funding for one-time funding for Medicaid Home and Community Based Services (HCBS) programs to enhance, expand, or strengthen HCBS under the Medicaid program, with a timeline through March 2024. Kansas would be required to use state funds equivalent to the amount of federal funds attributable to increased FMAP for implementation. The joint FMAP Enhancement spending plan was submitted to CMS in July 2021 for approval. If approved, KDADS is expected to draw down approximately \$80.3 million, and KDHE is expected to draw down approximately \$4.9 million in additional federal match dollars.

The Committee discussed opportunities to grow the HCBS workforce, hiring retired KPERs participants to supplement the workforce, and the issue of waitlists for HCBS services.

## **Update on IKE Transportation Plan**

At the November 5 meeting, the Committee received a presentation from the Secretary of Transportation on the status of the IKE Transportation Plan. The first managed lane will be added in Johnson County as a toll lane. Work-related injuries have declined, with a realized workers' compensation savings of \$200,000 in 2020.

The Secretary noted the Kansas Department of Transportation (KDOT) was experiencing

employee recruitment difficulties, with an estimated 30 percent staffing shortage of snowplow operators for the season.

The Committee received a review of the FY 2022 Approved Extraordinary Transfers. The total amount is \$97.2 million in Extraordinary Transfers, and approximately \$110.0 million in ordinary transfers were included in KDOT's budget.

The Committee discussed the status of the Heartland Flyer train and other projects, including Charge UP Kansas (with \$3.2 million from the Volkswagen settlement); the Midwest Road Usage Charge Study (RUC); and HOME, a pilot project for broadband data analytics. KDOT was commended for the success of the IKE program.

### **Review of Governor's Executive Order on the Office of the Child Advocate**

At the November 5 meeting, the Chief Counsel of the Office of the Governor reviewed Executive Order No. 21-28, which established the Division of the Child Advocate within the Department of Administration. There was a review of the credentials and duties of the position. Additionally, an annual report would be submitted to the Governor, Legislature, the Chief Justice, and other key players in the child welfare system.

The Committee discussed funding and staffing needs for the office and a request for information related to the number of children sleeping on office floors and the number of foster parents needed.

### **Update on Statehouse Technology Needs**

At the November 5 meeting, the Legislative Chief Information Technology Officer, Kansas Legislative Office of Information Services, presented an update on technology needs for the Statehouse. The presentation explained the process for implementing video conferencing, the State's data network, new audio system and streaming services, implementation of closed-caption text on video streaming, virtual voting in the House Chamber to accommodate social distancing for representatives, new voting board video displays for the 2022 Legislative Session in the House Chamber, updates to the data center, email system

and Rubrik backup system, and training on the use of the video conference systems. Project funding sources included federal CARES Act funds, as approved by the SPARK Committee and State Finance Council. Total expenditures for the update project were \$4.73 million.

### **Board of Indigents' Defense Services Caseloads**

At the November 5 meeting, KLRD fiscal staff provided an update on the Board of Indigents' Defense Services assigned counsel consensus caseload estimates. For FY 2022, the revised estimate is \$16.5 million, all SGF. For FY 2023, the estimate is \$16.5 million, all SGF, and is the same as the FY 2022 revised estimate. SB 159 (2021), the Omnibus Appropriations Bill, appropriated an additional \$3.6 million SGF for assigned counsel expenditures and included proviso language increasing the hourly rate for assigned counsel up to \$100 per hour for FY 2022.

### **Docking State Office Building and KDHE Laboratory Recommendations**

At the November 5 meeting, KLRD fiscal staff provided an update on the Joint Committee on State Building Construction (JCSBC) report regarding the recommendations for the Docking State Office Building and the KDHE laboratory. SB 159 (2021), the Omnibus Appropriations bill, tasked the JCSBC to review proposals for the KDHE Laboratory and provide recommendations to the State Finance Council. The JCSBC recommended the KDHE Laboratory be located at the Kansas Neurological Institute site, and the renovation or construction of a three-story event center at the Docking State Office Building site. Discussion occurred regarding utilizing the Docking State Office Building as an event center rather than office space for state agencies.

### **State Hospital Moratorium Update**

At the December 20 meeting, the Secretary for Aging and Disability Services and the Deputy Secretary of Hospital and Facilities, KDADS, provided an update on the state hospital moratorium on voluntary admissions. The agency plans to lift the moratorium on January 3, 2022. The Secretary noted lifting the moratorium includes increasing bed capacity at Osawatomic

State Hospital as well as increasing the number of state institution alternative beds to allow individuals to remain closer to home during treatment and to reduce the burden on state hospitals. The Deputy Secretary reviewed the plan to increase the number of beds at Osawatimie State Hospital through remodeling of the Biddle Building. State institution alternatives include changing rules and regulations to create crisis intervention centers to accept involuntary admissions.

The Deputy Secretary also noted efforts to increase recruitment and retention, including raising base pay for mental health disability technicians; adding contracts for nurses, aids, and social workers; and appreciation events for long-term employees.

### **24/7 State Facility Staff Salary Increases Executive Initiative**

At the December 20 meeting, the Director of the Budget reviewed the Governor's initiative to increase salaries for staff at 24/7 state facilities, including the Kansas Department of Corrections facilities, the KDADS state hospitals, and the Kansas Commission on Veterans Affairs Office veterans' homes. The SPARK Taskforce recommended the use of COVID-19 federal funds for these increases on December 10, 2021. The recommendation was approved by the State Finance Council on December 17, 2021. The plan provides both long-term and temporary pay increases, including permanent base pay increases and temporary pay differentials, such as premium pay for employees during times of staff shortages. The Director of the Budget provided examples of how specific positions would be affected by the pay initiative.

### **State Indebtedness**

At the December 20 meeting, a representative from Kansas Development Finance Authority (KDFA) provided an overview of SGF, State Highway Fund, and user fee-supported debt. Committee discussion and questions included which bond series potentially could be paid off early and the effects on the SGF of paying off certain bonds. A representative of the Kansas Bureau of Investigation answered questions on the

bonds for the construction of the agency's forensic laboratory.

### **Fiscal Year Spending to Date**

At the December 20 meeting, KLRD fiscal staff provided an update on SGF spending to date for FY 2022. Compared to spending in FY 2018 and FY 2019, FY 2022 spending to date closely matches historic expenditure patterns. Some decreases in typical spending patterns were driven by carryover funding in FY 2022, including expenditures for assigned counsel caseloads for the Board of Indigents' Defense Services and the substance abuse treatment program in the Kansas Sentencing Commission. Increases in spending were generally due to increased receipt of funds, including funding for operating expenditures for the Kansas State Fair and for various programs in the Kansas Board of Regents.

### **Legislative Session Staff Pay**

At the December 20 meeting, the Director of Legislative Administrative Services provided an overview of legislative session staff pay. The Director noted each employee is assigned a position and a salary range based on workload. These salary ranges are approved yearly by the Legislative Coordinating Council. If a position receives a higher workload than originally anticipated, the salary may be increased for that position during the legislative session, with approval from Legislative Administrative Services.

### **Wind and Wildfires Damage**

At the December 20 meeting, the Adjutant General provided an update on damage caused by wildfires, including approximate numbers of customers without power, residential structures burned, and head of cattle lost. The Kansas Department of Emergency Management was assessing damage to provide a report to the Federal Emergency Management Agency (FEMA) in order to receive reimbursement for repairs; however, FEMA will not cover any damage that is insurable.

The Deputy Secretary of Agriculture provided information on the Kansas Department of Agriculture's work to assist producers and farmers

who have experienced damage. The Deputy Secretary noted that not only was immediate damage to infrastructure and cattle loss a concern, but also future profit loss from crop damage was a concern for local farmers. Farmers can receive mental health support at [KansasAgStress.org](http://KansasAgStress.org).

### **Foster Care**

At the December 21 meeting, a Deputy Secretary, Department for Children and Families, provided an overview of the foster care system in Kansas, including the number of children in foster care, finalized adoptions in FY 2021, the number of foster homes per county, and the current number of missing children. Types of out-of-home placements include relative placement, family foster homes, and residential facilities. The Deputy Secretary also discussed potential situations in which a child might experience a failure to place or must be temporarily housed in a case management provider office. The Deputy Secretary also reviewed some of the agency's performance measures and the foster care program budget.

### **Education Caseloads**

At the December 21 meeting, KLRD fiscal staff provided an overview of education caseload estimates. FY 2022 all funds revised estimates decreased by \$77.7 million, including SGF revised estimates decreasing by \$88.0 million, primarily caused by decreases in state foundation aid and KPERS school expenditures. State foundation aid decreases were driven by decreases in at-risk weighting.

### **Unemployment Compensation Modernization and Improvement Council**

At the December 21, 2021, meeting, the KLRD Senior Economist provided an overview of the work of the Unemployment Compensation Modernization and Improvement Council. The Council has monitored the procurement process for the Kansas Department of Labor Unemployment Compensation System Modernization Project through updates from Kansas Department of Labor, the Department of Administration, and prerecorded video

presentations from the final four vendors being considered for the project.

The Council has also produced an RFP and chosen a vendor for an audit of fraudulent and improper payments from the Unemployment Insurance Trust Fund throughout the COVID-19 pandemic.

## **CONCLUSIONS AND RECOMMENDATIONS**

Following its review and discussion, the Committee made the following recommendations:

The Committee recommends that various legislative committees receive further updates on issues reviewed by the Committee during the 2021 Interim.

Specifically, the Committee recommends the House Committee on Appropriations and the Senate Committee on Ways and Means receive updates on the following items:

- The status of the foster care system and implementation of the Family First Prevention Services grants (from the Kansas Department for Children and Families);
- A report from the Kansas Housing Resources Corporation on the use of federal housing funds and a possible first-time home buyers program;
- The impact of the loss of federal COVID-19 pandemic relief funds on the state budget and avoidance of creating a "fiscal cliff";
- The possibility of salary enhancements for community corrections officers relative to adjustments made to salaries in the Kansas Department of Corrections;
- Review of the temporary salary increase created by the Governor's Executive Directive 21-547 to avoid the creation of a "spiral," with the state competing with itself for employees;

- The timeline for eliminating the moratorium on voluntary admission to Osawatomie State Hospital and the status of youth mental health inpatient beds in Hays (from KDADS);
- Bonded indebtedness of the State with consideration of what debt might be advantageous to be retired early (from KDFA);
- Deferred maintenance at the state postsecondary institutions;
- The impact of the waiver application regarding maintenance of effort requirements in federal COVID-19

pandemic relief legislation on K-12 and Higher Education budgets;

- The possible addition of funding to the Budget Stabilization Fund; and
- The possible addition of funding to KPERS to decrease unfunded actuarial liability.

The Committee also recommends the SPARK Efficiency and Modernization Advisory Panel receive an update on Statehouse technology needs. The Committee further recommends the Senate Committee on Utilities receive an update on the status of the litigation regarding natural gas rates during the 2021 Extreme Winter Weather Event from the Attorney General.

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# Report of the Joint Committee on State Building Construction to the 2022 Kansas Legislature

**CHAIRPERSON:** Representative Marty Long

**VICE-CHAIRPERSON:** Senator Rick Billinger

**RANKING MINORITY MEMBER:** Senator Marci Francisco

**OTHER MEMBERS:** Senators J.R. Claeys, Tom Hawk, and Gene Suellentrop; and Representatives John Alcalá, Michael Houser, Susan Humphries, and Jarrod Ousley

**CHARGE**

*Study, Review, and Make Recommendations on Capital Improvement Expenditures and Other State-owned Properties and Leases*

The Committee is authorized by KSA 46-1701, which includes provisions allowing the Committee to meet on call of its Chairperson at any time and any place within the state and to introduce legislation. The Committee is authorized to:

- Study, review, and make recommendations on all agency five-year capital improvement plans, leases, land sales, and statutorily required reports by agencies;
- Travel throughout the state to observe state-owned buildings; and
- Review proposals to construct or renovate a building and to equip a Kansas Department of Health and Environment laboratory, and make recommendations to the State Finance Council concerning this capital improvement project pursuant to provisions of 2021 SB 159.

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# Joint Committee on State Building Construction

## ANNUAL REPORT

### Conclusions and Recommendations

All five-year capital improvement plans were recommended by the Committee with the following notations:

- The Committee recommends the Kansas Bureau of Investigation reconsider cost estimates for installation of heating, ventilation, and air conditioning systems and renovations at the Great Bend office; and
- The Committee recommends the Legislature consider increased funding from the Correctional Institutions Building Fund and the State Institutions Building Fund for the Department of Corrections for FY 2023 through FY 2027 to address growing maintenance costs throughout the correctional system.

The Committee recommends construction of a Kansas Department of Health and Environment laboratory at the Kansas Neurological Institute site and renovation or construction of a three-story event center at the Docking State Office Building site.

The Committee expresses concern regarding deferred maintenance at state universities and recommends the Kansas Board of Regents (Board) provide the Legislature with alternative funding options concerning the matter. Further, the Committee notes the Board's recent policy that expenditures equaling 2.0 percent of the current building replacement value be used annually to maintain buildings.

The Committee recommends expenditures from the State Institutions Building Fund be increased to address agency capital improvements priorities, including the disposition of obsolete buildings, rather than retain a large ending balance in the fund annually.

***Proposed Legislation:*** None.

### BACKGROUND

The Joint Committee on State Building Construction (Committee) was established during the 1978 Legislative Session. The Special Committee on Ways and Means recommended the bill creating the Committee, 1978 HB 2722, as a result of its interim study of state building construction procedures.

The Committee was expanded from six member to ten members by 1999 HB 2065. It is composed of five members of the Senate and five member of the House of Representatives. Two members each are appointed by the Senate President, the Senate Minority Leader, the Speaker of the House of Representatives, and the House Minority Leader.

The Chairperson of the Senate Committee on Ways and Means and the Chairperson of the House

Committee on Appropriations serve on the Committee or appoint a member of such committee to serve (KSA 46-1701).

The Committee may meet at any location in Kansas on call of the Chairperson and is authorized to introduce legislation. (KSA 46-1701)

The primary responsibilities of the Committee are set forth in KSA 46-1702. The Committee is to review and make recommendations on all agency capital improvement budget estimates and five-year capital improvement plans, including all project program statements presented in support of appropriation requests, and to continually review and monitor the progress and results of all state capital construction projects. The Committee also studies reports on capital improvement budget estimates that are submitted by the State Building Advisory Commission. The Committee makes annual reports to the Legislature through the Legislative Coordinating Council (LCC) and other such special reports to the appropriate committees of the House of Representatives and the Senate.

Each state agency budget estimate for a capital improvement project is submitted to the Committee, the Division of the Budget, and the State Building Advisory Commission by July 1 of each year. Each estimate includes a written program statement describing the project in detail (KSA 75-3717b). The budget estimate requirement does not apply to federally funded projects of the Adjutant General's Department or to projects for buildings or facilities of the Kansas Correctional Industries of the Department of Corrections that are funded from the Correctional Industries Fund. In those instances, the Adjutant General reports to the Committee each January regarding federally funded projects, and the Director of the Kansas Correctional Industries advises and consults with the Committee prior to commencing such projects for the Kansas Correctional Industries (KSA 75-3717b and 75-5282).

The Secretary of Administration issues monthly progress reports on capital improvement projects, including all actions relating to change orders and changes in plans. The Secretary of Administration is required to first advise and consult with the Committee on each change order or change in plans that increases project cost by

\$125,000 or more, prior to approving the change order or change in plans (KSA 75-1264). Similar requirements were prescribed in 2002 for projects undertaken by the Kansas Board of Regents for research and development facilities and the state educational facilities (KSA 76-786).

If the Committee will not be meeting within ten business days, and the Secretary of Administration determines it is in the best interest of the State to approve a change order or change in plans with an increase in project costs of \$125,000 or more, KSA 75-1264(d) provides an alternative method for achieving approval by the Committee. A summary description of the proposed change order or change in plans is transmitted to each member of the Committee, and a member may request a presentation of the proposal at a meeting of the Committee. If, within seven business days of the date the notice was transmitted, two or more members notify the Director of Legislative Research of a request to have a meeting on the matter, the Director will notify the Chairperson, and the Chairperson will call a meeting as soon as possible. At that point, the Secretary of Administration is not to approve the proposed action prior to presentation of the matter at a meeting of the Committee. If fewer than two members request the proposed matter be heard by the Committee, the Secretary of Administration is deemed to have advised and consulted with the Committee and may approve the proposed change order or change in plans.

The "comprehensive energy bill," 2009 Senate Sub. for HB 2369, required the State to establish energy-efficient performance standards for state-owned and -leased real property and for the construction of state buildings. State agencies are required to conduct energy audits at least every five years on all state-owned property, and the Secretary of Administration is prohibited from approving, renewing, or extending any building lease unless the lessor has submitted an energy audit for the building or it is not economically feasible to conduct such energy audit.

Each year, the Secretary of Administration is required to submit a report to the Committee that identifies properties where an excessive amount of energy is being used (KSA 75-37,128).

## COMMITTEE ACTIVITIES

The LCC approved five meeting dates for the Committee. The Committee met on September 7, October 11, and November 1, 2021. The Committee reviewed agencies' five-year capital improvement plans, received the Department of Transportation's Excess Right-of-Way Annual Report, and reviewed proposals for construction or renovation of a building to house the Kansas Department of Health and Environment (KDHE) laboratory. The Committee also toured the recently renovated Hale Library at Kansas State University.

### Presentation of Five-Year Capital Improvement Plans

**Department of Commerce.** An agency representative presented the five-year capital improvement plan. Projects include installation of no-touch control fixtures in the restrooms at the Topeka Workforce Center (WFC) in FY 2022; a project regarding heating, ventilation, and air conditioning (HVAC) controls at the Topeka WFC for FY 2023; upgrading the storefront, including weatherizing windows, at the Topeka WFC for FY 2024; weatherproofing the brick exterior at the Topeka WFC for FY 2025; elevator #2 improvement at the Topeka WFC for FY 2026; and installation of LED lighting at the Topeka WFC for FY 2027. The agency will make final debt service payments for the Topeka Jobs Center in FY 2022.

**Kansas Commission on Veterans Affairs Office.** The Director of the Kansas Commission on Veterans Affairs Office (KCVAO) presented the five-year capital improvement plan. The approved FY 2022 capital improvement plan contains three projects for the Kansas Veterans' Home, three projects for the Kansas Soldiers' Home, and four projects for the Cemetery Program. For FY 2023, KCVAO requested approval for three projects at the Kansas Veterans' Home, two projects at the Kansas Soldiers' Home, and two projects for the Cemetery Program. The Director noted the Halsey Hall kitchen project at the Kansas Soldiers' Home in Dodge City is complete. Additionally, the agency received a grant to fund the expansion of the columbarium wall at the Winfield Cemetery and listed projects for FY 2024 through FY 2027.

**State Historical Society.** The Director of the State Historical Society stated the agency uses

State General Fund (SGF) moneys, as well as federal and private funds, for capital improvement projects. The agency receives \$250,000 SGF each year for repairs to address cyclical maintenance issues and emergency repairs due to age, accidents, or weather-related causes. The Director stated that without these SGF moneys, the agency would be challenged to maintain structures. The FY 2022 agency budget contains the delayed maintenance of the entrance and lobby of the Kansas Museum of History. For FY 2023, the agency is delaying the request for an increase to the annual SGF allocation until FY 2024 due to other urgent operating needs. The approved FY 2022 capital improvement plan contains four projects. For FY 2023, the approved capital improvement plan contains three projects.

**Kansas State School for the Deaf.** The Chief Operating Officer (COO) for the School for the Deaf stated there had been progress related to HVAC efficiency upgrade and maintenance work done using COVID-19 federal relief funds distributed by Strengthening People and Revitalizing Kansas (SPARK) Taskforce. The COO stated the agency is continually working on upgrading its emergency notification systems and building security. The approved FY 2022 capital improvement plan contains four projects. For FY 2023, the approved capital improvement plan contains five projects. The school's centralized boiler system will be decommissioned in FY 2025, which the COO indicates would allow for efficiencies on a multi-building campus.

**Kansas State School for the Blind.** An agency representative stated the school's five-year capital improvement plan projects include safety and security systems maintenance, HVAC upgrades, and major maintenance through FY 2027. The renovation project for a student elevator and upgrade to the Brighton Recreation Center is anticipated to be completed in FY 2023, with the gym floor replacement and remodeling beginning in FY 2024.

**Department of Labor.** An agency representative stated the five-year capital improvement plan includes general rehabilitation and repair expenditures for each year. For FY 2022, major projects include phase 3 of renovations to the 2650 East Circle Drive South, Topeka, building and repairs to brickwork on the

1309 Southwest Topeka Boulevard, Topeka, building. Major projects for FY 2023 include phase 4 of renovations to the 2650 East Circle Drive South, Topeka, building and repaving parking lots at the 401 and 1309 Southwest Topeka Boulevard sites. For FY 2024, the plan includes phase 5 of renovations to the 2650 East Circle Drive South, Topeka, building, and upgrading of air conditioning units at the 401 Southwest Topeka Boulevard, Topeka, building. Other projects include boiler replacement and window repairs at various buildings.

**Judicial Branch.** A representative of the Judicial Branch presented the five-year capital improvement plan, which encompasses four projects for the Judicial Center. The representative stated these projects would depend on the availability of funds provided through docket fees, grants, and the federal American Rescue Plan Act (ARPA). Projects in FY 2022 include restructuring space in the Judicial Center to create a secure mail room for processing an increased volume of mail resulting from implementation of a centralized payment system and remodeling the office space on the second floor to provide research attorneys with greater confidentiality. Projects in FY 2023 include an expanded information technology (IT) help desk to support increased audio-visual communications in courtrooms and remodeling of office space to enable shared workstations that accommodate periodic work from home.

**Kansas Bureau of Investigation.** An agency representative noted the agency maintains offices in Garden City, Great Bend, Kansas City, Pittsburg, Topeka, and Wichita. In addition, forensic laboratories are maintained in Great Bend, Kansas City, Pittsburg, and Topeka.

In FY 2022, the agency deferred large renovation projects due to a projected revenue shortfall, and instead focused on COVID-19 mitigation measures. For FY 2023, projects include renovation and installation of an HVAC system at the laboratory in Great Bend. The agency notes ARPA funds may be suitable for this purpose. For FY 2024, projects include renovation of a laboratory in Pittsburg; continued renovation of the Great Bend office, including installation of a second HVAC system estimated at \$1.0 million; and renovation of the auditorium at the Topeka headquarters. Projects for FY 2024 also include

renovation of a laboratory in Pittsburg, which includes a firearms ballistics area. In the out years, the agency identified a need to provide temperature control for an evidence storage building in Great Bend to avoid degradation of biological evidence.

**Kansas Highway Patrol.** An agency representative stated the five-year capital improvement plan is separated into six categories: Training Academy Major Projects, Training Academy Maintenance/Repair, Troop Facility Major Projects, Troop Facility Maintenance/Repair, Scale House/Scale Repair/Replacement, and New Construction. For FY 2022, major projects primarily include concrete work and window replacement at the Kansas Highway Patrol Training Academy and replacement of a motor carrier scales in North Olathe. For FY 2022 through FY 2027, major projects include repairs to the Troop C headquarters building elevator and updating of HVAC systems at the Fleet and Aircraft Building at Billard Airport in Topeka and continued scale replacements. Plans for construction of an equipment storage building for Troop A were deferred due to rising construction costs.

**Kansas Department for Aging and Disability Services (KDADS).** The Deputy Secretary for Aging and Disability Services reviewed the five-year capital improvement plan for the four state hospitals, which house and treat about 1,100 Kansans daily. The four campuses include nearly 200 buildings, of which many are more than 50 years old. The Deputy Secretary explained that in FY 2022, KDADS received \$3.2 million for rehabilitation and repair and to address a backlog of maintenance items. Due to increased labor and construction costs related to the COVID-19 pandemic, total costs have exceeded projected budgets for several projects in FY 2022. For FY 2023, KDADS identified \$10.7 million in rehabilitation and repair projects at the four state hospitals. The agency is requesting an enhancement of \$457,000 from the State Institutions Building Fund to demolish three obsolete buildings at the Parsons State Hospital and Training Center. An additional request will be made to fund the repair or replacement of the power plant at Larned State Hospital and other construction projects.

