

Committee Reports to the 2023 Kansas Legislature

KLRD

*Providing objective research and fiscal
analysis for the Kansas Legislature*

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

**Kansas Legislative Research Department
January 2023**

2022 Legislative Coordinating Council

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**Special Committees;
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Special Committee on Education
Special Committee on Intellectual and Developmental Disability Waiver
Modernization
Special Committee on Medical Marijuana
Special Committee on State Employee and Board Member Compensation
Special Committee on Taxation
Special Committee on Water
Special Committee on Workforce Development

Joint Committee on Corrections and Juvenile Justice Oversight
Joint Committee on Fiduciary Financial Institutions Oversight
Joint Committee on Information Technology
Joint Committee on Kansas Security
Joint Committee on Pensions, Investments and Benefits
Joint Committee on State Building Construction

Capitol Preservation Committee
Health Care Stabilization Fund Oversight Committee
Kansas Senior Care Task Force
Legislative Task Force on Community and Technical College State Funding



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Foreword

In the 2022 Interim, the Legislative Coordinating Council appointed eight special committees to study ten study topics and authorized meetings of one special committee and one task force created pursuant to provisions in one of the 2022 appropriations bills (House Sub. for Sub. for SB 267 and HB 2510). Legislation recommended by the committees will be available in the Documents Room early in the 2023 Session. Such legislation will also be available on the Kansas Legislature's website at: <http://kslegislature.org/li/>.

Joint committees created by statute met in the 2022 Interim as provided in the statutes specific to each joint committee. Several of the joint committees have reported on their activities, and those reports are contained in this publication. Legislation recommended by these committees will be available in the Documents Room early in the 2023 Session. Such legislation will also be available on the Kansas Legislature's website at: <http://kslegislature.org/li/>.

This publication also contains reports of other committees, commissions, and task forces that are not special committees created by the Legislative Coordinating Council or joint committees. Reports of the following are not contained in this publication and will be published in a supplement:

Special Committee on Mental Health Beds
Joint Committee on Child Welfare System Oversight
Robert G. (Bob) Bethell Joint Committee on Home and Community Based Services and
KanCare Oversight
Legislative Budget Committee

Minutes of the meetings of the special committees, joint committees, other committees, commissions, task forces, and panels are on file in the Division of Legislative Administrative Services. A summary of each reporting entity's conclusions and recommendations may be found beginning on page ix.

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Summary of Conclusions and Recommendations

Special Committee on Education

The Committee reviewed the current status of special education funding in Kansas and possible alternatives to current funding methods. The Committee made no formal recommendations to the 2023 Legislature.

Special Committee on Intellectual and Developmental Disability Waiver Modernization

The Committee made recommendations regarding the development of a Community Support Home and Community Based Services (HCBS) Waiver to serve individuals with intellectual and developmental disabilities (I/DD) needing fewer services and supports than those provided on the existing Comprehensive I/DD Waiver. The Committee also recommended the Kansas Department for Aging and Disability Services and the Kansas Department of Health and Environment continue to study strengths-based assessments and identify a process to prevent individuals being removed from the autism proposed recipient list without notification. The Committee also recommended support for the transition of the Medicaid managed care system from the 1115 waiver to the 1915(b) waiver.

Special Committee on Medical Marijuana

The Committee made a recommendation to the 2023 Legislature to consider the information and perspectives provided to the Committee when it considers medical marijuana legislation and to specifically consider information and perspectives on: expungement; laboratory testing; licensing program suggestions; treatment in correctional facilities; methods of administration and qualifying conditions; physician issues; tracking systems; taxes; and workers' compensation.

Special Committee on Mental Health Beds

The Committee recommended the State Finance Council release the \$15.0 million appropriated to the Kansas Department for Aging and Disability Services, and the funds be used to open a new state hospital with up to 50 beds, in an area with room for future expansion. The Committee also recommended funds be appropriated to reimburse hospitals for care of individuals awaiting transfer to a state hospital, that options are explored to maximize federal funds for behavioral health care, and that options are explored to use technology to reach individuals in crisis.

Special Committee on State Employee and Board Member Compensation

The Committee recommended the Legislature adopt a consistent compensation philosophy that recognizes both equity and competitiveness. The Committee also made recommendations

regarding increasing board member compensation, raising employee compensation to market rates, recruitment and referral bonuses, regional pay adjustment, state agency recruitment techniques, and eliminating excess positions.

The Committee also recommended the Kansas Public Employees Retirement System (KPERS) study the cost to restore KPERS Tier 2 and roll all current Tier 3 employees into Tier 2.

Special Committee on Taxation

The Committee made recommendations related to the income taxation of Social Security benefits and retirement income; Kansas' participation in the Streamlined Sales and Use Tax Agreement and sales and use tax equity; statutory and constitutional requirements for property tax valuation uniformity; and repealing unused and expired tax provisions.

Special Committee on Water

The Committee did not make any formal recommendations, but did request additional information regarding funding water agencies and programs by utilizing 0.1 percent of state sales and use taxes and assessing a water bottle fee of \$.04 per bottle of water sold in Kansas.

Special Committee on Workforce Development

The Committee made recommendations regarding child care, migration into the state, licensure, marijuana, postsecondary education, re-entry of ex-offenders, and other topics in order to increase workforce availability and participation in Kansas.

Joint