**Department of Administration.** An agency representative reviewed an annual assessment conducted on the Capitol, state office buildings in the Capitol Complex, and structures at Forbes Field and noted elevator modernization was recently completed at the Eisenhower and Landon buildings. He further noted that the Curtis Building and the State Printing Plant, which are both more than 20 years old, are beginning to show signs of wear. In FY 2022, the agency will utilize an annual appropriation of \$3.5 million for projects such as window replacement at the Judicial Center, fire alarm systems, and air handler upgrades at various buildings. Major projects for FY 2023 through FY 2027 include exterior stone mortar repairs on the Landon Building and reroofing of the State Printing Plant. The representative clarified that the agency retains on-call engineers to consult on matters, such as the configuration of boilers and HVAC systems, for agencies that request such service.

**Kansas State Fair.** The General Manager of the Kansas State Fair stated the agency utilizes an annual allocation of \$300,000 for ongoing maintenance. For FY 2022, major projects include asphalt surface replacement, repairs to the Expo Building roof and walls, and concrete restoration of the grandstand. For FY 2023 through FY 2027, major projects include repurposing the Bison Arena, which is estimated at \$9.4 million, and construction of a storage building, which is estimated at \$199,800. For subsequent years, the agency is developing plans for removal of the race track, which receives minimal use, and construction of a multi-use arena.

**Department of Wildlife and Parks.** An agency representative stated the agency budgeted \$11.6 million for capital improvements in FY 2022, which is less than in previous years due to concerns that the COVID-19 pandemic would adversely impact park admission revenues. Capital improvements expenditures total \$16.5 million for FY 2023 and \$13.0 million annually for FY 2024 through FY 2027. All capital improvements for the Department are funded from fee funds and federal funds. The agency representative noted that revenues had increased in recent months despite the COVID-19 pandemic. Answering a question, the representative stated that repairs to damages from recent floods at the Tuttle Creek State Park

are ongoing pending reimbursement from the Federal Emergency Management Agency.

**Department for Children and Families.** A representative of the Kansas Department for Children and Families reviewed the agency's lease to buy agreement with the Department of Administration for the Topeka Service Center and outlined the five-year expenditures for rehabilitation and repair, with an estimated total cost of \$353,825 in FY 2022 and \$850,000 in FY 2023.

**Adjutant General's Department.**

A representative of the Adjutant General's Department noted that, in recent years, a total of \$1.4 million SGF was matched with \$4.2 million in federal funds for updating fire suppression systems among 37 National Guard Readiness Centers. An annual building assessment, which is utilized to determine funding priorities, indicates 89.0 percent of agency facilities were poor or failing. Deferred maintenance for FY 2022 through FY 2027 is estimated to total \$24.2 million, including \$12.1 million SGF. These expenditures include large restoration projects requiring engineering services. Rehabilitation and repair projects for FY 2022 through FY 2027 are estimated to total \$6.0 million, including \$3.0 million SGF, and includes expenditures for immediate repairs, such as leaking pipes and failing HVAC systems. The agency reviewed plans for remodeling the State Defense Building to house the Kansas Division of Emergency Management, which is estimated at \$21.0 million SGF and scheduled to be completed in FY 2026. The agency also referenced plans for construction of a new Joint Forces Headquarters building on federal property at Forbes Field in Topeka, which is estimated at \$16.5 million.

**Kansas Department of Transportation (KDOT).** The State Transportation Engineer reported KDOT's FY 2023 capital improvements budget of \$23.0 million includes rehabilitation and repair of buildings, such as salt domes, and modernization of subarea shops, many of which were built prior to 1963 and are insufficient to store modern plow trucks. Expenditures of \$11.0 million for FY 2023 and \$7.5 million for FY 2024 are identified for construction of a new District One Headquarters in Topeka. The current structure, built in 1934, is not adequate to house modern equipment and presents growing maintenance and

safety concerns. A more suitable location has been identified near the intersection of Southeast 21st Street and Southeast Rice Road in Topeka. The agency indicates the City of Topeka is interested in acquiring the current District One Headquarters facility and revenue from sale of the property would go the State Highway Fund.

**Department of Corrections.** The Secretary of Corrections indicated design work for expansion projects involving substance abuse treatment centers and an assisted living unit at Lansing and Winfield correctional facilities was delayed. Preliminary findings of a recent systemwide buildings assessment indicate most structures in the correctional system are in poor condition, with the most severe issues at Hutchinson, Norton, and Winfield. The Secretary reviewed plans for construction of a Career Campus Center at Lansing, which would provide for education and job-skills training for inmates. The Secretary said obsolete buildings are a growing concern. Inquiries were made with local entities regarding the repurposing of the old Lansing Penitentiary structure, but little response was received. The agency is exploring plans to utilize the former Topeka Juvenile Correctional Facility for staff training and plans to demolish former honor camps in El Dorado and Toronto in FY 2023. For FY 2024, major projects include entrance reconfiguration and renovation of the medical unit at the Topeka Correctional Facility, which is estimated at \$29.9 million. The agency expressed concern that funding from the Correctional Institutions Building Fund has been fixed at approximately \$5.0 million annually since 1997, which has not kept pace with the increased costs of materials and repair services.

**Kansas Board of Regents.** A representative of the Kansas Board of Regents (Board) noted that the Board has focused its attention on deferred maintenance issues, citing assessments documenting critical rehabilitation and repair needs. The Board has drafted and approved a policy by which 2.0 percent of building replacement values would be expended each year to decrease deferred maintenance. The Kansas Educational Building Fund is the primary source for funding of capital improvements among state universities.

**University of Kansas.** A university representative noted no new construction is planned for FY 2022. Most projects relate to deferred maintenance, remodeling, and master planning and are scheduled through FY 2024. The pharmaceutical chemistry building was recently demolished and the university was taking a holistic approach to projects. The university conducted classroom audits to determine the priority of projects.

**University of Kansas Medical Center.** An agency representative provided details on control upgrades that provide safeguards when switching from regular to emergency power during outages. Additional projects include the roof replacement at the Landon Center to support solar panels and restroom renovations to be compliant with provisions of the federal Americans with Disabilities Act. There is construction on a federally mandated clean room for the cancer pharmacy in the Cancer Research Center. Future projects include construction of a brain health building and a health education building expansion in Wichita.

**Kansas State University.** A university representative stated the university has 529 buildings, of which 181 are deemed mission critical. The total replacement value of these buildings is \$2.3 billion. Three projects were recently completed: Derby Dining Center, McCain Auditorium, and Bill Snyder Football Stadium improvements. New facilities include the Volleyball and Olympic Training Center, an indoor practice facility, and a 100-bed residential facility on the Salina Campus financed through the Kansas State University Foundation. Future projects include a new agriculture and Extension Service facility, West Memorial Stadium Band renovation, renovation of space at Mosier Hall into a biomedical research center, and an interior renovation of the Seaton Hall architectural engineering courses facility.

**Wichita State University.** A university representative noted that the costs for some projects have escalated due to supply chain disruptions caused by the COVID-19 pandemic. The representative also listed requested projects with funding support: a new School of Business building including a pedestrian bridge (private funds and revenue bonds), plans to raze the Cessna

Stadium, and the construction of a new science facility. Private gifts and university funds will accommodate a career center in the Marcus Welcome Center.

**Emporia State University.** After commenting on recently completed projects, including renovation of the Student Veterans Association building, chiller and HVAC replacements, the university representative listed planned projects include re-roofing the William Allen White library, HVAC improvements in King Hall, fire alarm upgrades, and the Breukelman Laboratories upgrades. Future projects include a new maintenance facility, a new science lab space, repurposing a former residence hall, and upgrades to the Welch Stadium.

**Pittsburg State University.** A university representative commented on rehabilitation and repair work as well as the current projects, including Phase IV renovations of the Axe Library, solar canopy installation in partnership with Evergy, renovation and expansion in the Kelce College of Business, a simulation hospital for nursing training in McPherson Hall, and office consolidation in Russ Hall. Additionally, the school of nursing agreed to expand to accommodate increased enrollment. The representative referenced planned projects, such as expanding the Tyler Research Center.

**Fort Hays State University.** A university representative stated current projects include masonry cleaning and sealing, HVAC upgrades, pool liner replacement, automated access to nine academic buildings, air-cooled condenser and chiller replacement, lighting upgrades, metal roof replacement, and improvements to the swine facility building. The representative noted that the Fischli-Wills Center for Student Success will be completed by April 2022. Future projects include parking infrastructure upgrades at Gross Memorial Coliseum, modernization of the Forsyth Library, and a new football facility.

### **Statutorily Required Reports**

The State Transportation Engineer, in accordance with KSA 75-3516, reported on KDOT's inventory system for real property and real estate transactions. The State Transportation Engineer highlighted the agency's Bureau of Right

of Way (Bureau), which maintain the inventory system for all real property and is responsible for acquiring property rights for infrastructure and non-infrastructure projects. The Bureau also disposes of excess right-of-way property.

The State Transportation Engineer reported that in FY 2021, the agency acquired 392 right-of-way parcels, 72 permanent easements, and 251 temporary easements. For the same period, the agency sold 15 parcels and released easement interests in 2 parcels.

### **Additional Discussions and Reviews**

In addition to reviewing five-year capital improvement plans, the Committee reviewed proposals for construction or renovation of a KDHE laboratory, considered matters related to renovation of the Docking State Office Building (Docking Building), and requested overviews of the State's three primary building funds.

**KDHE Laboratory and the Docking Building.** The Joint Committee reviewed proposals for construction or renovation of building to house a KDHE laboratory within an eight-mile radius of the Capital Complex in Topeka, pursuant to Section 61 of 2021 SB 159. Representatives of KDHE presented eight proposals, which included three previously discussed proposals for state-owned properties and five proposals for commercial properties submitted as part of recent request for proposal process. Additionally, the Secretary of Administration provided updated cost estimates regarding options for renovation of the Docking Building. The Department of Administration estimated that up to 50.0 percent of total project costs for construction or renovation of a KDHE lab and renovation of the Docking Building may be eligible for ARPA moneys. The Joint Committee's report on this topic has been submitted to the State Finance Council and can be found in Appendix A.

**Educational Building Fund.** An analyst from the Kansas Legislative Research Department (KLRD) provided an overview of the Kansas Educational Building Fund (EBF), which was established in 1941 for the erection, equipment, and repair of buildings at state universities pursuant to KSA 76-6b01 and 76-6b02. Revenue to the fund was initially provided through a one-

quarter-mill levy on all property in the state. In 1974, KSA 76-6b01 was amended to direct a one-mill levy on all tangible property and changed the EBF to benefit the institutions of higher education rather than all state educational institutions. The EBF was changed to a no-limit fund administered by the Kansas Board of Regents in 2017. Currently, revenue to the EBF from the one-mill levy is approximately \$40.0 million annually.

The KLRD analyst referenced deferred maintenance needs among state universities estimated at \$1.3 billion and reviewed previous efforts to address such deferred maintenance.

**State Institutions Building Fund.** An analyst from KLRD provided an overview of the State Institutions Building Fund (SIBF). The SIBF was established in 1953 for the use and benefit of state institutions caring for person who are mentally ill, visually handicapped, or hearing impaired; deprived and delinquent children and juveniles in need of residential care; and institutions providing vocational rehabilitation for persons with disabilities, pursuant to KSA 76-6b04. The fund draws revenue from a mill levy on real property. This mill levy has fluctuated throughout the years, but is currently set at one-half mill. State agencies appropriated SIBF moneys primarily include state hospitals, veterans homes, the Kansas State School for the Deaf, the Kansas State School for the Blind, and juvenile correctional facilities. The fund retained an unspent balance of \$13.8 million in FY 2019 and \$14.7 million in FY 2020.

**Correctional Institutions Building Fund.** An analyst from KLRD provided an overview of the Correctional Institutions Building Fund (CIBF), which was established in 1976 for the use and benefit of state correctional facilities pursuant to KSA 76-6b09. Revenue to the CIBF was initially provided from a mill levy on real property. However, KSA 79-4803 was amended in 1994 to direct that revenues to the fund be provided through a transfer of the 10.0 percent from the first \$50.0 million in traditional lottery revenue credited to the State Gaming Revenue Fund. Moneys from the CIBF are appropriated to KDOC and the eight adult correctional facilities for rehabilitation and repair. The fund retained an unspent balance of \$2.1 million in FY 2019 and \$2.4 million in FY 2020.

**Tours of facilities.** The Committee toured Hale Library at Kansas State University in Manhattan to observe recently completed renovations required following a fire at the Library in FY 2018.

## CONCLUSIONS AND RECOMMENDATIONS

All five-year capital improvement plans were recommended by the Committee with the following notations:

- The Committee recommends the Kansas Bureau of Investigation reconsider cost estimates for installation of HVAC systems and renovations at the Great Bend office; and
- The Committee recommends the Legislatures consider increased funding from the CIBF and the SIBF for the Department of Corrections for FY 2023 through FY 2027 to address growing maintenance costs throughout the correctional system.

The Committee recommends construction of a KDHE laboratory at the Kansas Neurological Institute site and renovation or construction of a three-story event center at the Docking Building site.

The Committee expresses concern regarding deferred maintenance at state universities and recommends the Kansas Board of Regents provide the Legislature with alternative funding options concerning the matter. Further, the Committee notes the Board's recent policy that expenditures equaling 2.0 percent of the current building replacement value be used to annually maintain buildings.

The Committee recommends expenditures from the SIBF be increased to address agency capital improvement priorities, including the disposition of obsolete buildings, rather than retain a large ending balance in the fund annually.

# Appendix A

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# Joint Committee on State Building Construction

## Report to the State Finance Council

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### Recommendations

The Committee recommends construction of a Kansas Department of Health and Environment laboratory at the Kansas Neurological Institute site and renovation or construction of a three-story event center at the Docking State Office Building site.

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### BACKGROUND

Section 61 of enacted 2021 SB 159 directs the Kansas Department of Health and Environment (KDHE) to issue a request for proposals (RFP) in FY 2022 to construct or renovate a building and equip a KDHE laboratory located within an 8-mile radius of the Capital Complex in Topeka. The bill directs the Joint Committee on State Building Construction (Committee) to review these proposals and make recommendations to the State Finance Council concerning the laboratory.

Section 61 of 2021 SB 159 also authorizes the issuance of bonds for capital improvement projects, not to exceed \$65.0 million for the KDHE Laboratory and \$120.0 million for the Docking State Office Building (Docking Building). Prior to proceeding with these projects, the bill requires approval for both projects from the State Finance Council in a single resolution.

Prior to the issuance of bonds for these projects, the Director of the Budget, in consultation with the Secretary of Administration and the Secretary of Health and Environment, is required to determine whether COVID-19 federal relief funds provided for discretionary purposes are available for such capital improvement projects.

### COMMITTEE ACTIVITY

At its meeting on September 7, 2021, representatives of KDHE presented the Committee with eight proposals for a KDHE Laboratory site, which included five proposals submitted as part of

a recent RFP process. Additionally, the Secretary of Administration provided the Committee with updated cost estimates regarding two options for the renovation of the Docking Building. At its October 11 meeting, the Committee made recommendations regarding both projects.

### Kansas Department of Health and Environment Laboratory

On September 7, the Committee received a presentation from the Director of Kansas Health and Environmental Laboratories (KDHE laboratory) summarizing building site proposals for a KDHE laboratory. The KDHE laboratory provides more than one million clinical and environment tests annually, including tests of public water supplies, newborn screenings, and breath alcohol. Further, the laboratory maintains readiness to respond to chemical or biological attacks and infectious disease outbreaks.

Studies presented to the Committee in January 2020 concluded that the current laboratory structure, which is located in a 1950s-era former military hospital at Forbes Field in Topeka, is insufficient with unsafe and unrepairable structural components. To ensure employee safety, for recruitment and retention of qualified scientists, and to reduce operating costs, these studies recommended the construction of a new laboratory. Construction projects on three state-owned properties in Topeka were proposed, with a total project cost of \$64.3 million estimated in March 2021. These sites were:

- Lot 4 in Downtown Topeka, near the Docking Building;

- A site on the grounds of the Kansas Neurological Institute (KNI); or
- A site adjacent to the current KDHE laboratory at Forbes Field.

Pursuant to 2021 SB 159, the Department of Administration, in collaboration with KDHE, issued an RFP open from August 2, 2021, to August 31, 2021, seeking building sites within an 8-mile radius of the Capitol Complex capable of supporting a 100,000 gross-square-foot laboratory facility with suitable utilities services, vehicular access, and on-site parking. Land purchase and lease proposals were allowable, as well as options to renovate an existing building.

The Director of KDHE laboratories presented the proposals and agency evaluations determining viability for each. The proposals submitted included the following commercial properties:

- The former Payless Shoesource corporate headquarters at 3231 Southeast 6th Avenue, which did not include lease payment amounts due to the proposer's pending acquisition of the property via commercial sale and would likely necessitate the sharing of space with other tenants;
- Mostly vacant lots near downtown Topeka at 11<sup>th</sup> Street and Quincy Street, which would entail annual lease payments of \$65,000 for the site and \$20,000 for parking;
- Vacant lots in east Topeka between 21st Street and Cyprus Drive west of Cedarwood Drive, which would entail an annual lease payment of \$25,000;
- Partially vacant lots at the Kanza Business and Technology Park at Kanza Drive and MacVicar Avenue, which entails a land purchase of \$1.0 million, and
- An existing building in downtown Topeka at 220 Southeast 6th Street, which did not meet the minimum space requirements of the RFP and entails an annual lease payment of \$1.9 million.

The Director of KDHE laboratories stated that commercial lease agreements would necessitate contract negotiations and land purchases would require legislative action. Further, use of these commercial properties would require engineering and soil composition assessments, which could delay the start of construction. Due to this, KDHE recommended consideration of the three state-owned properties.

On October 11, the Committee received testimony from the Department of Administration stating that construction of a new KDHE laboratory was critical to the continued COVID-19 public health emergency response. A new laboratory would add capacity for COVID-19 testing to support public health agencies and private employers, allow for social distancing among laboratory employees, allow for appropriate ventilation to comply with public health guidance, and address negative economic conditions by facilitating the return to work of state employees. Because of this, the Department of Administration estimated that up to 50.0 percent of the total project cost could be eligible for moneys from the State Fiscal Recovery Fund provided through federal American Rescue Plan Act (ARPA) of 2021.

The Committee received written-only testimony from the City of Topeka in favor of constructing the laboratory on Lot 4 in downtown Topeka. Testimony generally supported the increased presence of state employees in downtown Topeka and noted that similar laboratories are located in densely populated areas.

The Committee discussion included the potential use of the KNI site for a state veterans home to accommodate provisions of enacted 2021 HB 2021, which authorizes the issuance of bonds for the construction of a state veterans home in northeast Kansas.

### **Docking State Office Building**

On September 7, the Committee received updated cost estimates from the Secretary of Administration regarding two options for renovation of the Docking Building. These options were initially presented to the Committee in January 2020 pursuant to Section 141 of 2019 SB 25, which directed the Department of Administration to develop plans for the building.

The Secretary noted these updated costs estimates consider increasing construction costs related to the COVID-19 pandemic and integration of the design-build project delivery method, as provided in 2021 SB 159. Both options would utilize the existing energy center. The two options presented are these:

- Option A would reuse and rehabilitate all 14 floors of the building and include an event center on the first floor, food venue, exhibition space, shared conference space, Capitol Police offices, and 268,948 square feet for state agencies for a total project cost of \$127.3 million, with a construction completion date of April 2024; or
- Option B would remove the upper 11 floors of the building, reuse the lower three floors, and add three floors for a total of 6 floors. This option would include an event center on the top floor, food venue, exhibition space, Capitol Police offices, and 188,527 square feet for state agencies for a total project cost of \$112.6 million, with a construction completion date of April 2025.

The Secretary noted that both options would provide additional space allowing state agencies to maximize services and provide event space for large meetings, which is a critical need and does not currently exist in the Capitol Complex. However, Option B would provide more flexibility in the configuration of this event space. Due to this, the Department of Administration recommended Option B.

The Secretary referenced a previous proposal to house the KDHE laboratories inside a fully renovated Docking Building for total project cost of \$152.9 million estimated in January 2021. Full renovation of the Docking Building in conjunction with construction of a KDHE laboratory on Lot 4 would require a parking structure estimated to cost \$35.3 million.

On October 11, the Committee received testimony from the Department of Administration stating that renovation of the Docking Building

was key to the State's return-to-work strategy during the COVID-19 pandemic. The proposed options would facilitate social distancing, allow temporary housing of state agencies while public health modifications are made to other buildings, and provide enhanced virtual and teleworking capabilities. Because of this, the Department of Administration estimates that up to 50.0 percent of the total project cost may be eligible for moneys from the State Fiscal Recovery Fund provided through ARPA. However, eligibility for such funds would depend on the approved use of the building. Moneys from the State Fiscal Recovery Fund must be encumbered by December 2024 and expended by December 2026.

The Committee received written-only testimony in favor of Option A from the American Institute of Architecture, Kansas Preservation Alliance, Manhattan/Riley County Preservation Alliance, Shawnee County Historical Society, and three private citizens. Testimony generally advocated for maintaining the building's historic integrity and indicated the building's unique design offers energy efficiency potential.

The Committee received written-only testimony in favor of Option B from the City of Topeka, which generally indicated that full renovation of the Docking Building would adversely impact the commercial leasing of office space in downtown Topeka.

The Committee discussion topics included full demolition of the building and reconstruction of the energy center. Such demolition would first require construction of a new energy center to maintain continuity of services to the Capitol Complex, which could prolong efforts and impact availability of federal relief funds. Further, the Committee discussed an option for full renovation that would utilize only six floors, leaving remaining floors as a shell for future potential use.

#### CONCLUSIONS AND RECOMMENDATIONS

After discussion, the Committee recommends construction of a KDHE laboratory at the KNI site and renovation or construction of a three-story event center at the Docking Building site.

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**MINORITY REPORT**  
**Docking State Office Building**  
October 19, 2021

We agree with the decision of the committee that the new laboratory for the Kansas Department of Health and Environment (KDHE) can be appropriately sited at the Kansas Neurological Institute.

We object to the proposal adopted by a vote of 6-4 by the committee to tear down a minimum of nine occupiable floors in the Docking State Office Building and to only provide meeting and event space. After more than two years of study and public meetings, the motion was the first to limit the scope in this way.

**We object to the idea that the renovated building should only house event and meeting spaces.**

The vision for the future of the Capitol Complex presented to the Joint Committee on State Building Construction (JCSBC) by the Department of Administration included the provision of modern, secure, and energy-efficient office space for state agencies. The program for the Docking Building developed by the planning team and presented to members of the JCSBC on January 27<sup>th</sup>, 2020 included a conference/training center along with office space, a “grab and go” food venue, interactive state exhibits, and outdoor event space. The vision statement noted that nearly one-third of state agencies are split between multiple physical locations within Topeka; cabinet agencies have an average of five separate locations.

There was no supporting evidence for the need for more meeting/event space than called for in the program; it was not clear on what basis the suggestion was made. Meeting and event space used by the legislature and our constituents would not be year-round. Space for new employee training would be far more convenient if it were located adjacent to a state agency’s office. It was not demonstrated that we have an abundance of office space. A spur-of-the-moment decision to change the programming of the Docking building without adequate data and vetting is likely to result in an expensive mistake.

No reference was made in the motion for housing the Capitol Police in the building.

**We suggest that, if no additional state-owned office space is needed, the state should keep and maintain its most desirable and efficient office space and sell or demolish less efficient and less useful space.**

The Docking State Office Building is the largest state office building in Topeka and is part of the Capitol Complex. It is the Department of Administration’s best opportunity to centralize and co-locate agencies.

Docking is a fully-concrete-encased steel building and is extremely robust. This building has been well-studied and its structure is shown to be in remarkably good condition. Studies done by HTK, McCownGordon Construction, and Clark|Huesemann all have slightly different details but they ALL support the feasibility of a full renovation.

The renovated building would be energy efficient. The *DOCKING BUILDING STUDY UPDATE 2021 09 01* notes that “The upgrades to the building infrastructure significantly improve energy performance, capitalizing on the existing central plant, and saving energy and operational costs into the future. The renovated building’s energy performance would rank within the top 3% of similar buildings that are located within the Topeka area (p1 of the Executive Summary).

In a 2011 article published in *Kansas Preservation*, architect Dave Griffin states that Docking “was an important building, at the time, and the quality of materials exemplifies this importance.” These materials

included Vermont Greenstone, a metamorphic rock harder than marble, cut limestone, and polished marble, with these materials being “handsome, durable, and easily maintained”.

Before demolishing the office floors in Docking, comparisons should be made with the office space in the other 23 state-owned buildings in Topeka.

**The building is an investment that was made by the taxpayers of Kansas.**

Over two million dollars were wasted on the ill-conceived proposal to replace the power plant systems in 2016. Why add to that waste by ignoring all the studies that have been done to date? Why begin again to come up with plans and a feasibility study for something we are not sure that we even need?

The Docking State Office Building has been one of the most efficient state-owned buildings, providing over sixty years of quality service to Kansas. The cost comparisons made it clear that a fully-renovated building would cost less per square foot than the alternative to remove nine of the floors and build back three. There are NO cost estimates for the additional demolition.

Federal funds may be available for renovation, and perhaps more likely to be obtained for office rather than event space. If they are not granted, keeping four floors as “shell space” and eliminating the pedestrian bridge to the parking lot would bring the cost estimates below the \$120 million identified for bonding.

The Docking State Office Building is treasured as an example of mid-century modern architecture. It is considered to be historic and was nominated by the Topeka Landmarks Commission to be placed on the National Register of Historic Places.

Let’s not send nine stories of sound building materials to the landfill. Let’s work to conserve, not waste, additional tax-payer dollars.

  
Senator Marc Francisco

  
Representative Jarrod Ousley

Electronic Attachments:

[Testimony from the Dept. of Administration to the Joint Committee on State Building Construction](#)

[Statement of the Program from DOCKING BUILDING STUDY UPDATE 2021 09 01 \(p 28, 29\)](#)

[The Docking State Office Building, Revisiting the Energy Performance of a Modern Glass Tower](#)

[Nomination of the Docking State Office Building to the National Register of Historic Places](#)

[Testimony in support of Option A](#)

**Report of the  
Robert G. (Bob) Bethell Joint Committee on  
Home and Community Based Services and  
KanCare Oversight  
to the  
2022 Kansas Legislature**

**CHAIRPERSON:** Senator Richard Hilderbrand

**VICE-CHAIRPERSON:** Representative Brenda Landwehr

**OTHER MEMBERS:** Senators Renee Erickson, Beverly Gossage, Pat Pettey, and Mark Steffen; and Representatives Barbara Ballard, Will Carpenter, Susan Concannon, Megan Lynn, and Susan Ruiz

**CHARGE**

*Oversee Long-term Care Services and KanCare*

KSA 2020 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 that any proceeds resulting from the successful transfer be applied to the system for the provision of services for long-term care. 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 Robert G. (Bob) Bethell Joint Committee on Home and Community Based Services and KanCare Oversight recommends:

- The Kansas Department of Health and Environment (KDHE) submit a State Plan Amendment to the federal Centers for Medicare and Medicaid Services (CMS) to add 90846 as a billable Medicaid code that would allow billing for psychotherapy without the patient present, and that KDHE produce a cost estimate for the new code;
- The Legislature approve applying to extend postpartum coverage to 12 months for new mothers enrolled in KanCare and direct KDHE to provide data on the number of women who have used the first 2 months of postpartum services and could benefit from 12-month coverage;
- The State Medicaid Director review and report on raising Medicaid reimbursement rates as percentages of Medicare for various codes, in particular, those for emergency medical services, pediatric primary care, and certified nurse midwife services, and submit the report, including cost estimates and historical comparisons, to the Robert G. (Bob) Bethell Joint Committee on Home and Community Based Services and KanCare Oversight, the Senate Committee on Public Health and Welfare, the House Committee on Health and Human Services, and the social service budget subcommittees of the Senate Committee on Ways and Means and the House Committee on Appropriations;
- KDHE look into and produce a cost estimate on CMS approval for paying family caregivers if they meet the requirements of any other care providers within industry-standard guardrails and authorizing family caregivers with pending background checks to be paid;
- The Legislative Coordinating Council (LCC) establish a committee to study the Intellectual and Developmental Disability (I/DD) waiver waitlist and long-term needs of the I/DD community, similar in structure to the 2021 Special Committee on Kansas Mental Health Modernization and Reform;
- The Legislature look into raising the Specialized Medical Care (T1000) service code rates for both the Technology Assisted and I/DD waivers to \$47.00/hour and use federal 2021 American Rescue Plan Act funds, if available, prior to State General Fund moneys;
- The LCC establish a working group to study shortages and credentialing of personal care attendants and look into criteria and training;

- Appropriate legislative committees that deal with perinatal behavioral health monitor current funding sources for the Kansas Connecting Communities initiative;
- The Legislature amend statute to provide refunds to skilled nursing facilities for the reduction in the number of licensed beds upon decertification; and
- The Kansas Department for Aging and Disability Services look into amending certified medication aide curriculum to allow certified medication aides to assist residents in self-administration of insulin injections.

**Proposed Legislation:** One bill. The Committee requests a bill be drafted to codify in statute the flexibility of the temporary aide certification that was given emergency authorization by Executive Order 20-23.

## BACKGROUND

The Robert G. (Bob) Bethell Joint Committee on Home and Community Based Services (HCBS) and KanCare Oversight (Committee) operates pursuant to KSA 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 (LTC) 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 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 LTC and HCBS, as well as to review and study other components of the State’s LTC 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. [*Note:* See Appendix A for the 2021 report.]

The report also is to include information on the KanCare Program regarding:

- 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 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 LTC system to the Governor and the Legislature during the first week of each regular session.

## COMMITTEE ACTIVITIES

The Committee met twice during the 2021 Session (February 19 and April 22) and twice during the 2021 Interim (September 22-23 and December 13-14). In accordance with its statutory charge, the Committee's work focused on the specific topics described in the following sections.

### **KDHE KanCare Overview and Update**

At the February 19, 2021, meeting, the Secretary of Health and Environment reviewed the latest updates on the COVID-19 pandemic. He said the lack of personal protective equipment (PPE) materials, the short supply of contact tracers, and difficulties in conducting COVID-19 testing contributed to a public health crisis. He reported the State was receiving its allotments of vaccines and that COVID-19 cases and COVID-19 deaths per capita were dropping in the state. He reported testing results were improving.

The Secretary said between 10.0 and 11.0 percent of the state's population had received at least one COVID-19 vaccination shot. Smaller pharmacies in towns throughout the state were working with KDHE and local county health departments to distribute vaccines.

In response to questions at the February 19, 2021, meeting, the Secretary stated KDHE had received some unused vaccine doses back from nursing facilities, and other doses must be held back to ensure availability for second doses. He said COVID-19 tests were being sent to Texas earlier on in the pandemic until Kansas testing centers were prepared to receive tests.

At the April 22, 2021, meeting, the Secretary of Health and Environment updated the Committee on COVID-19 vaccination progress in the state. About half the state's counties had paused requests for vaccine distribution because they had sufficient supplies available. About 1.88 million doses of COVID-19 vaccine had been administered in Kansas at the time of the meeting. About 90.0 percent of hospital staff had been vaccinated. He reported the State supported pausing Johnson & Johnson vaccine distribution since it had plenty of Moderna and Pfizer vaccination doses. He stated KDHE has no interest in "vaccine passports," although businesses may determine their own policies. He stated 99.8 percent of the vaccines distributed by KDHE were used, with 0.2 percent lost through breakage or other waste.

In response to a question on the audit of capitation payments made to deceased KanCare beneficiaries, a KDHE representative noted the beneficiaries were in a fee-for-service model and switched to managed care. In a fee-for-service system, when a beneficiary dies, no claims come through, and the date of death is registered in the eligibility system. When the Kansas Eligibility and Enforcement System began, the date of death was not registered in the system, resulting in continued monthly capitation payments made to MCOs for deceased beneficiaries. The KDHE representative said the data issued had been corrected, and 90.0 percent of the incorrect payments identified had been recouped.

At the September 22-23, 2021, meeting, the Secretary of Health and Environment provided an overview of the COVID-19 pandemic in Kansas. He said most Kansas counties remained in the extremely high-risk category for unvaccinated persons, based on positive COVID-19 case counts and test positivity rates. He stated the COVID-19 delta variant was well-entrenched in the state, and many hospitals were "full of" patients with

COVID-19. The Secretary responded to a question from a Committee member about school quarantine policy that provides if a child is fully vaccinated and exposed to the virus, the child does not have to quarantine because the vaccination is extremely effective at preventing serious disease.

At the December 13-14, 2021, meeting, the Acting Secretary of Health and Environment introduced herself. She said she had been in the Acting Secretary position for five days and shared some of her professional background.

A KDHE representative reviewed Medicaid rate setting at the December 13-14, 2021, meeting. She said there was no statutory standard for setting Medicaid rates in Kansas law and, as a result, some rates had not changed in decades. She also said the federal public health emergency declaration had been extended to January 16, 2022.

### ***KanCare Clearinghouse***

At the February 19, 2021, meeting, a KDHE representative said family applications for Medicaid are processed by a new state contractor, Conduent. The representative said the four-month transition to Conduent from Maximus was smooth and there was no interruption of service. She said applications for elderly people and persons with disabilities have been processed in house since 2019. Clearinghouse staff are located in three facilities in Topeka.

At the April 22, 2021, meeting, a KDHE representative responded to a question about the difference in success between the current Clearinghouse contract and previous experiences. She responded the current contract was structured to have a specific service level agreement to address performance. She said the agency was more involved in the day-to-day operations of the Clearinghouse than it had been.

At the December 13-14, 2021, meeting, a KDHE representative stated Clearinghouse staffing was at 72.0 percent capacity. She said eligibility staff had begun planning for the eventual end of the federal public health emergency and the return to normal operations.

### ***Section 1115 Waiver Budget Neutrality***

At the February 19, 2021, meeting, a KDHE representative provided an overview of the federal Section 1115 waiver. Provisions in Section 1115 of the Social Security Act authorize a demonstration or pilot project and waive certain Medicaid requirements, and the Section 1115 waiver allows the State to demonstrate the effectiveness of its new Medicaid initiatives. The State is required to meet special terms and conditions that specify its obligations to the federal Centers for Medicare and Medicaid Services (CMS) in exchange for the Section 1115 waiver flexibilities. The representative explained that “budget neutrality” is the requirement that Section 1115 waiver programs cannot cost more federal dollars than services without the waiver.

She reported the estimated budget neutrality cushion cap was calculated by CMS beginning January 1, 2019, at about \$1.0 billion. This is the amount Kansas would spend on Medicaid without the Section 1115 waiver. She said CMS calculated that Kansas could be \$568.0 million below the budget neutrality cap at the end of the five-year Section 1115 waiver term. If the State appeared to exceed the budget neutrality cap, CMS could put Kansas on a corrective action plan and compel the State to return excess funds to CMS. She said any change to reimbursement rates would affect the State’s budget neutrality. She noted Medicaid expansion would not affect the current budget neutrality amount because the expansion program would have its own separate budget neutrality cap.

### ***KanCare 3.0***

At the February 19, 2021, meeting, a KDHE representative stated the current five-year plan for Section 1115 waiver budget neutrality extends through 2023 and that the agency was beginning to work on plans for the next Section 1115 waiver.

The Secretary of Health and Environment said KDHE would like to collaborate with the Committee on KanCare 3.0 discussions in 2022.

**MCO procurement.** At the September 22-23, 2021, meeting, a KDHE representative said the agency is working on the procurement process for Medicaid MCO contracts in 2022. She expected

the procurement request for proposal to be issued by summer 2022.

### ***Health Care Access Improvement Program***

At the February 19, 2021, meeting, a KDHE representative said that due to the 2020 increase in the provider assessment under the Health Care Access Improvement Program (HCAIP), KDHE submitted to CMS a technical amendment to the Section 1115 waiver asking to adjust the State’s budget neutrality cap to accommodate the HCAIP changes, but CMS did not approve the amendment. She said the agency discovered CMS made an error in calculating the State’s budget neutrality cap, understating the cap by approximately \$395.0 million. On September 30, 2020, KDHE submitted a technical correction proposal to CMS to correct the error.

At the April 22, 2021, meeting, a KDHE representative provided an update on the CMS budget neutrality error. She said CMS notified KDHE that the request for a technical correction was approved. The correction did not adjust the current caps but added a budget neutrality cushion of about \$395.0 million over the life of the Section 1115 waiver. She said CMS did not approve a technical amendment to adjust the budget neutrality cap to accommodate an increased HCAIP provider assessment, but that KDHE continues to advocate for CMS to reconsider and approve this technical amendment. She said the way CMS applied the \$395.0 million adjustment is insufficient to fund the HCAIP as previously proposed.

### ***OneCare Kansas***

A KDHE representative stated at the February 19, 2021, meeting that OneCare Kansas launched April 2020 and is a new Medicaid option to provide coordination of physical and behavioral care, offering long-term services and supports for people with chronic conditions. As of February 2021, there were 33 contracted partners, with 586 members enrolled in the asthma program and 441 members in the serious mental illness (SMI) program.

At the April 22, 2021, meeting, a KDHE representative provided a OneCare update. As of the meeting, the provider network had 33 partners

across the state and was serving 632 members enrolled in the asthma program and 533 members enrolled in the SMI program.

At the September 22-23, 2021, meeting, a KDHE representative said as of September 1, 2021, 1,084 members were enrolled in the asthma program, and 1,843 were enrolled in the SMI program.

### ***Support and Training to Employ People Successfully Program***

At the February 19, 2021, meeting, a KDHE representative reported two benefit specialists and a program manager had been hired for the Support and Training to Employ People Successfully (STEPS) pilot program, which is part of the KanCare 2.0 Section 1115 waiver. She said the agency expected the STEPS program to go live in July 2021. In response to a question at the meeting, the KDHE representative stated the STEPS pilot program was not authorized through legislation but is the behavioral health employment pilot program included in the Section 1115 waiver.

A KDHE representative said at the September 22-23, 2021, meeting that enrolled members in the STEPS program increased from the end of 2020 to June 2021, to 6.

### ***Impact of COVID-19***

At the February 19, 2021, meeting, a KDHE representative stated that because of the federal public health emergency declaration related to the COVID-19 pandemic, Kansas was continuing to receive a 6.2 percent increase in federal medical assistance percentage (FMAP) for Medicaid and a 4.34 percent increase in federal participation for CHIP. The increased matching rates will continue through the end of the quarter in which the federal public health emergency ends.

In response to a question at the February 19, 2021, meeting, a KDHE representative said the approximately \$300.0 million in enhanced Medicaid funding due to the federal public health emergency was not necessarily going back to health programs but can be used in place of State General Fund (SGF) moneys in other areas of the budget. She also stated all cost-sharing for

COVID-19 testing, treatment, and vaccines for KanCare members is being paid by KanCare. The KDHE representative also stated the agency had not seen big changes in the number of KanCare applicants during the COVID-19 pandemic, perhaps because federal law prohibits states from terminating enrollees as part of the enhanced FMAP rate.

At the April 22, 2021, meeting, a KDHE representative said the federal 2021 American Rescue Plan Act (ARPA) included 100.0 percent FMAP coverage for COVID-19 vaccines effective April 1, 2021. She said KDHE and the three MCOs were working to implement the ARPA changes without affecting Section 1115 waiver budget neutrality.

At the September 22-23, 2021, meeting, a KDHE representative said the ARPA 10.0 percent FMAP enhancement was to be used for services that directly impacted individuals, such as HCBS, PACE, and home health services. ARPA funds would not be used to increase the protected income level (PIL), because the Legislature had already increased it.

At the December 13-14, 2021, meeting, a KDHE representative outlined recent court action related to the federal COVID-19 vaccine mandates. She said the requirement for staff at CMS-regulated facilities had been blocked by a U.S. district court, and the federal Occupational Safety and Health Administration (OSHA) rule mandating COVID-19 vaccination for employees of companies with more than 100 employees had been stayed by a U.S. district court. At the time of the meeting, the U.S. Supreme Court had not heard either case.

### ***Telehealth***

At the February 19, 2021, meeting, a KDHE representative said a temporary decision was made to allow out-of-state health care providers to provide services in Kansas to help address testing and treatment for COVID-19.

### ***Extended Postpartum Coverage***

At the September 22-23, 2021, meeting, a KDHE representative said the agency is studying whether to extend postpartum Medicaid services

from 2 months to 12 months. The change would require amending the State Medicaid Plan.

### **KanCare Ombudsman**

The KanCare Ombudsman provided updates at each of the Committee meetings on the services provided by the Office of the KanCare Ombudsman (Office).

At the February 19, 2021, meeting, the KanCare Ombudsman provided an overview of the 2020 fourth quarter report. She stated satellite offices opened during the quarter with two volunteers at each office. During the fourth quarter, the Office established a landing page for the KanCare Ombudsman webpages. She stated the Office created a new brochure for current and potential KanCare members in both English and Spanish. The Office was working on creating community resource documents for each county in the state because many calls to the KanCare Ombudsman involved people with basic needs who were not familiar with resources in their communities. In response to a question from a Committee member, the KanCare Ombudsman attributed the drop in inquiries to the Office from the first to the second quarter of 2020 to the COVID-19 pandemic. She stated the federal prohibition on terminating enrollees from KanCare during the public health emergency may have contributed to the decrease in calls at the beginning of 2020.

At the April 22, 2021, meeting, the KanCare Ombudsman testified the decreased rate of calls to the Office that began in 2020 had continued into the first quarter of 2021. She reported the KanCare Ombudsman's website now included lists of community resources by county that included information on providers for mental, physical, and dental health and other services.

The KanCare Ombudsman presented her report for the second quarter of 2021 at the September 22-23, 2021, meeting. She said a call handler assists with persons who speak Spanish at two of the three office locations. The Office plans to conduct survey and listening sessions to obtain input on the performance of the Office and suggested improvements.

At the December 13-14, 2021, meeting, the KanCare Ombudsman stated an AmeriCorps VISTA volunteer is helping the Office compile a list of KanCare application assistance resources. She said the listening sessions on Office performance continued during the fourth quarter of 2021 and went well. She also stated that during the second quarter, the Office was included in the Governor's Executive Order 21-27 establishing the Office of Public Advocates within the Department of Administration.

### **Medicaid Inspector General**

At the February 19, 2021, meeting, the Deputy Attorney General provided a written update on the Office of the Medicaid Inspector General (OMIG). In his testimony, he said the Attorney General had announced the nomination for the position of Medicaid Inspector General in January 2021. The nominee could not begin serving as Medicaid Inspector General until confirmation by the Senate. He provided an update on the activities of the OMIG.

At the April 22, 2021, meeting, the new Medicaid Inspector General introduced himself and reported the OMIG is back to a full staff of three, and more staff may be recruited in the future as appropriations allow. He reviewed the OMIG 2020 Annual Report, noting the OMIG screened 650 fraud reports. He said there was no evidence of any fraud caused by the COVID-19 pandemic, but the OMIG would continue to monitor for potential fraud. He said the OMIG had been conducting a review of the MediKan program to determine whether Kansas had paid any benefits after the 12-month lifetime limit had been reached and that a report would be issued after an analysis of the issue.

At the September 22-23, 2021, meeting, the Medicaid Inspector General reported he had completed the required training and received certification as a certified inspector general from the Association of Inspectors General in August 2021. He said in 2021 to date, the OMIG had screened 833 cases, with 88.0 percent referred by the Kansas Department for Children and Families (DCF). The OMIG had also begun a review of Medicaid beneficiaries who received an unreported windfall from lottery and casino winnings exceeding \$10,000.

The Medicaid Inspector General reported on the OMIG's review of the MediKan program. The OMIG identified 912 MediKan beneficiaries who had 13 or more months of eligibility during the review period. The State had paid \$1.67 million in medical claims for ineligible persons. He also reported the OMIG identified \$1.31 million in monthly capitation payments made to MCOs for deceased persons. The total loss to the State from monthly payments for deceased beneficiaries was \$1.53 million.

At the December 13-14, 2021, meeting, the Medicaid Inspector General reported that in 2020, the OMIG screened a total of 650 fraud reports, with 97.0 percent submitted by DCF. He said the OMIG continued to audit the HCBS program. He said a draft of the audit would be available in January 2022. He responded to a Committee member's question that he expects the OMIG to be busier once the federal public health emergency ends.

### **KDADS Overview and Updates**

At the April 22, 2021, meeting, the Secretary for Aging and Disability Services provided an overview of KDADS' activities. She said there had been no new cases of COVID-19 at the state hospitals and people who had been vaccinated were not getting sick, even if they contracted the virus. She said KDADS was planning to focus on understanding HCBS waiting lists better. She said it was time for the State to reconsider service delivery models. She reported KDADS continued to restore the capacity of state hospitals to eventually lift the moratorium on voluntary admissions to Osawatomie State Hospital. She reported a contract had been awarded for the implementation of Kansas Family Crisis Response Services, which was scheduled to be operational by September 1, 2021. The program would serve Kansas youth and provide crisis response and mobile crisis response services within 60 minutes of a call in emergent situations.

At the September 22-23, 2021, meeting, the Secretary for Aging and Disability Services stated the agency intended to use 70.0 percent of the ARPA FMAP enhancement funds to support direct care staff, as soon as CMS approved the plan. She said on the federal level, \$25.5 billion was added to the Provider Relief Fund and the agency was

applying for a share of those funds, which would support medical providers and others who serve Medicaid participants.

She also discussed the pre-settlement agreement with the Disability Rights Center of Kansas and others regarding the 10 nursing facilities for mental health (NFMHs) serving about 600 individuals. She said KDADS received a demand letter in 2020 citing discrimination against persons with mental health diagnoses in violation of the federal Americans with Disabilities Act. Over a period of ten months, the agency worked with the Disability Rights Center of Kansas and developed a pre-litigation settlement. The settlement included eight practice improvements determined through three outcomes, to be achieved in the next five years. No dollar amounts were part of the agreement.

At the December 13-14, 2021, meeting, the Secretary for Aging and Disability Services announced the Governor had just released information on a contract KDADS had reached with KVC Hospitals to open an acute care psychiatric hospital in Hays to meet the needs of youth in western Kansas. The 14-bed treatment center would begin accepting admissions in 2023.

### ***Quarterly HCBS Report***

KDADS provided regular written testimony on transfers to HCBS; the average monthly caseloads for private intermediate care facilities, state intellectual and developmental disability (I/DD) hospitals, and head injury facilities; the number of persons transitioned on the Money Follows the Person program; average monthly caseloads for HCBS I/DD, Physical Disability, Frail Elderly, and Brain Injury services; monthly average eligibility caseloads for nursing facilities; and the daily census for the Kansas Neurological Institute (KNI) and Parsons State Hospital and Treatment Center [*Note: See Appendix A for the 2021 report*].

### ***Rebasing***

At the February 19, 2021, meeting, a KDADS representative explained that statutes require nursing home rebasing every year based on three years of past data. Rebasing was codified in statute in 2017, overriding the rebasing methodology in

rules and regulations. The Legislature increased nursing facility rates by 1.0 percent for FY 2021, but it was subjected to allotment.

### ***HCBS Final Settings Rule***

At the April 22, 2021, meeting, a KDADS representative provided an overview of the HCBS Final Settings Rule. Initial assessments of all HCBS settings in the state had been reviewed and, as of April 13, 2021, a total of 368 of the sites had been determined to be compliant. She said Community Connections Kansas had created webinar opportunities for Final Settings Rule provider assistance. All HCBS settings are required to be in compliance with the rule by March 2022.

At the December 13-14, 2021, meeting, a KDADS representative said the agency will provide education sessions on the Final Settings Rule.

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

At the April 22, 2021, meeting, a KDADS representative provided an update on PACE. She stated PACE worked with Ascension Living Hope, Midland Care, and Bluestem Communities for a total enrollment of 728 persons.

At the September 22-23, 2021, meeting, representatives from Kansas PACE providers testified to the Committee. The Executive Director of Ascension Living HOPE said her facility serves seniors age 55 and older in Sedgwick County. She said her PACE clients average less than one emergency room visit per year and are more likely to have advance directives. She reported they are twice as likely to die in their own homes as non-PACE clients.

The Executive Director of Bluestem PACE, Inc., said his agency serves a six-county region in central Kansas. He noted that in 2009, the Legislature provided an exemption to PACE entities from certain licensure requirements to provide home health services to PACE enrollees. In 2015, the Legislature passed a similar exemption to allow PACE entities to provide adult day services to PACE enrollees.

The President and Chief Executive Officer (CEO) of Midland Care Connection, Inc., said his agency services clients in 22 counties in northeast Kansas. He said improvement in the program includes the elimination of the enrollment cap when KanCare was implemented, elimination of the adult day care survey or inspection, and that PACE can seek a waiver to allow community physicians to be contracted providers so the program does not need an in-house physician. In response to a Committee member's question about PACE referrals, he replied his agency relies on a toll phone number.

### ***HCBS Waiver Waiting Lists***

A KDADS representative provided an update on the HCBS waiver waiting lists at every Committee meeting.

At the February 19, 2021, meeting, a KDADS representative stated the agency was working on several initiatives in the HCBS waiver programs. She said a work group had been convened to discuss I/DD Targeted Case Management to develop a common vision, values, and goals for the program. She discussed the Brain Injury (BI) waiver, saying it had previously been a rehabilitative waiver until 2018, when the Legislature expanded the eligibility criteria and the program grew. She said the projected number of individuals served in FY 2021 would exceed budget capacity unless policy changes or a waiting list were implemented. The KDADS representative stated the largest increase of eligible individuals by group was persons over 55 years of age who had experienced a stroke.

In response to a question about the growth in the BI waiver, a KDADS representative stated at the February 19, 2021, meeting that estimated cost was projected to double by SFY 2022. Committee members expressed concern that permanent damage could result if individuals on the BI waiver were placed on a waiting list for two years, and the State could see an increase in Medicaid costs for LTC and other services among this population.

At the April 22, 2021, meeting, a KDADS representative said KDADS was working on seven specific HCBS projects through 2021. She said the Autism and Severe Emotional Disturbance

waivers were up for renewal in 2022, and work would begin on this process.

A KDADS representative announced at the December 13-14, 2021, meeting that the BI waiver work group had developed key recommendations for KDADS relating to BI waiver participants and services.

### **Adult Care Home Receiverships**

At the February 19, 2021, meeting, a KDADS representative explained the receivership statute was updated during the 2019 Legislative Session. One nursing facility remained on the market to be sold. The KDHE representative said that due to the COVID-19 pandemic, anticipated costs would be higher and the number of persons in nursing facilities would be lower.

At the April 22, 2021, meeting, a KDADS representative reported KDADS took 22 adult care homes into receivership due to insolvency or because of life-threatening or endangering conditions. One facility remained for sale.

At the September 22-23, 2021, meeting, a KDADS representative stated only one of the 22 facilities that had been in receivership remained for sale. All others had been closed or sold.

### **Behavioral Health**

At the December 13-14, 2021, meeting a KDADS representative discussed the timeline for the certification of certified community behavioral health clinics (CCBHCs). The first clinics were scheduled to become operational as CCBHCs by May 1, 2022.

### ***Psychiatric Residential Treatment Facilities***

A KDADS representative provided an updated on psychiatric residential treatment facilities (PRTFs) at every Committee meeting.

At the February, 19, 2021, meeting, a KDADS representative noted there were 412 PRTF beds and 80 individuals on the waiting list, down from 108 in December 2020. He said KDADS issued a request for proposal for eight children's psychiatric beds in Hays. He said he anticipated KDADS awarding a contract in March 2021.

At the April 22, 2021, meeting, a KDADS representative reported there were 120 individuals on the MCO waiting list for PRTFs. Of the 120 individuals, 28 were in foster care, up from 14 in December 2020. About 100 PRTF beds were not being used due to lack of staff. In response to questions from the Committee, the KDADS representative said most PRTF beds are in urban settings. He also said KDADS does not set salaries for the PRTF workers. The PRTFs contract with the three MCOs.

At the September 22-23, 2021, meeting, a KDADS representative reported the MCO waiting list for PRTFs was 106 individuals and, of the 106, 24 individuals were in foster care. Both numbers represented decreases from the previous report's total. He said 127 of the 424 licensed PRTF beds were not in use due to staffing shortages. In response to a Committee member's question about where foster children wait to get into a PRTF, he said they usually are in a group home or therapeutic foster care.

At the December 13-14, 2021, meeting, a KDADS representative testified 146 individuals were on the current waiting list for PRTFs, an increase of 40 from the previous report. Of the 146 individuals, 41 were in foster care, an increase of 17 from the previous report.

### ***Hospital Admission Processes***

At the September 22-23, 2021, meeting, the Committee heard several presentations on hospital admission processes for behavioral health.

The president of Ascension Via Christi Hospital St. Joseph described improvements in the MCOs' behavioral health admission processes over the previous year. She described the authorization process for each MCO. She requested the MCOs institute the same level of benefits for Medicaid recipients. She described ongoing challenges, including that insurance-based care managers do not assist with finding facilities for difficult placements and send outdated resources to hospitals. She said sometimes it took three to five days for MCO authorization of transition to LTC. Per CMS requirements, a hospital cannot release a patient until there is a safe placement available, but the

representative stated the MCOs do not pay for care during that period.

The Chair of the Department of Psychiatry at the University of Kansas Medical Center told the Committee each of the three MCOs have their own unique processes and computer systems. He said those differences can complicate patient situations and increase the risk of failed reimbursement.

The Executive Director for Mental and Behavioral Health, University of Kansas Health System, discussed the business processes of the three MCOs. She said Medicaid reimbursement remains low for behavioral health and does not cover the average cost of care. She said there is some value-based contracting, but it is easy to lose that status due to reasons not in the control of the hospital. She requested more reasonable authorizations on the part of the MCOs, as the hospital is often asked to justify admission every two days, which she said was not reasonable for providers.

A UnitedHealthcare representative provided a joint response on behalf of all three MCOs. She stated all psychiatric admissions require 24-hour notice from admission. Each MCO operates its own process, but she said all agreed approvals for admissions are three to seven days or longer, depending on diagnosis. She said discharge planning begins the first day of admissions for a patient. She noted KanCare allows for 72 hours of psychiatric observation billed on a per diem basis with no pre-approval necessary. If the stay is longer than 72 hours, the entire stay is reverted to an inpatient stay and is paid based on the diagnosis-related group. She said the lack of access to electronic medical records systems can lead to administrative complications.

### **State Hospitals**

At the February 19, 2021, meeting, a KDADS representative provided updates on state hospital workforce wage disparity. He said the wage disparity between Larned State Hospital (LSH) and Larned Correctional Facility had begun to even out due to the salary increases resulting from Executive Directive No. 19-510.

At the April 22, 2021, meeting, a KDADS representative said LSH continued to struggle to

recruit and retain staff. The vacancy rates were 51.4 percent for registered nursing positions and 19.5 percent for security staff. He said 2021 HB 2007 included a proviso to provide starting salaries for entry-level positions at LSH similar to starting salaries at the Larned Correctional Mental Health Facility.

A KDADS representative said at the September 22-23, 2021, meeting the overall staff vacancy rate at LSH as of July 2021 was 35.0 percent.

At the December 13-14, 2021, meeting, a KDADS representative discussed the Governor's plan for staff recruitment and retention at state hospitals. The pay rates will be aligned with other 24/7 facilities in Kansas. The Kansas Department of Corrections, KDADS, and the Kansas Commission on Veterans Affairs Office were included in the staff pay plan.

### ***Osawatomie State Hospital Moratorium***

A KDADS representative reported at the February 19, 2021, meeting that lifting the moratorium on voluntary admissions to Osawatomie State Hospital (OSH) would require a mix of bed capacity at OSH and increasing community-based capacity for inpatient treatment. The FY 2021 approved budget included \$2.0 million, including \$1.5 million SGF, to increase the number of licensed beds in the Adair Acute Care building by 14. The approved budget also included \$5.3 million from the State Institutions Building Fund to renovate the Biddle Building to be a CMS-certified space. He said lifting the OSH moratorium depended on when the Biddle Building project was complete.

A KDADS representative reported at the April 22, 2021, meeting that KDADS planned to develop a mix of bed capacity at OSH and increase community-based capacity for inpatient treatment through state institution alternative facilities.

A KDADS representative said at the December 13-14, 2021, meeting that eight facilities had enrolled as state institution alternative facilities, and 95 adults and 270 children had used those facilities from August through December 3, 2021.

At the December 13-14, 2021, meeting, the Secretary for Aging and Disability Services said there would be an announcement on lifting the moratorium at OSH before the end of 2021. [Note: On December 16, 2021, the Governor announced KDADS was prepared to lift the moratorium on voluntary admissions at OSH on January 3, 2022.]

## **LTC Facilities**

### ***Use of Antipsychotic Drugs in Nursing Facilities***

At the February 19, 2021, meeting, a KDADS representative noted Kansas is ranked 37th in the nation in the use of antipsychotic drugs in nursing facilities, an improvement from 2011 when Kansas was ranked 50th in the nation.

At the September 22-23, 2021, meeting, a KDADS representative said the inappropriate use of antipsychotic drugs in nursing homes had decreased.

### ***Impact of COVID-19 on LTC Facilities***

At the February 19, 2021, meeting, a KDADS representative said COVID-19 vaccinations in LTC facilities were continuing, and KDHE would continue to offer COVID-19 testing for patients, residents, and staff at no cost through June 30, 2021.

At the April 22, 2021, meeting, a KDADS representative reported as of September 2020, all adult care homes had been surveyed for infection control. He said facilities should be able to obtain vaccines for new staff or residents either through local pharmacies or the local public health departments.

A KDADS representative presented a map of Kansas at the September 22-23, 2021, meeting, detailing the federally licensed LTC facility vaccination rates for health care personnel. Most were either below 50.0 percent or between 50.0 to 69.0 percent vaccinated.

At the September 22-23, 2021, meeting, several representatives from LTC facilities testified to the Committee on the impact of the COVID-19 pandemic.

The Chairperson of Kansas Adult Care Executives said staffing shortages have existed for a long time, and the pandemic exacerbated the situation. She said facilities turned to nurse staffing agencies to fill positions, but the agencies often charged “unreasonable” hourly rates. Some facilities waited months for staff availability. She said there is a need for a cap on the rate differences staffing agencies can charge. She also recommended reinstating the temporary nurse aide program.

The Administrator of Attica Long Term Care said she had three main concerns: the cost to run her home has dramatically increased due to the cost of supplies and wages; the COVID-19 pandemic resulted in a decreased census; and staffing shortages continued to be a challenge. She said persons who could not get a bed due to staffing shortages would end up going to a hospital for care instead.

The CEO of Brewster Place, a stand-alone, not-for-profit retirement community, testified that the public perception of nursing homes continued to be a challenge, especially in the wake of the COVID-19 pandemic. She said homes continue to struggle to find clinical staff and recommended an incentive program to retain current staff.

A representative of LeadingAge Kansas stated the federal vaccine mandate for the staff of CMS-regulated facilities has presented challenges for LTC facilities. She said the nursing home industry does not have the option to reduce hours or temporarily close. She noted without the emergency funding provided by the Legislature, Governor Kelly, and the Strengthening People and Revitalizing Kansas (SPARK) Executive Committee, many adult care homes would have ceased operations.

The Executive Director of Kansas Advocates for Better Care thanked the Legislature for the 2021 increase in the PIL and said the change would help many older and disabled adults stay in their homes and communities. She said there were continuing concerns for the health, safety, and welfare of residents in nursing homes due to under-trained staff and poor infection control. She said training for temporary aides has been minimal and on-the-job training was not advisable. She

recommended the Legislature pass 2021 HB 2004, which would create eviction appeal rights of residents in nursing facilities and assisted living facilities.

The Administrator of Sharon Lane Health and Rehabilitation said her facility was able to keep COVID-19 away for months but ultimately lost 15 residents to the disease. She said the Paycheck Protection Program revenue helped keep the facility open. She said she expected an influx of seniors in the next few years as the baby boomers age.

The Chief Operating Officer of Recover Care said none of his vaccinated residents had died from COVID-19, while two non-vaccinated residents had died. He said deliveries of food and other essential supplies had been delayed due to workforce shortages. He said burnout among staff contributed to the workforce challenges.

### ***Discussion on Nursing Facility Staffing Agencies***

At the December 13-14, 2021, meeting, the Committee heard from several conferees on nursing facility staffing agencies.

A representative of a consulting company, who previously was chairperson of the American Staffing Association, said the staffing agency model requires pay rates for agency nurses to be much higher to cover the cost of recruitment and onboarding. He said many nurses have left the profession during the COVID-19 pandemic, which exacerbated the staffing crisis. He noted staffing agencies pay professional liability insurance and workers' compensation, unemployment, and payroll taxes. He said the business operates according to supply and demand and said the country is in a labor crisis. He said more permanent fixes are needed.

A representative of Kansas Adult Care Executives testified about facilities' experience with nurse staffing agencies. Key issues include paying mileage, meals, labor rates, and hotel fees in addition to wages. She said staffing agencies often have buyout clauses that can be as high as \$10,000. She said there often are no penalties if a temporary nurse does not show up for a scheduled shift. She said without a regulatory cap on fees,

facilities pay up to 246.0 percent of the average hourly rate for a nurse. She asked the Committee to consider authorizing temporary aides, capitation, elimination of buyout clauses, and holding temporary staffing agencies accountable and to the same standards as the facilities they serve.

A representative of Recover Care reported his facilities had lost 106 full-time equivalent workers from March 2020 to March 2021. He said staffing agencies recruit nurses by offering higher wages. He stated the average pay for a certified nurse aide is \$15.00/hour, but some staffing agencies pay \$55.00/hour. He asked the Committee to consider limiting what the agencies can charge facilities, developing incentives for future nurses and caregivers, and increasing access to nursing schools and programs.

A representative of Mennonite Friendship Communities said her facility has used temporary staffing agencies to fill 28.0 percent of the nursing shifts. She said KanCare reimbursed only 86.0 percent of the costs. She said one challenge with staffing agencies is that, when providing care to a person with dementia, the caregiver needs to get to know the patient before trust can be established. She also said some temporary nurses had not shown up for their shifts.

In response to a Committee member's question about federal regulations, a representative of Kansas Adult Care Executives said there were concerns with the impact of federal regulations but that she would still prefer a cap on agency fees.

### **Kansas Perinatal Behavioral Health Access Program**

At the December 13-14, 2021, meeting, representatives from the University of Kansas Center for Public Partnerships and Research and Kansas Connecting Communities (KCC initiative) provided information on the Kansas Perinatal Behavioral Health Access Program. The KCC initiative provides training, resources, and technical assistance to providers including physicians, social workers, and certified nurse midwives. It also provides psychiatric consultation and care coordination for perinatal behavioral health care.

The representatives said that with support, providers can more effectively screen for perinatal depression, anxiety, and substance abuse. The KCC initiative is a five-year collaboration with KDHE and is funded through an annual federal grant. [Note: The KCC initiative is the subject of a Committee recommendation to the 2022 Legislature.]

### **Adult Dental Benefits**

A representative of the American Dental Association's Health Policy Institute provided information on the cost estimates of adult dental benefits under Medicaid at the December 13-14, 2021, meeting. He said KanCare provides limited access to dental care. If the State added comprehensive dental benefits under KanCare, the dental costs plus the expected reductions in medical care costs would result in an estimated next cost of approximately \$960,000 SGF annually. The representative noted the importance of the connection between mouth health and the health of the rest of the body. He said dental coverage benefits general health and reduces medical costs later on through preventive care.

### **KanCare Meaningful Measures Collaborative.**

The president of the Kansas Foundation for Medical Care described the KanCare Meaningful Measures Collaborative (KMMC) and its work at the December 13-14, 2021, meeting. KMMC is a coalition formed in 2018 to reach consensus on what data and metrics are most essential for understanding the performance of the KanCare program. She said 2020 topics at KMMC meetings included pregnancy outcomes, care coordination, and network adequacy. Topics in 2021 included telehealth, behavioral health, and quality assurance. She reported social determinants of health were a continuing topic. She said KDHE was reviewing KMMC's recommendations.

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

Written and oral testimony was presented at each quarterly Committee meeting by individuals, providers, and representatives of organizations. Some individuals, providers, and organization representatives gave positive feedback for the following: KDHE's nursing home Medicaid application process; the introduction of 2021 HB

2046, which would increase reimbursement rates for I/DD providers; KDADS' supply of tablets and PPE for people with disabilities across the state; the enactment of 2021 HB 2126, which provides liability protections for adult care homes; supplemental funding from the Legislature provided to adult care homes to support them through the COVID-19 pandemic; the enactment of 2021 HB 2114, which established the Kansas Senior Care Task Force; and the recommendations of the 2021 Special Committee on Home and Community Based Services Intellectual and Developmental Disability Waiver.

Concerns and suggested solutions presented by conferees are summarized below.

#### *Concerns*

**COVID-19 pandemic.** Residents and staff of assisted living centers continue to deal with the health and workforce ramifications of the pandemic. The pandemic has exacerbated the preexisting problems with infection control, staffing shortages, and lack of supplies in nursing homes.

**LTC.** Delays in the HCBS application process result in assisted living, home plus, and residential care facilities providing uncompensated care. Staff lack necessary PPE. Medicaid reimbursement does not meet LTC expenses. Adult care facilities face increases in gas utility rates.

**Technology Assisted waiver.** The 2021 increase in the specialized medical care (SMC) reimbursement rate for the Technology Assisted waiver is not reaching the nurses who provide the care.

**I/DD.** The I/DD service system is chronically underfunded and understaffed. Some staff who provide I/DD services work an average of 100 hours per week to cover staff shortages. Overtime costs for staff are up more than 50.0 percent from two years ago. Limiting the increase in the SMC reimbursement rate to only those individuals on the Technology Assisted waiver [2021 HB 2007, Section 82(a)] limits services for individuals who are 22 years or older.

**KanCare benefits.** There is a continuing need to establish an adult dental benefit for KanCare.

[*Note:* These benefits would be required by 2021 SB 227, which did not receive a hearing in 2021.]

**Workforce.** Nursing homes lack adequate workers. Competition for nursing care staff continues due to the pay rates offered by staffing agencies that average 200.0 percent more than those of nursing facilities. The scarcity of nursing staff restricts facilities' ability to cover all nursing service hours authorized by physicians and approved by MCOs. There is a significant disparity in starting pay rates among direct care staff at Parsons State Hospital and Training Center, KNI, and OSH. Nurses who provide HCBS move across state lines for higher wages.

**Oversight.** Data regarding abuse, neglect, and exploitation of individuals with disabilities are limited.

**Crisis services.** There are delays in obtaining approval from MCOs to provide crisis services for clients. Medicaid reimbursement rates for emergency medical services (EMS) are too low, and EMS departments across the state are having a hard time hiring workers because some border states offer higher salaries. Medicaid rules allow reimbursement only if a patient is transported to a hospital, but not to alternate locations, such as a mental health crisis center.

**BI waiver.** The three MCOs have different processes for obtaining equipment for individuals on the BI waiver. It is difficult to obtain personal care attendants for individuals on the BI waiver.

**Network adequacy.** MCOs lack sufficient providers for sedation dentistry and durable medical equipment. A provider with a provisional speech therapy license can be reimbursed at nursing facilities or state hospitals only.

### *Recommended Solutions*

Conferees offered comments on potential solutions for the topics below.

**COVID-19 pandemic.** Vaccines for COVID-19 must be made continuously available to new LTC residents, new staff, and residents who previously declined vaccination.

**HCBS.** Use the 10.0 percent increase in the FMAP, part of ARPA, to develop a statewide plan based on the 1999 *Olmstead* decision to support people with disabilities who want to remain in or return to their homes rather than be housed in institutional care. The State must provide adequate oversight of HCBS.

**Staffing agency rates.** Cap the percentage of reimbursement rates nurse staffing agencies can receive so direct care workers receive better pay. Increase attendant care pay to \$17.00/hour, allow staff to receive overtime pay for hours over 40 per week, and allow persons to begin work while a background check is being conducted. Change the state Medicaid plan to allow temporary speech-language pathology-licensed individuals to bill Medicaid in outpatient or home settings, in addition to schools and hospitals. MCOs should include a provision for special case agreements in their contracts.

**I/DD Issues.** The Legislature should establish a committee to study the I/DD waiting list and work to end it. The State should address the age-related chronic conditions of the I/DD population, such as dementia and physical disability. Community-based care management is a potential alternative to targeted case management under Medicaid. Use an intensive community support model as an alternative to persons with I/DD who become involved in the criminal justice system. Close a loophole in civil commitment statutes to serve the I/DD population.

The State should support a statewide mobile crisis services program. Increase the reimbursement rate for SMC through the Technology Assisted and I/DD waivers to \$47.00/hour or \$48.00/hour. Study who is on the I/DD waiting list to anticipate the types of services people need. Switch to a community support I/DD waiver rather than a comprehensive waiver. MCOs should fit services to the needs of individuals with I/DD.

**Waiting lists.** Add funding for BI waiver caseloads to avoid waiting lists. Develop a plan to end all HCBS waiver waiting lists.

**LTC.** Funds should be used to help nursing homes that have had an unexpectedly low census

due to the COVID-19 pandemic. There must be continuum-of-care models for long-term services and supports based on the needs of the individual. The Committee should support improved training for the care of persons with dementia. Develop a career path for adult care home employees. ARPA funds for hospital employee retention should be extended to workers at adult care homes.

**Protected income level.** Increase the PIL to 300.0 percent of Supplemental Security Income (SSI). [Note: Enacted 2021 SB 159 raised the PIL for HCBS waivers and PACE to 300.0 percent of SSI for FY 2022.]

**Family caregiver pay.** Maintain the family caregiver pay approved during the COVID-19 pandemic.

**Crisis services.** Increase Medicaid rates for EMS. Pursue reimbursement for treating a patient with or incorporating telehealth facilitation. Allow reimbursement for transport to alternate sites such as crisis centers and urgent care providers.

**Workforce.** Raise the pay for direct care staff at KNI. The Legislature should focus on recruiting providers in all specialties and fields. Reauthorize the temporary aide status in LTC facilities.

**Maternal care.** Extend postpartum Medicaid coverage from 2 to 12 months. Increase Medicaid reimbursement rates for pediatric primary care.

### *Conferees*

Private citizens and representatives of the following organizations and providers testified or provided written-only testimony before the Committee: AdventHealth Shawnee Mission; American Dental Association's Health Policy Institute; American Medical Response; American Staffing Association; Arcare, Inc.; Ascension Living HOPE; Ascension Via Christi Hospital St. Joseph; Attica Long-Term Care Facility; Bluestem PACE; Brewster Place; Butler County EMS; Case Management Services, Inc.; Cherokee County Ambulance Association; City of Washington EMS; City of Wellington Fire/EMS Department; Craig HomeCare; Crawford County EMS; Disability Rights Center of Kansas; Ellsworth County EMS; Emporia Fire Department; Grassroots Advocates for Independent Living; Heartland Primary Care;

Heartspring; InterHab; Jewell County EMS; Johnson County MED-ACT; KanCare Advocates Network; Kansas Adult Care Executives; Kansas Advocates for Better Care; Kansas Association of Area Agencies on Aging and Disabilities; Kansas Board of EMS; Kansas Center for Assisted Living; Kansas Chapter of the American Academy of Pediatrics; Kansas City Kansas Fire Department; Kansas Center for Assisted Living; Kansas Connecting Communities; Kansas Council on Developmental Disabilities; Kansas Emergency Medical Services Association; Kansas Health Care Association; KNI Parent Guardian Group; Kingman EMS; LeadingAge Kansas; Lakeside Terrace; Little Government Relations; Livonius Consulting; Maxim Healthcare Services; Mennonite Friendship Communities; Mid-America Regional Council Emergency Rescue; Midland Care Connections; Miltonvale EMS; Minds Matter, LLC; Norwich EMS; Olathe Health Pediatrics; Oral Health Kansas, Inc.; Pediatric Partners; Recover-Care; Redbud Pediatrics; Riley County EMS; Republic County EMS/Rescue; Sharon Lane Health and Rehabilitation; Southeast Kansas Independent Living Resource Center, Inc.; Sunflower Medical Group; Tech EMS; Three Rivers, Inc.; Thrive Skilled Pediatric Care; Topeka Independent Living Resource Center, Inc.; Topeka Pediatrics PA; Unified Government Public Health Department; United Methodist Health Ministry Fund; University of Kansas Medical Center; and Yoder Birth Center.

### **Responses from Agencies and MCOs**

Representatives of KDHE, KDADS, and the MCOs provided responses to concerns expressed by individuals, stakeholders, and organization representatives at each Committee meeting. A spreadsheet prepared and updated after each meeting by KLRD staff was used to track issues presented to the Committee and the resolution of those concerns.

The agencies and MCOs used the spreadsheet to respond to the concerns. Each conferee concern was identified by name, the issue was noted, and the agency response or resolution was provided. Issues determined by the Committee to have been addressed were noted as closed and removed from future tracking spreadsheets. The spreadsheet included several recurring topics.

### ***KDHE Responses***

At each meeting, a KDHE representative reviewed the agency's responses to unresolved Medicaid issues identified by conferees at previous Committee meetings.

At the February 19, 2021, meeting, the representative addressed the specific issues portion of the spreadsheet first. On a billing dispute issue, she requested the item be closed because neither KDHE nor the MCO had legal authority to take action on the item. With regard to accounts receivable with Amerigroup, she stated the accounts receivable were down significantly and claims were proceeding through appeals. She reported the community service coordination project had been on hold since November 2019. On the increase in the PIL, she said it was a continuing issue that would require legislation to permanently increase. Concerning the need for more staff to help individuals with disabilities navigate the complex system, the KDHE representative stated any changes to staffing levels would require legislation. She reported KDHE had a specific website with frequently asked questions on the vaccination phases. On a temporary payment increase to Medicare rates for staff administering care to COVID-19 patients, she stated KDHE lacked funding to pay Medicare rates.

At the April 22, 2021, meeting, on the outstanding accounts receivable from Amerigroup, the KDHE representative stated the time frame had passed for provider submissions and appeals. She reported 2021 HB 2007 had increased the SMC reimbursement rates to \$39.00/hour. On 2020 Special Session HB 2016 and exemptions from COVID-19 liabilities, she said KDHE did not have any authority over the issue. She reported the State was currently in Phase 5 for COVID-19 vaccinations. Regarding uncompensated care that is provided by assisted living, home plus, and residential care facilities in the time between application for HCBS services and when a plan of care is created, the representative stated specific CMS requirements must be met prior to HCBS payment eligibility.

At the September 22-23, 2021, meeting, on reimbursement rate increases for private duty nursing for medically complex children, the

KDHE representative stated the 2021 Legislature approved an increase in the rate for private duty nursing for the Technology Assisted waiver to \$43.00/hour. Regarding the Medicaid code for sedation dentistry within a hospital setting, she said the agency determined the rate increase was warranted and could be accommodated within existing appropriations starting January 1, 2022. On adding the billable Medicaid code that would allow therapy without the patient participating in the therapy session, the representative said research on adding the code had begun.

At the December 13-14, 2021, meeting, a KDHE representative stated the agency would include community service coordination as a topic of interest during the upcoming KanCare 3.0 discussions. On increased Medicaid dental rates, she provided a KDHE bulletin listing the dental rate increases for dental hospital calls. She said KDHE was drafting a policy to cover the Medicaid code that allows payment for therapy while the patient is not present. On federal CMS restrictions on mid-month enrollment into PACE, she said KDHE developed a workaround but determined it was not an efficient use of funding because only one or two persons per month would benefit.

### ***KDADS Responses***

At each meeting, a KDADS representative reviewed the agency's responses to unresolved Medicaid issues identified by conferees at previous Committee meetings.

At the February 19, 2021, meeting, a KDADS representative reviewed the issues raised by conferees specific to KDADS. Regarding the I/DD waiver waiting list, the representative said the agency supports conducting a survey to determine the needs of persons on the waiting list and planning accordingly. On dual-diagnosis individuals dropped from the severe emotional disturbance (SED) waiver when they age out of SED services who then wait on the I/DD waiting list for years, the representative stated KDADS does not plan to amend the waiver to allow for automatic transition from the SED waiver to the I/DD waiver.

Regarding 22 LTC facilities that had been in receivership, she stated only 1 remained in receivership. She reported KDADS had reinstated

the Promoting Excellent Alternatives in Kansas (PEAK) advisory panel.

On COVID-19-related retainer payments and provider rates for I/DD providers, the KDADS representative said the MCOs processed \$1.4 million in retainer payments to qualified providers in December 2020. She reported SPARK and Coronavirus Aid, Relief, and Economic Security (CARES) Act funding were made available to centers for independent living, adult care homes, and LTC units for PPE, refurbished iPad tablets, and supplies for direct care workers. She reported the federal Centers for Disease Control and Prevention and CMS had not revised the guidance on visitation, testing, or quarantine in health care facilities. Regarding the Money Follows the Person program, the representative stated the program “lost ground,” but KDADS was working with interested persons to seek federal grant funding to restart the program.

At the April 22, 2021, meeting, regarding the I/DD waiting list, a KDADS representative said KDADS was considering using federal ARPA funding to conduct a study of the waiting list. On rebasing, she said funding for nursing facilities was included in 2021 HB 2007 and calendar years 2017-2019 were used to rebase. She reported a meeting would be held in summer 2021 to discuss dual-diagnosis individuals transitioning from the SED waiver to the I/DD waiver. Regarding behavioral health needs of the I/DD population, she said the agency is working to introduce a mobile crisis response program for all children and youth. On best practices for crisis intervention for individuals with I/DD, she stated KDADS is interested in the Sequential Intercept Model to benefit the I/DD population.

Regarding a request for the Senior Care Act to be amended to include persons under the age of 60 who have been diagnosed with Alzheimer’s or other forms of dementia, the KDADS representative said any change of eligibility would require legislation. She reported new nursing facility visitation guidance was released by CMS in March 2021. Regarding the Money Follows the Person program, she said KDADS is working with stakeholders to draft a program design to request federal grant funding to reinstate it. She said the authority to use temporary aides in LTC facilities had been extended through May 28, 2021, by

Executive Order No. 21-21, and the agency was working with stakeholders to ensure enough credentialing courses were available.

Concerning mobile crisis units for people with I/DD and autism, she said the issue was related to the 988 crisis hotline, and KDADS was monitoring 2021 HB 2281 and 2021 HB 2373, which would assist in developing the crisis response model. She reported a work group had been formed to study how to avoid a waiting list for the BI waiver. On decertifying beds and the bed tax for nursing homes, the representative said the issue would require legislative action.

At the September 22-23, 2021, meeting, a KDADS representative announced KDADS is developing a scope of work for a study of the I/DD waiting list, and the agency expects to use \$1.0 million from the estimated \$80.0 million from the ARPA FMAP enhancement. She said the agency also planned to use ARPA funds to invest in initiatives aimed at improving the workforce in long-term services and supports. Transitioning persons from institutional settings to community-based services was also included in the agency’s ARPA FMAP enhancement plan.

She said the agency is developing guardrails to ensure money planned for direct care workers actually ends up with the employees. On alternatives to incarceration for individuals with I/DD who are accused of a crime, the representative said the agency is planning to bring Sequential Intercept Model facilitators to guide the need for system change on this issue. Regarding training certified medication aides (CMAs) to administer insulin, a KDADS representative said both a change in statute and a change in CMA curriculum would be necessary to permit a CMA to assist in the administration of insulin. On continued understaffing at state hospitals, a KDADS representative said two Executive Directives targeted staff pay increases by raising the starting wage for direct-care staff by 15.0 percent.

At the December 13-14, 2021, meeting, on the I/DD waiver waiting list, the KDADS representative stated the agency planned to use some ARPA FMAP enhancement funding to study the waiting list. On dual-diagnosed individuals

who are dropped from the SED waiver but must wait for I/DD services, she said no one can bypass the I/DD waiting list but a person can be placed on both waiting lists. The Committee suggested this issue be discussed by any future committee formed to study the I/DD waiting list.

On the issue of person-centered choice and supports, the KDADS representative said KDADS supports discussions with stakeholders as the State begins discussions on KanCare 3.0. During a discussion on the temporary aide certification, the KDADS representative stated a new emergency declaration or a statutory change would be necessary to reauthorize the program. A Committee member suggested the category “limited nurse aide” be used for the certification. [Note: The temporary aide program is the subject of a Committee recommendation to the 2022 Legislature.]

On the PEAK program, the KDADS representative stated new members were added to the advisory board and work groups were established. The revised criteria for the program will be announced in January 2023 for FY 2024. Regarding allowing CMAs to administer insulin, a KDADS representative stated the agency received feedback from providers, and curriculum would need to be revised. [Note: Insulin administration is the subject of a Committee recommendation to the 2022 Legislature.] On the issue of uncompensated care provided by nursing facilities between when an application is filed and a plan of care is approved, the KDADS representative stated CMS does not permit retroactive eligibility and requires a plan of care before payment begins.

### ***MCO Responses***

Representatives from the MCOs provided responses to issues at each Committee meeting.

**Aetna.** At the February 19, 2021, meeting, an Aetna Better Health of Kansas (Aetna) representative stated the company policy on delayed payments for services is to obtain information from the KanCare Clearinghouse and then review the situation. Regarding an increase in the SMC rate for persons who require high-level nursing care, the representative stated Aetna supports any provider fee schedule increases and would pass the increase through to its contracted

providers. On the suspension and waiver of certain admissions requirements while COVID-19 patients are being treated, the representative said Aetna will continue to waive pre-certification for admissions and remove COVID-19 from automatic review of high-dollar claims.

**Sunflower.** At the February 19, 2021, meeting, a Sunflower State Plan (Sunflower) representative stated the company was working with the other MCOs to provide adequate reimbursement rates for SMC. He also said Sunflower was collaborating with hospitals on claims payments related to COVID-19 care.

**UHC.** At the February 19, 2021, meeting, a UnitedHealthcare Community Plan (UHC) representative said, in regard to delayed payments, payments come through the Clearinghouse and UHC must confirm they are “clean” claims. She said providers have 365 days to correct the claims. The representative stated UHC supports an increase in SMC reimbursements rates. On COVID-19 treatment admissions, she said there is no three-day restriction and that UHC has suspended high-dollar claim reviews for December 2020 and January 2021 but will resume them in February 2021, excepting COVID-19 claims.

At the September 22-23, 2021, meeting, a UHC representative presented the issue responses for all three MCOs. On the inconsistent processes across MCOs for home modifications, she said all three MCOs had met to agree upon a streamlined process and are waiting on approval from KDADS before implementing it. On sedation dentistry network adequacy, the UHC representative said the MCOs would provide a list of sedation dentistry providers.

At the December 13-14, 2021, meeting, a UHC representative reviewed the responses from all three MCOs. On the process for members to obtain home modifications, she said the MCOs are still waiting for KDADS approval of their plan. On crises within the I/DD population, the representative stated all three MCOs have dedicated staff to handle such crises and are working with KDADS on overall policy to improve practices.

## **Maternal Health Supports in KanCare**

At the September 22-23, 2021, meeting, the Committee heard presentations from the MCOs, providers, organizations, and individuals on maternal health services and supports in KanCare.

An Aetna representative reviewed the company's member incentives as they relate to maternal health, including assigning a level of care management for each patient. Low-risk pregnant women have 12 months of support postpartum, and high-risk pregnant women remain in care management for 18 months of support postpartum. The representative said the company plans to implement 2 additional maternal health programs in the next 12 months: Remote Patient Monitoring and Nurse-Family Partnerships.

A Sunflower representative said the company uses the Start Smart for Your Baby program, which incorporates care management, care coordination, and disease management to improve the health of mothers and their newborns. She said the program shows statistically significant improvement in delivery outcomes.

A UHC representative said the company was focused on addressing racial and ethnic disparities in maternal health. She said UHC's program, Healthy First Steps, was designed as an integrated and holistic approach across the continuum of care. She said UHC members receive rewards for completing prenatal and postpartum doctor visits.

A certified nurse midwife testified on behalf of the Kansas Perinatal Quality Collaborative, which implements and supports efforts to strengthen the perinatal systems of care for mothers and infants. She said 92.3 percent of pregnancy-related deaths in Kansas were determined to be preventable. Data showed obesity contributed to more than half of the deaths, and substance abuse contributed to a quarter of the deaths. The representative stated Medicaid-eligible women have the highest needs and the worst outcomes.

A representative from the Maternal Infant Health division of the March of Dimes testified to the Committee that Medicaid is the largest payer for maternity care in the nation and, as of 2019, Medicaid covered about one-third of all births in Kansas. She said maternal equity problems

affected Black women and children disproportionately.

A representative of the New Birth Company provided an overview of her company, an accredited maternity center. The Wyandotte County location closed in July 2021. She said the primary reason for closing was the loss of affordable malpractice insurance. She said due to certain statutory language, the agency was not able to secure the required malpractice insurance from state options. Her center offered early (first trimester) prenatal care and targeted Black, Hispanic, and immigrant populations in Wyandotte County. In response to a Committee member's question, the representative stated KSA 40-3401(f) does not include "maternity center" in the definition of "healthcare provider" for insurance purposes. If maternity centers in Kansas were allowed access to the Health Care Stabilization Fund, then she could reopen her practice.

A community health worker told the Committee about her experience with uninsured pregnant women who struggled to find affordable birth centers.

A private citizen told the Committee she used a birth center and midwife.

A certified insurance counselor and representative of HUB International Limited testified that she assisted the New Birth Company in trying to obtain malpractice insurance coverage for the company's certified nurse midwives. She said a certified nurse midwife who is an employee of a hospital or other health company is easily insured, but as an independent practitioner, the malpractice insurance costs are twice as much.

A representative of Midwest Maternal Fetal Medicine described her experience in high-risk obstetrics. She said maternal deaths, newborn deaths, and illnesses related to pregnancy are increasing. She said a network of care providers able to serve the appropriate level of care for each pregnant woman is an approach that has demonstrated improvements in overall care.

## **KSKidsMAP Program**

At the December 13-14, 2021, meeting, representatives from the University of Kansas

School of Medicine-Wichita provided information on the KSKidsMAP program, which is designed to provide pediatric mental health care access through case consultation and mentoring, along with clinician wellness programs to support primary care physicians. The program aims to integrate mental health care into primary pediatric care. The program had 164 physicians and clinicians enrolled as of December 2021, with 63 of the 105 Kansas counties represented. The program relies on an annual federal grant for funding.

### **MCO Updates**

Representatives of all three MCOs provided testimony highlighting their programs at each Committee meeting.

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

At the February 19, 2021, meeting, two UHC representatives provided an overview of the company's COVID-19 response. They stated UHC launched a program called Safety Testing and Overall Partnerships. He said Black and Latino populations were disproportionately affected by the pandemic because of factors such as underlying health conditions, socioeconomic status, and access to health care. The company had distributed 5,000 health and safety kits and 3,000 food boxes in Seward and Liberal.

At the April 22, 2021, meeting, a UHC representative said UHC distributed thousands of health and safety kits, boxes of food, and vaccination card pouches to members.

At the December 13-14, 2021, meeting, UHC representatives outlined a mobility project the company and the Johnson County Mental Health Center created to provide employment support for persons with I/DD. The representatives said one challenge the I/DD population faces is transportation to and from their employment locations. The company began using peer mobility specialists who provide rides for the individuals.

#### ***Aetna Better Health of Kansas***

At the February 19, 2021, meeting, an Aetna representative said the company continued to support members through expanded telemedicine, adjusting service plans and authorizations, and

remote monitoring for persons with chronic conditions.

The representative said that for providers, Aetna had expanded telemedicine policies, delayed overpayment recoupment, and maintained communication on the impacts of the pandemic on providers' practices.

At the April 22, 2021, meeting, an Aetna representative said the MCOs do not control the salaries paid to psychiatric residential treatment facility (PRTF) staff but instead pay a daily rate. He said utilization of telehealth by members increased from 2.62 percent to 32.14 percent per county.

At the December 13-14, 2021, meeting, an Aetna representative said the MCOs were working together on the process for members to obtain durable medical equipment. The company had also formed a team to develop strategies to address workforce shortages.

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

A Sunflower representative presented information at the February 19, 2021, meeting about helping members obtain the COVID-19 vaccination, including not requiring prior authorization for the vaccine to be fully covered. The company received approval to extend authorizations for temporary services for persons in HCBS through September 30, 2021, and reached out to members to determine what services were needed. The company distributed tablet computers to members who were socially isolated and masks to members who were at greater risk for COVID-19 exposure.

At the April 22, 2021, meeting, a Sunflower representative said a barrier to members using telehealth was the lack of a high-speed internet connection, especially in the rural parts of the state. He described Project SEARCH, which is designed to secure competitive, integrated employment for people with disabilities. On sedation dentistry, he said it requires both an anesthesiologist and dentist to deliver the service, and Sunflower increased reimbursement rates for those providers but continued to struggle with provider capacity.

A Sunflower representative reported at the December 13-14, 2021, meeting that 246 of Sunflower's members experienced housing insecurity. He also discussed the company's participation in a Sequential Intercept Model pilot project with the community developmental disability organization in Sedgwick County.

### **Human Services Caseload Estimate**

Staff from the Division of the Budget, DCF, KDHE, KDADS, and KLRD met April 19, 2021, to revise the estimates for human services consensus caseload expenditures for FY 2021 and FY 2022. Expenditures include Temporary Assistance for Needy Families (TANF), reintegration and foster care, KanCare Regular Medical Assistance, and KDADS Non-KanCare. The human services consensus caseload estimating group met again on October 28, 2021 to revise estimates on caseload expenditures for FY 2022 and develop estimates for FY 2023.

#### ***Spring Estimate***

At the April 22, 2021, meeting, a KLRD analyst reported the combined estimate for FY 2021 and FY 2022 was an all funds decrease of \$622.5 million, including a decrease of \$331.2 million SGF below the approved amount. For FY 2021, the revised estimate for all human services caseloads was \$3.8 billion, from all funding sources, including \$1.0 billion SGF. This was an all funds decrease of \$353.7 million, including \$189.5 million SGF, below the budget approved by the 2021 Legislature. For FY 2022, the revised estimate was \$4.1 billion from all funding sources, including \$1.3 billion SGF. This is a decrease from all funds of \$268.8 million, including a decrease of \$141.6 million SGF.

#### ***Fall Estimate***

At the December 13-14, 2021, meeting, a KLRD representative said the revised total all funds consensus caseload estimate for FY 2022 was \$4.0 billion from all funding sources, including \$1.1 billion SGF. This represented an all funds decrease of \$72.5 million, including \$173.2 million SGF, below the budget approved by the 2021 Legislature. The FY 2023 revised estimate was \$4.1 billion from all funding sources, including \$1.3 billion SGF. This represented an all funds increase of \$92.9 million, including an

increase of \$170.0 million SGF, above the FY 2022 revised estimate.

## **CONCLUSIONS AND RECOMMENDATIONS**

At its meeting on December 13-14, 2021, Committee members discussed their conclusions and recommendations to the 2022 Legislature.

The Committee recommends:

- KDHE submit a State Plan Amendment to CMS to add 90846 as a billable Medicaid code that would allow billing for psychotherapy without the patient present and that KDHE produce a cost estimate for the new code;
- The Legislature approve applying to extend postpartum coverage to 12 months for new mothers enrolled in KanCare and direct KDHE to provide data on the number of women who have used the first 2 months of postpartum services and could benefit from 12-month coverage;
- The State Medicaid Director review and report on raising Medicaid reimbursement rates as percentages of Medicare rates for various codes, in particular, those for emergency medical services, pediatric primary care, and certified nurse midwife services, and submit the report, including cost estimates and historical comparisons, to the Committee, the Senate Committee on Public Health and Welfare, the House Committee on Health and Human Services, and the social service budget subcommittees of the Senate Committee on Ways and Means and the House Committee on Appropriations;
- KDHE look into and produce a cost estimate on CMS approval for paying family caregivers if they meet the requirements of any other care providers within industry-standard guardrails and authorizing family caregivers with pending background checks to be paid;

- The Legislative Coordinating Council (LCC) establish a committee, similar in structure to the 2021 Special Committee on Kansas Mental Health Modernization and Reform, to study the I/DD waiver waiting list and long-term needs of the I/DD community;
- The Legislature look into raising the SMC (T1000) service code rates for both the Technology Assisted and I/DD waivers to \$47.00/hour and use federal ARPA funds, if available, prior to SGF moneys;
- The LCC establish a working group to study shortages and credentialing of personal care attendants and look into criteria and training;
- Appropriate legislative committees that deal with perinatal behavioral health monitor current funding sources for Kansas Connecting Communities;
- The Legislature amend statutes to provide refunds to skilled nursing facilities for the reduction in the number of licensed beds upon decertification; and
- KDADS look into amending the CMA curriculum to allow CMAs to assist residents in self-administration of insulin injection.

The Committee also requested a bill be drafted to codify in statute the flexibility of the temporary aide certification that was given emergency authorization by Executive Order 20-23.

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## APPENDIX A

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

#### ANNUAL REPORT FOR THE 2022 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 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 provides a summary of the number of individuals transferred from intellectual/developmental disability (I/DD) institutional settings into HCBS during state fiscal year (SFY) 2021, together with the number of individuals added to HCBS due to crisis or other eligible program movement during SFY 2021. The following abbreviations are used in the table:

- ICF/IDD — Intermediate Care Facility for Individuals with Developmental Disabilities
- SFY — State Fiscal Year

<b>I/DD INSTITUTIONAL SETTINGS AND WAIVER SERVICES*</b>	
Private ICFs/IDD: Average Monthly Caseload SFY 2021	103
State I/DD Hospitals: Average Monthly Caseload SFY 2021	274
I/DD Waiver Community Services: Average Monthly Caseload SFY 2021	9,082
*Monthly averages are based upon program eligibility.	
Sources: SFY 2021 — Medicaid eligibility data as of October 2021. The data include people coded as eligible for services or temporarily eligible.	

The following provides a summary of the average monthly caseload. These additional abbreviations are used in the table:

- FE — Frail Elderly Waiver
- PD — Physical Disability Waiver
- BI — Brain Injury Waiver

<b>FE / PD / BI INSTITUTIONAL SETTINGS AND WAIVER SERVICES*</b>	
Nursing Facilities — Average Monthly Caseload SFY 2021	9,572
Head Injury Rehabilitation Facility	41
FE Waiver: Average Monthly Caseload SFY 2021	5,528
PD Waiver: Average Monthly Caseload SFY 2021	6,049
BI Waiver: Average Monthly Caseload SFY 2021	668
*Monthly averages are based upon program eligibility.	
Sources: SFY 2021 — Medicaid eligibility data as of October 2021. 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 2015 – 144  
FY 2016 – 141  
FY 2017 – 142  
FY 2018 – 140  
FY 2019 – 138  
FY 2020 – 132  
FY 2021 – 126

**PARSONS STATE HOSPITAL AND TRAINING CENTER: AVERAGE DAILY CENSUS**

FY 2015 – 173  
FY 2016 – 163  
FY 2017 – 159  
FY 2018 – 160  
FY 2019 – 162  
FY 2020 – 157  
FY 2021 – 151

**PRIVATE ICF/IDD: MONTHLY AVERAGE\***

FY 2015 – 140  
FY 2016 – 137  
FY 2017 – 133  
FY 2018 – 137  
FY 2019 – 119  
FY 2020 – 110  
FY 2021 -- 103

**NURSING FACILITIES: MONTHLY AVERAGE\***

FY 2015 – 10,491  
FY 2016 – 10,235  
FY 2017 – 10,047  
FY 2018 – 10,049  
FY 2019 – 10,226  
FY 2020 – 10,500  
FY 2021 – 9,572

\*Monthly averages are based upon Medicaid eligibility data.

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

In most, but not all cases, services provided in the community do cost less than those provided in an institutional setting, such as an ICF/IDD or a nursing facility. However, “savings” are only realized if a bed is closed behind the person transferring to HCBS. Due to demand, beds are typically refilled by individuals requiring the level of care provided by the facilities; therefore, the beds are not closed.

As certified by the Secretary for Aging and Disability Services, despite individuals moving into community settings, which does have the effect of cost avoidance, the savings resulting from moving the individuals to HCBS, as of September 30, 2021, 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 September 30, 2021, was \$0.

# Report of the Kansas Senior Care Task Force to the 2022 Kansas Legislature

**CHAIRPERSON:** Representative Susan Concannon

**VICE-CHAIRPERSON:** Senator Richard Hilderbrand

**OTHER LEGISLATIVE MEMBERS:** Senators Cindy Holscher and Kristen O’Shea; and Representatives Charlotte Esau and Jarrod Ousley

**NON-LEGISLATIVE MEMBERS:** Kendra Baldrige, Leanna Chaffee, Janis DeBoer, Margaret Farley, Jamie Gideon, Annette Graham, Jan Kimbrell, Ernest Kutzley, Linda MowBray, Mindy Nicholson, Haely Ordoyne, Bill Persinger, Rachael Pirner, Camille Russell, Sarah Schlitter, and Debra Zehr

## **CHARGE**

HB 2114 (2021 law) directs the Task Force to study topics on the provision of care for Kansas seniors who suffer from Alzheimer’s disease, dementia, or other age-related mental health conditions; administration of antipsychotic medication to adult care home residents; safeguards to prevent abuse, neglect, and exploitation of seniors in the state; adult care home surveys and fines; funding and implementation of the Kansas Senior Care Act; senior day care resources in the state; and rebalancing of home and community-based services.

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# Kansas Senior Care Task Force

## PRELIMINARY PROGRESS REPORT

### Conclusions and Recommendations

The Kansas Senior Care Task Force makes the following recommendations:

- The Kansas Department for Aging and Disability Services should reach out to universities for assistance in mapping the various senior services across the state.
- The Legislature should explore the possibility of using temporary aides in long-term care.
- A request should be made to the Legislative Division of Post Audit to perform a limited scope audit (less than 100 hours) to determine where broadband funding, including federal funding, has been spent in the state and to identify the differences between urban, rural, and frontier regions of the state.
- The Kansas Legislative Research Department should research the funding for broadband for the state.
- The Legislature should seek funding to produce a new Kansas Elder Count book, including a digital version.

*Proposed Legislation:* None.

### BACKGROUND

The Kansas Senior Care Task Force (Task Force) was created by HB 2114 (2021 law), with a sunset date of June 30, 2023. HB 2114 directs the Task Force to study the provision of care for Kansas seniors who suffer from Alzheimer's disease, dementia, or other age-related mental health conditions; the administration of antipsychotic medications to adult care home residents; safeguards to prevent abuse, neglect, and exploitation of seniors in the state; adult care home surveys and fines; the funding and implementation of the Kansas Senior Care Act; senior day care resources in the state; and rebalancing of home and community-based services (HCBS).

The Task Force is composed of 22 members, who were required to be appointed on or before August 1, 2021. The appointing authorities were

required to provide notice of appointments to the Secretary for Aging and Disability Services. Vacancies on the Task Force are to be filled by appointment and accompanied by notice to the Secretary for Aging and Disability Services in the manner provided for the original appointment.

The Task Force is composed of the following members:

- The chairperson of the Senate Committee on Public Health and Welfare;
- A member of the Senate Committee on Public Health and Welfare, appointed by the President of the Senate;
- A member of the Senate Committee on Public Health and Welfare, appointed by the Minority Leader of the Senate;

- The chairperson of the House Committee on Children and Seniors;
- The ranking minority member of the House Committee on Children and Seniors;
- A member of the House Committee on Children and Seniors, appointed by the Speaker of the House;
- One representative of the Kansas Department for Aging and Disability Services (KDADS), appointed by the Secretary for Aging and Disability Services;
- One representative of the Kansas Department of Health and Environment (KDHE), appointed by the Secretary of Health and Environment;
- The State Long-term Care Ombudsman or the State Long-term Care Ombudsman's designee;
- An elder law attorney, appointed by the Governor;
- One representative of the Area Agencies on Aging, appointed by the Secretary for Aging and Disability Services;
- One representative of the Kansas Adult Care Executives Association, appointed by the Governor;
- One representative of LeadingAge Kansas, appointed by LeadingAge Kansas;
- One representative of the Kansas Health Care Association, appointed by the Kansas Health Care Association;
- One representative of Kansas Advocates for Better Care, appointed by Kansas Advocates for Better Care;
- One representative of the Kansas Hospital Association, appointed by the Kansas Hospital Association;
- One representative of community mental health centers, appointed by the Association of Community Mental Health Centers of Kansas;
- One representative of an adult care home, appointed by the Secretary for Aging and Disability Services;
- One representative of the AARP, appointed by the AARP;
- One representative from the HCBS community, appointed by InterHab;
- One representative of the Alzheimer's Association, appointed by the Alzheimer's Association; and
- A consumer of Kansas senior services, appointed by the Speaker of the Silver Haired Legislature.

The Task Force is authorized to meet in an open meeting at any time and at any place by any means in the state upon the call of the chairperson. The first chairperson of the Task Force is the chairperson of the House Committee on Children and Seniors. The chairperson of the Senate Committee on Public Health and Welfare is to serve as the first Task Force vice-chairperson. The positions of chairperson and vice-chairperson are to annually alternate on the first meeting of the Task Force each calendar year.

On or before the beginning of the 2022 Legislative Session, the Task Force is required to submit a preliminary progress report to the Legislature detailing the Task Force's study. A final report of the Task Force's study is due to the Legislature on or before the beginning of the 2023 Legislative Session. The bill requires the report to include recommended improvements regarding the well-being of Kansas seniors,

including recommended changes to state statutes, rules and regulations, policies, and programs.

## Structure and Organization

After presentation by a representative of the Kansas Health Institute (KHI) of the working group concept at the September 9, 2021, meeting, the Task Force approved KDADS' offer to coordinate a contract directly with KHI to establish working groups for the Task Force, with KHI facilitating the working groups. The Task Force sought and received Legislative Coordinating Council (LCC) approval to create working groups to assist the Task Force in studying and making recommendations on the assigned topics. At the December 7, 2021, Task Force meeting, the final working group charter was presented by KHI, including the purpose, product, and scope of the work of the working groups.

Two working groups and one subgroup were formed. The two working groups are Quality of Care and Protective Services (Working Group A) and Access to Services (Working Group B). The subgroup was formed to study the workforce issue.

The primary areas of focus for each of the working groups are:

- **Quality of Care and Protective Services.** Administration of antipsychotic medications to adult care home residents; the safeguards to prevent abuse, neglect, and exploitation of seniors in the state; and adult care home surveys and fines; and
- **Access to Services.** Provision of care for seniors in the state who suffer from Alzheimer's disease, dementia, or other age-related mental health conditions; the funding and implementation of the Kansas Senior Care Act, KSA 75-5926 through KSA 75-5936; senior day care resources in the state; and rebalancing of HCBS.

KHI began facilitating working group and subgroup meetings on and after December 14, 2021. Working group meetings will continue virtually twice per month for 90 minutes each. The subgroup will meet virtually once per month for 90 minutes per meeting. The working groups and subgroup will meet during the 2022 Legislative Session with a goal

of finalizing and ratifying its report in July 2022, with a presentation of the report to the Task Force in August 2022.

The working groups and subgroup consist of a Task Force non-legislative member serving as chairperson, a legislative member serving as vice-chairperson, Task Force members volunteering by topic preference, and other relevant subject matter experts who may be requested to provide input on individual topics.

## COMMITTEE ACTIVITIES

The LCC approved four meeting days for the Task Force. The Task Force met on September 9, November 11, December 6, and December 7, 2021. The Task Force members met in person, with the option for Webex attendance.

Additional details regarding each of the Task Force meetings, minutes, audio recordings, Task Force handouts, and written testimony submitted by conferees may be accessed on the Legislature's website on the Task Force webpage: [http://kslegislature.org/li/b2021\\_22/committees/c/te\\_tf\\_ks\\_senior\\_care\\_1/](http://kslegislature.org/li/b2021_22/committees/c/te_tf_ks_senior_care_1/).

### September 9, 2021, Meeting

#### *Overview of Authorizing Statute*

A Revisor of Statutes reviewed the Kansas Senior Care Task Force authorizing statute, HB 2114, passed in 2021, summarizing the study topics, the deadlines for the preliminary and final report to the Legislature, and the sunset date for Task Force of June 30, 2023.

#### *Presentation on Kansas Opens Meetings Act and Open Records Act*

The Revisor provided a review of the Kansas Open Meetings Act and Kansas Open Records Act, noting the Task Force is subject to both.

#### *Working Group Concept*

A KHI representative discussed the general function of working groups. She stated her agency performs process facilitation, which uses evidence-based information and research to meet the goals of the group. She said facilitators

remain neutral and keep the working groups focused toward actionable conclusions and recommendations that are presented to the whole Task Force. The KHI representative discussed several group facilitation tools. She noted a challenge of working groups is the necessity of a clearly defined topic or goal and that overlap and gaps can exist among different working groups working on behalf of the primary group.

### ***Update on Senior Care Services and Programs and State Plan on Aging***

The Secretary for Aging and Disability Services (Secretary) addressed the Task Force. She noted the aging of the American population, stating the U.S. Census Bureau estimates in 13 years, for the first time in history, older adults (age 65 and older) are expected to outnumber youth.

By 2030, when all the baby boomers are 65 years old and older, they will make up 21 percent of the population, up from 15 percent of the current population. In Kansas, the population aged 85 and over is expected to expand from 63,848 individuals in 2014 to 230,299 in 2064.

### ***Older Americans Act***

The Secretary noted that as required by the 1965 federal Older Americans Act (OAA), the State must submit a State Plan on Aging to the U.S. Administration on Aging. The fiscal year (FY) 2022–FY 2025 State Plan (Plan) was submitted to the federal Administration for Community Living. The Plan was formed with input from older Kansans, families, and stakeholders through listening tours across the state, as well as a statewide Aging Survey. A copy of the Plan was provided.

The Plan includes five goals:

- Coordinate efforts to support older Kansans;
- Inform Kansans of systems and supports for self-sufficiency with emphasis on those with the greatest economic or social need;
- Engage community partners to advance OAA programs;
- Educate and advocate for the prevention of elder abuse, neglect, and exploitation; and

- Maximize utilization for home and community-based services and Medicare.

The Secretary discussed the federal OAA and the programs it supports.

OAA Title III provides grants for several programs:

- Supportive Services (Title III-B) such as homemaker, attendant care, transportation, case management, and legal assistance;
- Nutrition (Title III-C), which includes congregate and delivered meals and nutrition education;
- Disease Prevention and Promotion (Title III-D); and
- Family Caregiver Support (Title III-E) for respite, counseling, information, support groups, and homemaker.

OAA Title VII supports elder rights protection, including:

- The Long-Term Care Ombudsman Program;
- Prevention of Elder Abuse, Neglect, and Exploitation; and
- The State Legal Assistance Development Program.

### ***Oversight of Medicare Programs***

The Secretary noted KDADS oversees the following Medicare programs:

- Senior Health Insurance Counseling for Kansas, which helps individuals with questions related to Medicare;
- Senior Medicare Patrol, which educates on Medicare and Medicaid health care

fraud and abuse and identification and reporting of scams; and

- The Medicare Improvements for Patients and Providers Act, which provides application assistance for the Medicare Part D plan and the Medicare Savings Program, which helps pay for Medicare Part B premiums.

### *Aging and Disability Resource Centers*

The Secretary described the Aging and Disability Resource Center program implemented through the 11 area agencies on aging (AAAs) across the state. This program is available to anyone, regardless of income, to obtain assistance in planning for their future long-term service and support needs. Aging and Disability Resource Centers also provide the functional assessment necessary to determine eligibility for HCBS and can complete the Client Assessment, Referral and Evaluation (CARE) assessment required for admission to a nursing facility.

### *HCBS Waivers*

The Secretary discussed the HCBS Medicaid waiver services that serve seniors: the Frail Elderly (FE) and Brain Injury (BI) waivers.

The FE waiver is an alternative to nursing home care by providing services that promote independence within the community and allow for residency in the most integrated environment. There is currently no waiting list for this waiver.

A recent change to the BI waiver allows persons with an acquired injury, such as a stroke, to qualify for services. Previously, only individuals with a traumatic brain injury qualified for the waiver. It is a rehabilitation waiver that provides therapies and services needed after an injury to allow individuals to improve and rely less on supports as they become more independent.

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

The Secretary noted the Program of All-Inclusive Care for the Elderly (PACE) is a Medicare program with a Medicaid state option. PACE provides comprehensive health services, in the home or at the PACE center, that would normally be

provided by Medicare and Medicaid. It is available in specific service areas of the state and uses day services to help keep persons living in their own homes. Ascension Via Christi Hope, Midland Care, and Bluestem Communities provide this service in Kansas.

### *Nursing Facility Program*

The Secretary said the Nursing Facility Program provides oversight regarding Medicaid enrollment, change of ownership, reimbursement and rate setting, auditing, quality care assessment, federal Centers for Medicare and Medicaid Services (CMS) enforcement, the ventilator program, and Promoting Excellent Alternatives in Kansas Nursing Homes 2.0. There are 316 Medicaid nursing facilities across 4 regions: 282 are traditional, 10 are for mental health, and 24 are long-term care units that are connected to a hospital.

### *Presentation on Senior Care Act*

The Deputy Secretary of Programs, KDADS, provided a review of the Senior Care Act (SCA), a Kansas-specific program established in 1989. The program assists older Kansans who have functional limitations but are able to reside in the community with support services. The services prevent premature nursing home placement for persons who have not exhausted their financial resources.

The Deputy Secretary said that in FY 2021, the program served about 2,100 seniors each month at an average cost of \$279 per person. The program also permits one-time services, such as dentures, glasses, daily care items, and other items. The program is implemented through the 11 AAAs across the state. The program utilizes a functional assessment, and a plan of care is developed. Seniors direct their care and may choose their caregiver.

The Deputy Secretary noted staffing is an issue, as the State contracts with home health agencies to provide services. She noted the funding in FY 2022 will increase to \$10.0 million, but staffing shortages could mean the extra funding may not be spent. There are about 300–400 persons on the waiting list for SCA services. It was noted KDADS is hopeful the

\$3.0 million increase in funding will help reduce the waiting list if staffing is available.

A Kansas Legislative Research Department (KLRD) fiscal analyst discussed the fiscal history of the SCA. The program is funded by the federal Social Services Block Grant and the State General Fund (SGF). Persons also pay for services based on a sliding scale. Funding has generally been at \$7.0 million per fiscal year, with about \$4.5 million from federal funding and \$2.5 million from the SGF. In FY 2017, the SGF moneys were reduced to \$415,000 for the program.

Funding was restored in FY 2018. SGF funding for FY 2022 was increased to about \$5.5 million for a total funding of a little more than \$10.0 million.

### ***Presentation on 2020 Alzheimer's Disease Plan and Status of Recommendations***

The Deputy Secretary of Programs, KDADS, presented the 2020 Kansas Alzheimer's Disease Plan. She noted that every 65 seconds, an individual in the U.S. develops Alzheimer's disease or other dementia. Dementia is an umbrella term for a decline in cognitive functioning, and Alzheimer's is a type of dementia. Dementia risk factors include age, family history, and heredity. Currently in Kansas, there are about 54,000 persons age 65 or older living with Alzheimer's and other dementia, and the number is estimated to increase to 62,000 persons by 2025. About 151,000 caregivers and family members in Kansas provide care and support for persons with the disease.

The Deputy Secretary said that in consideration of the public health crisis, the Kansas Alzheimer's Disease Task Force was established in May 2019 by Executive Order No. 19-08. The Deputy Secretary reviewed the six key recommendations of the Kansas Alzheimer's Disease Task Force included in the 2020 Kansas Alzheimer's Disease Plan and KDADS' response to each:

- Establish a state Alzheimer's Disease Advisory Council to report on the implementation of the state plan goals and objectives: KDADS wonders if the Task Force could help address some of the concerns that would have been addressed by such an Advisory Council;

- Introduce legislation to allow persons 60 years and younger with younger-onset Alzheimer's to qualify for services through the SCA: KDADS' high-level estimate indicates the \$10.0 million SCA program would need to have its funding doubled to meet this recommendation;
- Create a website as a central entry point to information and resources: KDADS acknowledges and supports the need to increase awareness but has not done much to increase awareness on its website. KDADS is in the process of adding Alzheimer's information, resources, and links to other organizations on its website, but this initiative was not a priority in the past year due to the COVID-19 pandemic;
- Create a tax incentive for family caregivers to obtain training to expand knowledge and skills about Alzheimer's disease: The OAA allows for group and individual caregiver training;
- Require training on dementia and cognitive decline for Adult Protective Services (APS) workers and law enforcement personnel: The KDADS Aging Team works with the Department for Children and Families APS workers and will continue to coordinate with them on this recommendation; and
- Provide funding for Alzheimer's-specific respite programs regardless of age or financial status: KDADS allows for Alzheimer's support services, which can include respite. The AAAs can choose how they spend their OAA Supportive Services (Title III-B) allocation based on the needs of their communities. KDADS requires AAAs to provide respite services under the Family Caregiver Support Program.

A Task Force member representing the Alzheimer's Association, who is also a member of the Kansas Alzheimer's Disease Task Force, provided comments regarding the Kansas

Alzheimer's Disease Plan recommendations. She noted the second recommendation to expand SCA services to those younger than age 60 with younger-onset Alzheimer's is based on action one year ago at the federal level providing Title III-E services under the National Family Caregiver Support Program [Note: These services are not available under other OAA Title III programs.]

The Kansas Alzheimer's Disease Task Force member said the recommendation to provide a tax incentive to family caregivers to obtain training came from a private pilot program in Kansas and noted the desire to expand the program statewide. The representative clarified the Advisory Council was intended to be ongoing with renewable two-year terms for members and could be created by legislation or executive order.

### ***Presentation on Adult Care Home Surveys and Fines***

The Deputy Secretary of Hospitals and Facilities, KDADS, discussed the Adult Care Home Surveys, Finding and Fines report. The Deputy Secretary described the Survey, Certification and Credentialing Commission (Commission) within KDADS, which inspects and licenses adult care homes, as defined in state statute by KSA 39-923. Facility types are defined by KSA 39-2002 and include residential care facilities, residential and day support facilities for individuals with developmental disabilities, private psychiatric hospitals, psychiatric residential treatment facilities, community mental health centers (CMHCs), and substance use disorder treatment facilities. The Commission is comprised of five divisions, including the Survey and Certification Division and the State Licensed Adult Care Home Division.

The Survey and Certification Division operates in partnership with CMS on compliance with federal regulations. The Deputy Secretary of Hospitals and Facilities explained there are about 330 nursing facilities that must be surveyed or inspected no less than every 15.9 months, with an overall survey average of every 12 months.

The Deputy Secretary of Hospitals and Facilities said the State Licensed Adult Care Home Division approves state-licensed only (SLO) facilities, including assisted living, residential health care, adult day care, and board care homes for licensure

under state law, rule, and regulation. There are about 350 free-standing facilities and 100 state-licensed facilities attached to a SLO nursing facility. Registered nurses conduct the Long Term Care Surveys. At the time of the September 9, 2021, meeting, there were 37 certified staff members and 17 vacancies for survey staff.

The Deputy Secretary of Hospitals and Facilities reviewed the 2021 Survey results. In the SLO facilities, 279 deficiencies were written, and the top citations were for infection control, negotiated service agreements, health care services, and disaster and emergency planning. In nursing facilities, 615 deficiencies were written, and the top citations were for food procurement, drug regimen review, unnecessary prescription of drugs, and free-of-accident hazards or supervision devices. The COVID-19 pandemic caused the facilities and the agency to follow CMS protocols that included infection control surveys. The agency is currently engaged in survey activity in certified nursing facilities and SLO adult care homes. Kansas mirrors the national trends for civil monetary penalty (CMP) in nursing facilities. The increase in CMP in 2021 were largely for CMS citations and fines.

According to the Deputy Secretary of Hospitals and Facilities, KDADS has a total of eight registered nurse positions it can fill to do surveys, but these are difficult positions to fill. KDADS does not believe it has enough surveyors and will ask for more in its budget request. Some states use a licensed practical nurse or other lesser credentialed nurse, but Kansas uses registered nurses because they can exercise more independent evaluation.

The Deputy Secretary of Hospitals and Facilities said there are three licensed adult day cares in Kansas and several other facilities that have adult care services but are licensed as assisted living facilities.

Regarding CMPs imposed, the Deputy Secretary of Hospitals and Facilities stated the CMP is collected by CMS or the State, and the State receives a share of the fines, which can be used for approved projects for quality initiatives. Some CMP funds were reserved for 22 receiverships. One facility remains in

receivership, and CMP funds are being reserved for that receivership.

With any deficiency in a survey, a facility can appeal the finding and penalty through a formal or informal dispute resolution.

### ***Presentation of Data on Antipsychotic Drug Use in Nursing Homes***

The Deputy Secretary of Hospitals and Facilities discussed antipsychotic drug use in nursing facilities. The Deputy Secretary stated KDADS provides regular reports to the Robert G. (Bob) Bethell Joint Committee on Home and Community Based Services and KanCare Oversight. He shared a chart showing the three KanCare managed care organizations (MCOs) – Aetna Better Health of Kansas (Aetna), Sunflower State Plan (Sunflower), and UnitedHealthcare Community Plan (UHC) – and the number of patients receiving antipsychotic medication.

Persons with a diagnosis of schizophrenia, Huntington’s Disease, or Tourette’s Syndrome receiving antipsychotics were not included in the totals. The MCOs have incentive pay based on lowering the inappropriate use of these medications. CMS is engaged in a national partnership to reduce the use of antipsychotic medications and increase the use of non-pharmacological approaches to person-centered dementia care practices.

According to the Deputy Secretary of Hospitals and Facilities, Kansas has been at about 15.0 percent quarterly prevalence of antipsychotic use for long-stay residents for several years.

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

The Task Force heard testimony from multiple conferees regarding long-term care (LTC) facilities.

A private citizen indicated support for 2021 HB 2004, which would assure protections from involuntary discharge from adult residential care facilities. She shared her experience of losing her husband, who did not survive such a move.

The Executive Director of the Kansas Association of Area Agencies on Aging and Disabilities testified the primary goal of AAAs is to

help people remain in their homes, generally referred to as “aging in place.” She reviewed the work of the AAAs across the state, including providing services supported through the OAA and contracts with the State.

The Executive Director of the Kansas Home Care and Hospice Association explained her association represents agencies that provide skilled nursing care in a patient’s home. Payment sources are Medicare, some Medicaid, Veterans Administration, and private pay. The Executive Director noted there has been a loss of home care and hospice agencies, especially in the rural parts of the state, and the closures diminish access to care. She expressed urgent concern regarding workforce staffing shortages due not only to reimbursement, but also a need for better training and career opportunities.

The Co-Director of the University of Kansas Alzheimer’s Disease Center described Alzheimer’s disease as a public health crisis of immeasurable human impact and a cost of over \$250 billion, paid mostly by Medicare and Medicaid. He said the Center is on the front lines of research, training, direct care, and finding a cure. It is one of 31 centers on Alzheimer’s, designated by the National Institute on Aging. He noted the Center’s efforts are aligned with the recommendations in the Kansas State Plan for Alzheimer’s Disease and invited the Task Force to consider the Center as a resource for information and for leverage, as appropriate.

The Director of the Cognitive Care Network, University of Kansas Alzheimer’s Disease Center, explained the activity of the Center focused on supporting families, especially prior to entering institutional care. An extensive list of the Center’s efforts designed to increase the capacity of providers and build access to care for persons living with dementia was provided. She mentioned the Cognitive Care Network, in which providers are trained in the use of early diagnosis assessments. The Cognitive Care Network supports practices in Kansas City, central and southeast Kansas, and, soon, north central Kansas. The Director noted many families lack care due to insufficient personal resources while not meeting criteria for aid.

## **Discussion of Topics for Upcoming Meetings**

The Task Force members discussed topics for presentations at its upcoming meetings.

Regarding the Task Force's authority to ask another agency to enter into an agreement to establish and implement the concept of working groups on behalf of the Task Force, the Revisor noted it was within the purview of the Task Force to give a directive to establish subgroups to assist the Task Force. The Task Force approved a motion to accept KDADS' offer to coordinate a contract directly with KHI to establish working groups for the Task Force.

### ***Discussion of Possible Recommendations on Topics Discussed in Meeting***

The Chairperson said possible recommendations will be discussed at the end of each Task Force meeting and will be considered for approval by the Task Force at the December 2021 meeting for inclusion in the preliminary report due to the 2022 Legislature before the beginning of the 2022 Session.

Possible recommendations offered were:

- The need for regulations for assisted living centers and appeals protections for residents for involuntary or improper discharges;
- Keeping distinctions between mental health issues and dementia; and
- Creating a separate Senior Care Act-like program to provide services to persons with younger-onset Alzheimer's with its own funding allocation that would go solely to that population and consider the specialized services needed that would be different for this population.

## **November 10, 2021, Meeting**

### ***Agency Responses to Previous Task Force Questions***

The Deputy Secretary of Programs, KDADS, reviewed detailed responses to the questions the Task Force asked at the September 9, 2021, meeting. She also provided two additional documents: the

Assisted Living Facility/Residential Health Care Facility/Home Plus (ALF/RHCF/HP) Health Resurvey Deficiency Data, January 1 – September 30, 2021, and the Health Resurvey Deficiency Data for the same time frame. The topics addressed in the responses included: the CMP Fund balance; movement from OAA services to the FE Waiver; Kansas Aging Management Information System (KAMIS) data availability; FE waiver data; eligibility criteria for the BI waiver; nursing facilities' monthly average eligibility caseload and Medicaid participation by state region; nursing facility census; number of Aging and Disability Resource Center assessments; exceptions to and data on the CARE assessment; and available maps showing population growth and services across the state.

The Deputy Secretary of Programs showed the Task Force members some of the interactive maps that have been created by the Wichita State University Center for Economic Development and Business Growth that may answer some of the population and service availability questions posed by the Task Force. She noted it would be helpful to review those maps to avoid duplication of maps already available.

The Deputy Secretary of Programs provided the following information in response to Task Force members' questions:

- The AAA in Hays is the contractor for administrative case management and subcontracts with the other 10 AAAs in Kansas.
- With regard to mapping the elderly population and services available, it may be helpful to have two maps showing the location of the current population and the location of the future population, with an overlay of the location of services available. The trend shows most elderly people who live in western Kansas are staying there. The baby boomers may trend differently and relocate to the cities.
- The Intellectual and Developmental Disability (I/DD) waiver program is designed to facilitate the ability of

individuals to stay in their community. More individuals on the I/DD waiver are entering nursing facilities because of the aging process.

The Deputy Secretary of Hospitals and Facilities, KDADS, reviewed the detailed responses to questions asked by the Task Force at the September meeting pertaining to regulatory issues in LTC. The topics included data on deficiencies, remedies, and fines and on the tracking of antipsychotic drug use.

***Presentation on Distinctions Among Adult Care Homes, Nursing Facilities, Assisted Living Facilities, Home Plus Facilities, and Senior Day Care Facilities***

The KDADS Deputy Secretary of Hospitals and Facilities presented the distinctions of the various types of adult care home facilities. He discussed each type of facility, including licensure and capacities. The eight classifications of adult care home are nursing facilities, nursing facilities for mental health, intermediate care facilities for people with intellectual disability, assisted living facilities, residential health care facilities, home plus, boarding care home, and adult day care facilities. Each of these types of adult care home facilities are required to be licensed by KDADS.

Oversight of nursing facilities is provided by KDADS and CMS. Oversight of assisted living, residential health care facilities, and home plus is provided by KDADS and, if HCBS services are delivered at the facility, by the three KanCare MCOs. All of these facilities provide services 24 hours a day.

Adult day care facilities are facilities operating for less than 24 hours a day for individuals who need supervision or assistance with activities of daily living. Oversight is provided by KDADS and, if HCBS services are provided, by the MCOs.

The right to appeal an involuntary discharge or transfer from an adult care facility is afforded to a resident in a federally certified nursing facility and found under the resident rights sections of 42 CFR 483.10. There is no corresponding state statute or regulation that affords residents of an adult care home licensed only by the State the same right.

If enacted, 2021 HB 2004 would be designated as Charlie's Law and would create the right to appeal an involuntary discharge or transfer in state statute. The other rights of all adult care home residents are located in regulations at KAR 26-39-103. The Deputy Secretary of Hospitals and Facilities provided the following information in response to questions from Task Force members:

- During surveys for CMS-certified skilled nursing facilities, the surveyors look at the notice requirements for involuntary discharges or transfers, and the facilities could be cited for failure to comply with the notice requirements. Such a review is not required in regulations for surveys of SLO facilities. If Charlie's Law were enacted, then the surveyors would review the procedures during a survey for a SLO facility to ensure the process and notice requirements were followed. For SLO facilities, if a complaint was made to KDADS regarding involuntary discharge or it was brought up during a survey, the facility could be cited for not following notification procedures. Notice of the process for discharge or transfer must be provided in the contract signed upon admission to an adult care home facility.
- Regarding the length of time for the appeals process for an involuntary discharge or transfer, on the skilled nursing side the appeals process can take several months to resolve. A Task Force member clarified the Charlie's Law legislation currently includes a requirement that the resident appeal within 10 days and the appeals process must be completed within 30 days.
- Home plus facilities are in both rural and urban areas. A Task Force member noted there is a trend for more home plus facilities in Sedgwick County and other urban areas.
- The process that could take place if a facility could not provide the level of care a resident needed includes: discharge to a more skilled level of care,

more services provided by MCOs to a Medicaid member where they are living, or having the resident seek an FE waiver for additional services. The options would depend on the level of need and the services available.

- Regarding whether KDADS has sufficient surveyors for the SLO facilities, the Deputy Secretary stated additional resources would enable the agency to do more. He noted a request for additional surveyors was made in the KDADS budget submission for this budget cycle, especially for surveyors for SLO facilities. All facilities may provide skilled nursing care but only if they have the sufficient qualified staff to provide the services the residents need.
- KDADS' position is that individuals have the right to choose where they want to live, the services they need, and who provides those services.
- Antipsychotic use for conditions other than schizophrenia, Huntington's Disease, and Tourette's Syndrome is not automatically considered inappropriate use. The measures used by the MCOs to work through appropriate use include peer-to-peer or doctor-to-doctor outreach for those providers with much higher than average antipsychotic prescriptions issued. The use of antipsychotics is tracked for CMS-certified facilities only, and the data is gathered through the minimum data set.

A Task Force member clarified that for skilled nursing facilities, CMS sends out a Hand-in-Hand training on dementia care. Part of the licensure requirement includes dementia training. A facility is required to track the training of its staff.

### ***Rebalancing of Home and Community Based Services***

The Deputy Secretary of Programs, KDADS, presented on the topic of rebalancing, which means providing alternatives to institutionalization. She stated CMS issued a digital toolkit on rebalancing long-term services and supports (LTSS) in

November 2020. CMS defines rebalancing as achieving a more equitable balance between the share of spending and use of services and supports delivered in home and community-based settings relative to institutional care. CMS allows rebalancing through different funding mechanisms. States are required to provide institutional services, such as in nursing facilities, medical institutions, and hospitals. HCBS are optional, and Kansas opted to offer HCBS. HCBS do not include the cost of room and board.

The Deputy Secretary provided a time line demonstrating the development of HCBS, from changes in the federal Social Security Act in 1981 to the HCBS Final Rule of 2014 and quality improvement efforts of 2017.

She stated the political will and community will both hold HCBS services as a priority. HCBS cost less than institutional care. The Deputy Secretary noted the caseload for the FE waiver, as an institutional alternative, is increasing. Kansas now has a managed LTSS system. The capitated rates cells were designed as an incentive to support, maintain, and build on HCBS.

The Deputy Secretary of Programs provided the following information in response to questions from Task Force members:

- The rate structure holds the MCOs accountable and incentivizes strengthening the HCBS system because it is more cost effective for the MCOs to increase the number of individuals receiving HCBS than to provide nursing facility services. Several 1915(c) waivers are up for renewal, and this may be the time to reevaluate the I/DD waiver. The MCOs will be asked to be involved in any such reevaluation.
- KDADS will determine if amendments are needed to continue day services flexibility resulting from the COVID-19 pandemic, including family caregiver, telehealth, and respite care. The pandemic brought options to waivers that may not have been considered previously.

- Residential health care facilities were missed in the initial survey for purposes of meeting the Final Settings Rule. Those facilities will be included in Round Two of the Final Settings Rule process. At that time, KDADS will be better able to answer if HCBS providers will be lost due to the Final Settings Rule. One of the projects with the 10 percent increase in the Federal Medical Assistance Percentage (FMAP) is to provide a small amount of money to help the residential health care facilities meet the Final Settings Rule.

A KLRD fiscal analyst shared two documents: HCBS Waiver Expenditures from FY 2011 Actuals to FY 2022 Approved and a Historical Timeline of Nursing Facility Daily Reimbursement Rate Increases.

***Medical Doctor Perspective on Use of Antipsychotic Medications in Nursing Facilities***

A family physician discussed when the use of antipsychotic medications is appropriate and how to curtail their use for nursing facility residents. He noted that no antipsychotic medication is approved by the U.S. Food and Drug Administration (FDA) for dementia-related behaviors, such as agitation, aggression, delusions, hallucinations, paranoia, wandering, depression, apathy, disinhibition, or sleep disturbances. The family physician noted the use of medications in the frail elderly population is complex. He stated when a difference in behavior occurs, the behavior indicates a need for a detailed assessment to determine if there is a medical condition that is causing the sudden change in behavior. He stated if medically correctable causes are ruled out, the next actions are non-pharmacological interventions, such as distraction, calming responses, and other alternate activities.

The family physician stated the use of antipsychotic medications is appropriate if the behavior may be amenable to targeted medication intervention. This could include when the behavioral symptoms are causing significant distress to the patient or pose a threat to others or staff. He discussed the general idea of off-label use of medications and noted that such use is a standard of care. He stated using medications for off-label use is determined by the risk versus the benefits for the

specific patient, including side effects and complications. He noted using antipsychotic medications in nursing facilities is to improve the patient's quality of life and not to sedate or restrain the elderly patient. The family physician noted the CMS quality rating, counting all antipsychotic use in nursing facilities, tends to penalize smaller, rural facilities due to higher percentages for the same number of patients.

In response to Task Force members' questions, the family physician stated he has seen a drop in the use of antipsychotics, such as Haldol, because of the preponderance of problems in nursing facilities that used Haldol. He noted the use of any medication that causes a behavior change needs to be evaluated by a physician. With dementia patients, the physician needs to look at cognition over time to determine if behavior changes are a result of the natural progression of the disease or a result of the medication.

A psychiatrist, who addressed the Task Force virtually, stated there are approximately 350 nursing facilities in the state, with more than 16,000 residents total. More than half of the residents have some form of dementia or cognitive impairment. Dementia is identified as a Major Neurocognitive Disorder in the Diagnostic and Statistical Manual 5th Edition (DSM-V). Dementia is a progressive brain disease. About 90 percent of patients have at least one disruptive behavior, and 45 percent have at least four disruptive behaviors. The psychiatrist discussed the use of non-pharmacological interventions to reduce the intensity of the symptoms of dementia. These include staff education, therapeutic activities, patient-centered care, and sensory interventions.

The psychiatrist stated medication intervention for behavioral symptoms of dementia is appropriate if the medications improve the quality of life or the safety of patients and staff. He stated using antipsychotic medications should be done slowly and using low dosages. He noted aggressive behavior, hallucinations, delusions, severe distress, and agitation are generally appropriate indications to consider the use of antipsychotics. Behaviors such as wandering, nervousness, non-social behavior, fidgeting, restlessness, impaired

memory, or apathy are not indications to use antipsychotic medications.

In response to Task Force members' questions, the psychiatrist noted that justification for the use of antipsychotics when the diagnosis is not schizophrenia, Huntington's, or Tourette's Syndrome should be supported by documentation from a psychiatrist. The psychiatrist indicated a traumatic brain injury or other medical condition may be the cause of intractable cases of violent behaviors that cannot be controlled with non-pharmacological processes. Some facilities do not have access to psychiatrists, so education should be provided to physicians and nurse practitioners to assist with these patients. The use of telepsychiatry is also an option.

Regarding options to mitigate harm available to address a resident with sudden excessive behavior, the psychiatrist stated, when a crisis happens, the need for help is immediate. Options to address the sudden behaviors include a contract with a community mental health center, a one-time, per-month lunch-and-learn session for staff to provide education, phone call access to a specialist, and access to psychiatrist through the ECHO Project for pediatric cases.

### ***Interaction among Mental Health, Dementia, and Alzheimer's Disease***

A neurologist and Co-Director of the University of Kansas Alzheimer's Disease Center addressed the Task Force. He stated dementia is the broad term, and Alzheimer's is one type of dementia. Other types of dementia include vascular dementia or strokes, dementia with Lewy Bodies, frontotemporal dementia, and Parkinson's disease. Dementia tends to manifest as mental health issues and behavior and personality changes. Symptoms include anxiety, depression, agitation, hallucinations, and delusions and are generally not related to previous mental health concerns. He noted Alzheimer's disease is a public health crisis as nearly six million citizens across the country are living with the disease in 2021. In Kansas, 65,000 people are impacted by the disease. For individuals 65 and older, 1 in 10 have Alzheimer's. For individuals 85 years and older, 1 in 3 have Alzheimer's.

The Director of the Cognitive Care Network, University of Kansas Alzheimer's Disease Center,

discussed three groups of people impacted by dementia and Alzheimer's. These are individuals with pre-existing mental health conditions, individuals with neuropsychiatric symptoms that emerge in dementia, and individuals with intellectual and developmental disabilities. She noted the risk factors, such as cardiovascular issues, persistent depression, early life trauma, schizophrenia, and Down Syndrome. The Director stated families tend to expect obvious decomposition in mental health, but changes in their loved one can be subtle. She suggested unsettled past issues in a person's life may play out in dementia symptoms. Depression also plays a role in dementia.

In response to a question, the Director stated an unsettled past such as violence, family trauma, and unresolved grief may emerge as neuropsychiatric symptoms in dementia. She stated dementia tends to dismantle a person's coping strategies. The Director noted the use of depression measurement scales are limited for persons with dementia because the individual may not be able to understand or fully respond to the questions such scales ask.

### ***Presentation on Abuse, Neglect, and Exploitation***

The Regional Director for Department for Children and Families (DCF) discussed the agency's approach to Adult Protective Services (APS). She noted, in contrast to child welfare services, APS does not have federal funding or oversight. Each state is responsible for its APS program. Four state entities investigate allegations of adult abuse. These are DCF, KDADS, KDHE, and the Office of the Attorney General (OAG). DCF maintains a registry for individuals who have been substantiated of committing abuse, neglect, and/or financial exploitation (ANE). The registry is accessible to employers.

The DCF Regional Director stated cases are assigned as abuse, neglect, financial exploitation, and self-neglect. A protection specialist will make two unannounced face-to-face visits with the involved adult. Records may be requested to determine the validity of the allegations. After information is collected, the case is staffed and a case finding is determined. Case findings must be

completed within 30 business days, except for financial exploitation cases, which have 60 days. In 2021, HB 2150 modernized the APS statutes, and the Regional Director noted the statute changes are leading to better results. The protection specialist will assist the involved adult in locating services and resources to maintain physical or mental health. Services are offered but not imposed. If a case involves potential crimes, local law enforcement and the OAG are notified.

The DCF Regional Director provided information on the staff makeup for APS. She noted APS utilizes an advisory group that meets quarterly to provide input and feedback on how APS can improve the work it does. HB 2114 (2021) requires the Attorney General to appoint an Elder and Dependent Adult Abuse Multidisciplinary Team Coordinator to facilitate the convening of an Elder and Dependent Abuse Multidisciplinary Team in each judicial district to enhance the investigation and prosecution of cases.

With regard to the calls received, the DCF Regional Director noted self-neglect is the highest type of substantiated case, and financial exploitation is the lowest. The federal Administration for Community Living established the Coronavirus Response and Relief Supplemental Appropriations Act: Grants to Enhance Adult Protective Services to Response to COVID-19 Program, which provides grants to enhance the ability of APS to investigate allegations of ANE. Federal relief funding includes a total of \$768,741 in COVID-19 funding, American Rescue Plan Act (ARPA) Grant 1 funding of \$704,707, and a proposed ARPA Grant 2 of \$2,178,155 to use into 2024.

In response to a question, the DCF Regional Director stated the agency is working to obtain training on dementia for the protection specialists.

A Deputy Attorney General presented on the Fraud and Abuse Litigation Division at the OAG. The ANE Unit was established by statute in 2006 and amended in 2016 to narrow the focus of cases requiring mandatory review by the OAG. It also permitted the OAG to assist in the investigation, prosecution, and prevention of cases involving ANE. The ANE Unit was moved to the Fraud and Abuse Litigation Division in 2016. The Deputy Attorney General noted many states do not have specific

statutes related to elder abuse like Kansas does. The number of ANE referrals received in FY 2020 and the number of substantiated cases against residents or adults were also provided.

The Deputy Attorney General stated the OAG does not have original jurisdiction regarding criminal prosecution of elder ANE. The County or District Attorney must request that OAG prosecute the case.

The Deputy Attorney General provided the following information in response to Task Force members' questions:

- The next OAG annual report will be published in January 2022 for FY 2021.
- Certified nurse aide (CNA) and nurse registries are public. The other registries discussed under ANE are not public, and access is limited by statute. Typically, these registries are only available to employers. It is a public policy decision whether those registries should be open to law enforcement or an investigative agency. According to the Deputy Attorney General, generally, the more information law enforcement or any investigative agency has, the better off they are. In most situations, if law enforcement is communicating with DCF or KDADS, then law enforcement will be aware of the substantiation.
- Regarding ANE, most offenders are not regulated health care providers but are family, friends, unlicensed caretakers, or neighbors. Strangers are not a high percentage of the offenders, unless it involves scams.
- HB 2114, enacted in 2021, provides funding for the Kansas Elder and Dependent Adult Abuse Multidisciplinary Team Coordinator, but does not provide funding for the teams in every judicial district. Multidisciplinary Teams allow individuals with particular expertise to volunteer their time to help with ANE cases.

- A CNA or nurse can continue to work while under investigation for ANE. The FY 2020 average time frame from the date reported to substantiation of ANE for DCF was 85 working days and 488 working days for KDADS. Survey agencies are required to send referrals to the OAG if evidence of ANE is found. The number of ANE referrals for FY 2020 from DCF, KDADS, and KDHE were provided. By statute, KDHE, KDADS, and DCF are required to report substantiation of ANE to the state regulatory authority that regulates the individual in question.

### ***Presentation on Other States' Efforts to Address Workforce Shortages***

A KLRD research analyst provided a memorandum on several states' actions related to the recruitment, retention, and education of workers in long-term services and supports (LTSS). The LTSS workforce is expected to increase by 41 percent between 2016 and 2026. Staffing shortages predated COVID-19 and have affected both institutional care and community-based care. He highlighted caregiving strategies and staffing programs started in Georgia, Maine, Maryland, Minnesota, Montana, and Tennessee. He noted it is too soon to have measurable data for some of the states' programs. Minnesota's efforts have been well reviewed, but research studies are still being completed on older programs.

### ***Discussion of Working Groups***

A KHI analyst described the working group charter process and procedures. KHI will provide the administrative support, facilitation, and the report of working group recommendations. The report will include recommended changes to state statutes, rules and regulations, policies, and procedures. Topics include: care for seniors with Alzheimer's, dementia, and age-related mental health; antipsychotic medications in adult care homes; safeguarding against abuse, neglect and exploitation; surveys and fines; funding through the Senior Care Act, senior day care resources, and HCBS rebalancing. The issue of workforce will cross all topics.

Two options for working group structure were presented. Based on prior discussion with Task Force leadership, it was agreed two working groups

and one subgroup would be formed. The KHI analyst reviewed the timeline for the working groups. The timeline anticipates the working groups' report to be presented to the Task Force by August 2022.

Chairpersons and co-chairs were determined for the Quality Care and Protective Services Working Group, the Access to Services Working Group, and the Workforce Subgroup. Discussion was had regarding the need to have less than the quorum of Task Force members participating in any working group or subgroup to avoid a Kansas Open Meetings Act violation.

The plan is for the working groups to begin meeting after the December 2021 Task Force meeting.

### ***Discussion of Possible Recommendations on Topics Discussed in Meeting***

Task Force members suggested possible presentation topics for future meetings, including public comment from residents of LTC facilities; KDADS' investigation process on complaints involving a LTC facility; MCOs' efforts on HBCS rebalancing; the Kansas Guardianship Program; geriatric services available through the CMHCs; the amount of care provided by family caregivers and what the caregiver pool looks like; and the perspective of assisted living and skilled nursing facility chief executive officers (CEOs) on what it is like to be regulated.

KLRD staff distributed a map provided by KDADS depicting the percentage of the population that is age 65 and older in each Kansas county in 2015 and projected for 2025.

### ***December 6, 2021, Meeting***

#### ***Agency Response to Previous Task Force Questions***

The Deputy Secretary of Programs, KDADS, reviewed the detailed responses to questions asked by Task Force members in a previous meeting. Responses included references and citations to regulations at both the federal and state levels, distinctions between the State's access to data and the MCOs' data, the difference between institutional services and HCBS, and a comparison of state rankings for LTSS.

### ***Follow-up Information from November 10 Meeting***

A KLRD research analyst provided follow-up information from the previous Task Force meeting: a KLRD memorandum on the Tennessee LTSS Workforce Program and a revised KHI Working Group Charter. A list of resources recommended by Task Force members was provided.

### ***Presentation on Formularies for Psychiatric Medications and Step Therapy Impacting Senior Population***

The Medicaid Pharmaceutical Program Manager, KDHE, explained the Medicaid State Drug Formulary is the set of drugs CMS requires to be covered by Medicaid. The set of drugs can change on a daily basis. The preferred drug list is a subset of the formulary and is applied as a management tool to try less expensive medications before more expensive medications. The process of using a less expensive medication first is referred to as step therapy and informally described as “fail first.” The Program Manager stated fail first is not an accurate description of step therapy because almost 80 percent of Medicaid patients are on the first line of drugs, or the less expensive medications. She noted the Guiding Principles of Step Therapy, approved by the Drug Utilization Review Board, is used when any new step therapy criterion is proposed.

The Program Manager stated based on a 2017 CMS report on the use of antipsychotic drugs in the nursing home population, the State added two medical necessity criteria. She noted management of opioid drug prescribing is at the point-of-sale (retail pharmacy), and patients must fall into one of four categories. Medicaid providers are also required to check the Kansas Prescription Drug Monitoring Program (K-TRACS) for a patient’s drug history before prescribing a controlled substance. In response to a question, she stated step therapy management is for new patients only.

### ***Overview of Community Mental Health Center System and Services Available; Certified Community Behavioral Health Clinic Transition***

The Executive Director of the Association of Community Mental Health Centers of Kansas provided an overview of the state’s mental health system. He stated licensing regulations require the CMHCs to provide services to all Kansans needing

mental health care, regardless of their ability to pay. The CMHC system is the state’s safety net for mental health care. The CMHC system is comprised of 26 facilities serving specific regions and employs over 5,000 persons, but current estimates indicate an approximately 12 percent staff vacancy rate. He noted in FY 2019, 145,000 Kansans were served. The state has two state mental health hospitals: Osawatomie State Hospital (OSH) serving eastern Kansas and Larned State Hospital (LSH) serving western Kansas. Former hospital patients rely on the CMHC system for mental health treatment to maintain their ability to live in the community. Funding for these services has been cut by about 30 percent over the last decade. If mental health services are not provided in a timely manner, the individuals may end up in the state hospital, emergency rooms, or jail, all of which are more expensive than community-based mental health services. In recent years, some funding has been restored to the CMHC contract funding.

In 2015, KDADS placed a moratorium on all voluntary admissions to OSH due to the decertification of the hospital by CMS. The Executive Director stated OSH has reached maximum capacity multiple times. He noted, when state hospital beds are not available, the CMHCs are responsible for maintaining patients in a safe environment until a bed becomes available, which can take days. [Note: On December 16, 2021, Governor Kelly announced KDADS planned to lift the moratorium at OSH on January 3, 2022.]

Some CMHCs provide specific services for seniors such as caregiver support groups and therapy provided in nursing facilities. The CMHCs are partnering with other agencies, such as Meals on Wheels and AAAs, and about 30 percent of CMHC staff specialize in aging services. The Executive Director noted future services should include more telehealth, though gaps in broadband access and lack of technology hardware continue to be a barrier.

The Executive Director explained the certified community behavioral health clinic (CCBHC) model’s services and training requirements. The CCBHC model is anticipated to provide a sustainable approach for necessary resources.

The Chief Executive Officer of the Wyandot Behavioral Health Network stated his facility is preparing to seek state certification as a CCBHC in May 2022. He noted the facility served 1,600 clients over 50 years of age, and 200 of those clients were over 65 years of age. He noted the facility works closely with a local nursing facility for mental health and Midland Care.

***Presentation on Efforts to Address Workforce Shortages with Focus on Services Impacting the Senior Population; Network Adequacy***

The Deputy Secretary of Hospitals and Facilities, KDADS, stated KDADS reports workforce numbers in LTC to the National Healthcare Safety Network. Facilities report to KDADS on their staff shortages for nurses, clinicians (physicians), and aides. Up to 344 facilities have been reporting their workforce numbers to KDADS since May 2021. Shortages of nurses and aides peaked in the fall of 2021 during the outbreak of the COVID-19 delta variant. To address workforce concerns, the Deputy Secretary stated KDADS is meeting weekly with nursing facility trade associations, coordinated a discussion with KDHE and the Division of Emergency Management, made state contracts available for nursing staff, met with schools to determine barriers to training additional students, and is working to identify clinical sites for training. He noted various relief funding sources during the COVID-19 pandemic from both the federal and state governments, some of which was used to address workforce issues.

The KDADS Deputy Secretary stated the KDHE and KDADS joint HCBS FMAP enhancement spending plan (ARPA) has been submitted to CMS, and the agencies are waiting on full approval. KDADS expects to draw down approximately \$80.3 million in additional federal match and of that, the final investment portfolio designates \$57.1 million dollars spent on workforce including a \$2,000 bonus per worker, \$200 training grant per worker and \$1.0 million dollars to investigate opportunities to create a career track.

The Director of Community Health Systems, KDHE, said the agency identifies areas of the state with health professional shortages and medically underserved populations. She described the four programs related to workforce shortages.

The Student Loan Repayment Program is offered to medical, dental, or mental health providers in exchange for up to five years of service commitment in a designated area, at an eligible practice site. The State Conrad 30 J-1 Visa Waiver Program assists international medical graduates in obtaining an H-1B or L-1 visa by waiving the two-year home county residency requirement in exchange for a commitment to practice medicine in a Health Professional Shortage Area. The Community Based Primary Care Clinic Program is for primary care or dental health. The Kansas Recruitment and Retention Center utilizes University of Kansas Medical Center residents and faculty to temporarily fill positions.

The Aetna Better Health of Kansas (Aetna) Director of LTSS discussed the MCO's efforts to address workforce shortages impacting the adequacy of the network of providers. Activities include reviewing areas of shortages and strategies to reduce the shortage impact on members, identifying providers who are not able to accept referrals due to staffing shortages, exploring out-of-network provider alternatives, leveraging single case agreements for enhanced rates, and removing unnecessary administrative hurdles for providers. Aetna also closely monitors member service utilization to identify potential gaps in care.

The UnitedHealthcare Community Plan (UHC) CEO described the direct service worker challenge by noting the comprehensive scope of duties expected, such as assistance with dressing, bathing, eating, housekeeping, meal preparation, mobility and getting out of bed (some persons require a Hoyer lift for all transfers), and support to attend medical appointments. He contrasted the Kansas Medicaid reimbursement rate of \$11.84 per hour with no paid time off and no benefits for direct service workers to a starting pay of \$15.00 to \$18.00 per hour with benefits at other work opportunities. He noted several strategies the MCO uses to address workforce shortages. The strategies include providing care through technology solutions and implementing alternative payment arrangements through single case agreements and mileage reimbursement.

The Sunflower State Plan (Sunflower) Vice President of LTSS stated the MCO has focused

on three areas to address the workforce shortage. These are the use of technology to increase member independence and decrease the reliance on in-person care, pursuing a shared living model that requires fewer people to implement, and preparing recommendations to present to KDADS regarding paid family caregivers. She stated the company is exploring the sequential intercept model for persons with I/DD and challenging behaviors. Originally, this model was utilized for persons with substance use disorder and mental illness.

***Presentations from Managed Care Organizations on Strengthening and Rebalancing Home and Community Based Services, Process for Determination of Measures and Appropriate Use of Antipsychotics, and Value-added Services Specific to Seniors***

The UHC Chief Fiscal Officer stated the company is incentivized to rebalance through the structure of capitation payment and pay for performance (P4P) metrics, established by KDHE and KDADS. Three of the 13 P4P metrics focus on transitioning persons from nursing facilities to the community.

The UHC Health Services Director discussed the Community Transitions program, designed to help members transition from a nursing facility to the safest and most independent setting possible. Individuals must have resided in a nursing facility for at least 90 days, and it can take an additional 90 days to make the transition. Some challenges for successful transition are persons with past history of evictions, criminal background, and violent behavior. She stated 1,000 persons have been transitioned to the community since the 2019 contract.

The UHC Medical Director addressed the use of antipsychotic medications in the geriatric population. He stated since June 1, 2020, in compliance with KanCare requirements, UHC monitors the use of antipsychotic medications for patients with dementia without an FDA-indicated diagnosis. If a patient has been prescribed an antipsychotic without an FDA- indicated diagnosis within the 30-day look back period, UHC asks the prescriber to provide documentation with a clinical rationale for the medication. If the reviewer does not agree with the rationale, a verbal peer-to-peer discussion takes place.

The Sunflower Vice President of LTSS stated 77.4 percent of Sunflower members in LTSS utilize HCBS, and 22.6 percent are in a nursing facility. Since 2019, 749 persons have transitioned from a nursing facility to the community.

She stated Sunflower engages in value-based payments and, in addition to covered benefits, offers services outside of covered benefits to increase quality outcomes. These include value-based payments to transition coordination service providers, transition funds for setting up the new household, home-delivered meals during transition, extra in-home visits, in-home wellness checks, nursing facility liaisons, and a dedicated service coordination transition team.

The Sunflower Vice President of LTSS described the nursing facility antipsychotic monthly outreach. Outreach includes communications with the nursing facility medical directors, prescribers, Minimum Data Set coordinators, and the nursing facility director of nursing.

The Aetna LTSS Director stated Aetna encourages members to move to community settings by utilizing the transition program. Currently, 116 members, who have a 24/7 plan of care, receive HCBS. Service coordinators assess and develop a person-centered discharge plan. The service coordinators work with community providers to help members access housing and community resources, obtain accessibility assessments, set up utilities, and purchase household items. The target goal is for 70 percent of LTSS members to reside in a community setting.

The Aetna Chief Medical Officer discussed the use of antipsychotic medications. She stated the Aetna medical directors conduct a clinical review of the person's medical record, history, current status, medications, diagnoses, behaviors, recent changes, lab results, and other information pertinent to the review. If the use of antipsychotic medication is considered inappropriate, the medical director reaches out to the prescriber to discuss alternatives. She noted it is up to the prescriber to make changes to the member's care plan.

## **December 7, 2021, Meeting**

### ***Public Comments from Long-Term Care Consumers, Providers, and Stakeholders***

The Kansas Long-Term Care Ombudsman provided an overview of the testimony for the conferee who was unable to present in person due to illness and summarized the written-only testimony from residents and family members of persons residing in nursing facilities.

The Long-Term Care Ombudsman stated the Office of the State Long-Term Care Ombudsman has seven staff across the state, and they advocate for the rights of residents in LTC facilities and before the Legislature.

LTC residents and their family members indicated being pleased with the care received and the food served and feeling compassion for the staff.

Concerns expressed included whether future funding will be enough to care for people going into LTC who have memory issues; overnight issues disturbing the ability to sleep; not receiving medications; residents being treated differently; staffing lacking at other times; cold food; long periods without hair washing and bathing care; infrequent undergarment changes, with one resident reporting limiting fluid intake because the facility runs out of briefs or is too short staffed to change the resident more than twice a day; vermin problems; long waits for call light responses; lack of necessary equipment to accommodate physical limitations; the facility not providing food the resident is able to eat and digest; unnecessary transfers to behavioral health facilities for unmet needs due to dementia; improper discharges; the need for more resources for senior advocacy; lack of communication between family and administration and other staff; the use of antipsychotic medications including Haldol to calm residents; the need for facility staff to have training in dementia; issues with Medicaid; and frustration at the previous year's COVID-19-related restrictions.

A member of the Silver Haired Legislature and the Task Force spoke as a private citizen about her concerns. She and her husband want to age in place in their chosen community and have adapted their home to their health and quality of life issues. She stated health care is intertwined with electronic and digital communications, but the lack of reliable

broadband is a barrier to care. She noted there is no industry standard governing signal strength, and each company uses its own algorithm resulting in inconsistent signals and dead zones with no signals. She asked the Task Force to consider adding regulations for consistent strength of signal across the state and address the quality and affordability of the service on which so many depend.

### ***Presentation on Survey Process, Deficiency Levels, and Fines***

The Survey and Certification Commissioner, KDADS, addressed the Task Force. She provided a list of the number and type of LTC facilities in the state and a map showing the four regions for the district offices of the Survey and Certification Commission. She noted during the first two quarters of 2021, 102 surveys were completed in state-licensed only facilities, with 279 deficiencies written, and 109 surveys were completed for nursing facilities, with 615 deficiencies written. She described the steps in the survey process and outlined the timeframes for reports and responses and deadlines for facilities to request an Informal Dispute Resolution.

The Commissioner discussed the survey process pertaining to treatment and services for dementia. She noted there is an abbreviated survey conducted that is based on complaints received. She noted the civil monetary penalties (CMPs) issued by KDADS are generally \$500 per day up to \$2,500 and can double based on certain criteria. All civil penalties go to the SGF. CMS may impose fines according to their requirements. A portion of the federal civil monetary penalty is returned to the State for reinvestment to support activities to the benefit of nursing home residents. The CMP fund balance at the time of the meeting was \$5,565,715, and KDADS generally keeps \$4.0 to \$5.0 million in the fund for emergency receiverships.

### ***Presentation on Survey Process from a Provider Perspective***

The Administrator of Locust Grove Village stated her facility is the only continuing care retirement community in a multi-county region and noted the number of skilled nursing beds,

assisted living units, and independent senior living apartments they provide. She stated there is a highly regulated and punitive system of multiple government agencies providing oversight of the facility's work. She listed the multiple considerations of regulations, including a 696-page document from CMS. In addition to the regulation and oversight of the services, the business must also comply with the regulations of the federal Occupational Safety and Health Administration, Kansas State Fire Marshal, Kansas Department of Labor, and the Kansas Department of Transportation. The Administrator noted the round-the-clock, year-round nature of the business. She suggested instead of a punitive model of regulation, it should be a quality improvement model using a collaborative approach.

The President of Advena Living joined the Task Force meeting virtually. Advena operates seven small- to mid-sized senior communities in the eastern half of the state, in mostly rural or underserved areas of larger communities. He stated the regulatory system is punitive in nature and puts people in a fearful position that increases natural defensiveness. He stated the system and regulations are subjective rather than objective because survey results depend on an interpretation and whether the surveyor agrees with the actions taken by the facility.

#### ***Presentation on Kansas Guardianship Program***

The Executive Director of the Kansas Guardianship Program (KGP) testified before the Task Force. The KGP recruits citizens who are willing to be appointed as a guardian or conservator for persons who do not have a willing or able family or friend to assist them when they become unable to make informed decisions on their own behalf. The program works closely with Adult Protective Services and the state hospitals through KDADS. A person is eligible for services if they are an adult, on Medicaid, have no family, and have an open case with APS at DCF or are an individual residing in a KDADS facility. Either DCF legal services or attorneys for the state hospitals petition the courts for legal appointment. The KGP Executive Director outlined the volunteer recruitment, training, supports, and assistance KGP provides.

The Executive Director stated the agency served 1,394 persons in FY 2021 and has 772 volunteers

serving as guardians or conservators. Most of the individuals served have intellectual/developmental disabilities, mental health and/or behavioral health issues, or are aged individuals.

She provided statistics on the age range, residency, and type of services provided to those served. She noted alternatives for appointed guardianship can be informal help such as family, a Social Security or Veterans Administration payee, a durable power of attorney, supported decision-making, or voluntary conservatorship. The process from petition to appointment can take close to a year.

#### ***Status of Working Group Process; Working Group Charter***

A KHI analyst reviewed the working group charter, including the purpose, product, structure and scope, and the two working groups and one subgroup to be formed. She reviewed the operating process and the timeline. She noted the Task Force will need to determine how the working groups are to prioritize their work. The three groups will meet the week following this meeting and then follow a recurring schedule of meetings. All meetings will be from 9:00 a.m. to 10:30 a.m. and will be conducted virtually.

#### ***Discussion of Short-term and Long-term Goals for Task Force and Working Groups***

The KHI analyst discussed the visioning and goal setting for the Task Force. Task Force members discussed language for a vision statement. Task Force members discussed considerations for setting goals for the working groups.

Regarding a statutory definition of what age a person is considered a senior, a Revisor stated the Kansas Senior Care Act (SCA) is within the KDADS statutes (KSA 75-5902) and defines seniors as age 60 years or older. Task Force members also pointed to varying ages for seniors defined in the Older Americans Act and Medicaid law. When defined by funding, the age considered as a senior is 60 years of age and older. The Task Force approved the designation of senior as defined in the SCA.

## CONCLUSIONS AND RECOMMENDATIONS

### *Discussion and Recommendations for Senior Care Task Force Report to the 2022 Legislature*

Members of the Task Force submitted suggestions for recommendations, which were compiled by KLRD staff into a chart and distributed to the Task Force members for use during the discussion.

At the December 7, 2021, meeting, most recommendations on the chart were assigned to a working group for further discussion and review. A fiscal note was requested to examine and modify the HCBS/FE rate-setting methodology before including it as a recommendation from the Task Force.

The Task Force adopted the following recommendations at its December 7, 2021, meeting:

- KDADS should reach out to universities for assistance in mapping the various senior services across the state.
- The Legislature should explore the possibility of using temporary aides in long-term care.
- A request should be made to the Legislative Division of Post Audit to perform a limited-scope audit (less than 100 hours) to determine where broadband funding, including federal funding, has been spent in the state and to identify the differences between urban, rural, and frontier regions of the state.
- KLRD should research the funding for broadband for the state.
- The Legislature should seek funding to produce a new Kansas Elder Count book, including a digital version.

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# Report of the Redistricting Advisory Group to the 2022 Kansas Legislature

**CHAIRPERSON:** Senator Ty Masterson

**VICE-CHAIRPERSON:** Representative Ron Ryckman

**OTHER MEMBERS:** Senators Dinah Sykes and Rick Wilborn; and Representatives Daniel Hawkins and Tom Sawyer

## STUDY TOPIC

Appointed by the Legislative Coordinating Council, this Advisory Group works with legislative staff and conducts initial planning in the years leading up to redistricting. In the 2002, 2012, and 2022 cycles, this group has been designated the Redistricting Advisory Group.

Among its duties, the Redistricting Advisory Group will make recommendations concerning:

- Meeting dates and scope for this Advisory Group;
- Guidelines and rules;
- Designation of the staff agency responsible for leading the organizing and planning for redistricting (the Kansas Legislative Research Department);
- Approval of training, software, and other technical items;
- Constitutional or statutory changes that might be considered prior to redistricting; and
- Any relevant budgetary recommendations.

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# Redistricting Advisory Group

## REPORT

### Conclusions and Recommendations

The Redistricting Advisory Group (Advisory Group) adopted the following recommendations.

### Redistricting Town Hall Meetings

The Advisory Group recommends:

- Fourteen in-person town hall meetings be held at the same locations as the 2011 redistricting town hall meetings [*Note: These meetings occurred in August 2021*];
- Online streaming of the meetings be provided;
- Allowing members to participate remotely; and
- The Advisory Group receive in-person and written testimony.

### Mapmaking Process

The Advisory Group recommends:

- Requiring a legislative sponsor for maps submitted by outside individuals and organizations;
- Requiring submitted maps to include districts for the entire state rather than allowing maps to be drawn of individual districts;
- Requiring maps submitted for review to undergo technical review by the Kansas Legislative Research Department (KLRD) before being considered by a standing committee;
- Placing all redistricting plans submitted to any legislative committee and any plans submitted to KLRD from a non-legislator on the public record;
- Requiring plans for the State Board of Education districts to be built upon state Senate districts enacted during the 2022 Legislative Session, with four contiguous state Senate districts comprising each State Board of Education district;
- Allowing the following data layers to be available to legislators and staff: home seat, population, voter registration, election results, and demographic information;

- Designating caucus redistricting staff members as responsible for the caucus’s redistricting laptop, and allowing those staff members to take laptops off-site;
- Requiring all amendments to be a “gut and go” to avoid mapping issues;
- Providing digital access to maps on the Legislature’s website;
- Setting the allowable deviations for Congressional maps to be as numerically equal in population as practicable; and
- Setting the allowable deviations for state House or Senate districts to be within a range of plus or minus five percent of the ideal district population.

### **Redistricting Guidelines**

The Advisory Group adopted the Proposed Guidelines and Criteria for the 2022 Congressional and State Legislative Redistricting, as presented.

### **Technical Committee Rules**

The Advisory Group adopted the Technical Committee Rules, as presented.

***Proposed Legislation:*** None.

## **BACKGROUND**

Every ten years, states redraw their representative districts to comply with state law and to maintain equal population within the districts, as required by the *U.S. Constitution*.

In Kansas, the redrawing of legislative, congressional, and State Board of Education districts (“redistricting”) occurs two years after the U.S. Census Bureau has completed its decennial Census. Once results of the federal Census are published, the new “ideal” population of districts can be calculated—*i.e.*, the state population divided by the number of districts.—and any imbalance in population among districts can be determined. The Kansas Legislature is responsible for drawing districts for the Legislature and State Board of Education as well as districts from which the state’s members of U.S. Congress are elected.

Each decade in the year ending in “2,” the Legislature drafts, considers, and passes bills describing the new legislative districts utilizing its

usual procedure for consideration of any bill. After those bills creating new districts have been passed by the Legislature and signed by the Governor, the Kansas Supreme Court must review the new districts to verify their compliance with current law. The requirement for Supreme Court review of legislative district plans is established by the *Kansas Constitution*.

Once the state Senate districts are established, the State Board of Education districts, each one of which is composed of four state Senate districts, are also drawn by the Legislature. Those districts are enacted into law, but are not subject to automatic review by the Kansas Supreme Court.

Seats in Congress are apportioned to the states based on the decennial Census utilizing a formula established in federal law. The Kansas Legislature is responsible for establishing the boundaries of the number of congressional districts apportioned to the state.

**Population Base.** Kansas Congressional districts are based on decennial population counts provided by the U.S. Census Bureau as required by the *U.S. Constitution* and the *Kansas Constitution*.

Prior to 2019, the *Kansas Constitution* required districts to be based on adjusted population data. The Secretary of State would adjust population data by subtracting nonresident college and university students and military personnel from the federal Census results and then allocate resident students and members of the military to the place in Kansas they identified as their permanent residence.

In 2019, the Kansas Legislature passed SCR 1605, submitting to electors at the general election in November 2019 an amendment to Article 10, Section 1 of the *Kansas Constitution* to remove the Census adjustment for military personnel and students for the purpose of reapportionment of state senatorial and representative districts. On the November 2019 general election ballot, voters approved of the constitutional amendment removing the adjustment.

**Timing.** The redistricting process, including the constitutionally mandated automatic review by the Kansas Supreme Court, must be completed relatively quickly due to the statutorily established filing deadline for the August 2022 primary election. Redistricting bills are published in the *Kansas Register* immediately upon enactment. Within 15 days of the bill's publication, the Attorney General must petition the Kansas Supreme Court to determine the plan's validity. The Supreme Court has 30 days from the filing of the petition to render its judgment, and per Article 10 of *Kansas Constitution*: "Should the Supreme Court determine that the reapportionment statute is invalid, the Legislature shall enact a statute of reapportionment conforming to the judgment of the Supreme Court within 15 days."

A second redistricting bill also would be subject to Kansas Supreme Court review. In this instance, the Supreme Court would have to enter its judgment within ten days from the filing of the petition by the Attorney General. If the second redistricting bill is invalidated by the Supreme Court, the Legislature would be required to enact a third bill within 15 days of the Supreme Court's

decision. In order to be prepared for the possibility that two plans would be needed to satisfy the Supreme Court, the first plan would need to be passed by both legislative chambers by mid-February. The Supreme Court's judgment on the validity of a plan is final until the next scheduled redistricting.

New legislative districts are effective for the following legislative election and remain until again reapportioned. The June filing deadline for the August primary thus creates an effective end date for validation of new legislative districts.

Appointed by the Legislative Coordinating Council, the Redistricting Advisory Group (Advisory Group) works with legislative staff and conducts initial planning in the years leading up to redistricting. The Advisory Group met on three days during the 2021 Interim.

## COMMITTEE ACTIVITIES

### May 17, 2021, Meeting

The Advisory Group met on May 17, 2021, to hear informational presentations from legislative staff and to discuss possible future actions.

### Town Hall Meetings

Kansas Legislative Research Department (KLRD) staff discussed the redistricting town hall meetings that were held in 2011 by the Special Committee on Redistricting. Staff stated the Advisory Group would need to consider whether to hold similar meetings, which committees would hold the meetings, which members would be paid to attend, where to hold those meetings, whether a virtual option would be offered, and how meetings would be implemented.

### Redistricting Legal Guidelines

Office of Revisor of Statutes staff discussed proposed redistricting guidelines and criteria. The staff discussed the allowable deviations for state legislative and congressional districts and the reasons for the requirements.

KLRD staff discussed the 2020 population of Kansas as determined for congressional apportionment. The staff stated Kansas did not

gain or lose a congressional seat, and also noted the ideal population for state legislative and congressional districts.

### ***Technical Guidelines***

KLRD staff discussed technical committee rules and considerations for the Advisory Group. The staff explained the role of KLRD in the redistricting process and how maps become legislative bills. Staff stated the Advisory Group would need to consider metrics for creation of maps, including whether to make past election results and legislator home addresses available in the mapping software.

### ***Mapmaking Process***

Office of Revisor of Statutes staff discussed the basis of State Board of Education (State Board) maps being state Senate districts, with each State Board district being composed of four Senate districts.

KLRD staff stated the mapmaking software will be Maptitude by Caliper and noted the budget allows for one license and one dedicated computer per caucus.

### ***Next Steps***

Advisory Group members discussed the timing of potential town hall meetings with regard to the delivery of Census data.

### ***July 7, 2021, Meeting***

The Advisory Group met on July 7, 2021, to take action concerning redistricting town hall meetings.

During the meeting, a motion was adopted to approve 14 in-person town hall meetings to be held at the same locations as the 2011 redistricting town hall meetings; authorize the meetings to be streamed online; allow committee member participation remotely; and receive both in-person and written testimony.

A second motion was adopted to approve compensation for any member of the standing House and Senate redistricting committees, as well as for any leadership member of the Legislature

not on either standing committee, for any town hall meeting the member chose to attend.

The Chairperson stated the motions provided authority for the standing committees to move forward with planning the meetings.

### ***December, 17, 2021, Meeting***

The Advisory Group met on December 17, 2021, to take action on certain items related to the redistricting process.

### ***Mapmaking Process***

KLRD staff discussed various decision points with the Advisory Group concerning the mapmaking process. The Advisory Group made recommendations on the submission of maps, legislative sponsorship, map requirements, the timing of technical review of maps, submission of State Board maps, available data layers, amendments, public access of maps, and allowable deviation of maps.

### ***Redistricting Guidelines***

Office of Revisor of Statutes staff discussed proposed redistricting legal guidelines, including parameters for map construction and the allowable deviation for each type of map.

The Advisory Group recommended adoption of the guidelines as presented.

### ***Technical Committee Rules***

KLRD staff discussed proposed Technical Committee Rules, including parameters for submission of maps to KLRD.

The Advisory Group recommended adoption of the Technical Committee Rules as presented.

## **CONCLUSIONS AND RECOMMENDATIONS**

The Advisory Group adopted the following recommendations.

### **Redistricting Town Hall Meetings**

The Advisory Group recommends:

- Fourteen in-person town hall meetings be held at the same locations as the 2011 redistricting town hall meetings [*Note:* These meetings occurred in August 2021];
- Online streaming of the meetings be provided;
- Allowing members to participate remotely; and
- The Advisory Group receive both in-person and written testimony.

### **Mapmaking Process**

The Advisory Group recommends:

- Requiring a legislative sponsor for maps submitted by outside individuals and organizations;
- Requiring submitted maps to include districts for the entire state rather than allowing maps to be drawn of individual districts;
- Requiring maps submitted for review to undergo technical review by KLRD before being considered by a standing committee;
- Placing all redistricting plans submitted to any legislative committee and any plans submitted to KLRD from a non-legislator on the public record;
- Requiring plans for the State Board districts to be built upon state Senate districts enacted during the 2022

Legislative Session with four contiguous state Senate districts comprising each State Board district;

- Allowing the following data layers to be available to legislators and staff: home seat, population, voter registration, election results, and demographic information;
- Designating caucus redistricting staff members as responsible for the caucus’s redistricting laptop, and allowing those staff members to take laptops off-site;
- Requiring all amendments to be a “gut and go” to avoid mapping issues;
- Providing digital access to maps on the Legislature’s website;
- Setting the allowable deviations for Congressional maps to be as numerically equal in population as practicable; and
- Setting the allowable deviations for state House or Senate districts to be within a range of plus or minus five percent.

### **Redistricting Guidelines**

The Advisory Group adopted the Proposed Guidelines and Criteria for 2022 Congressional and State Legislative Redistricting, as presented.

### **Technical Committee Rules**

The Advisory Group adopted the Technical Committee Rules, as presented.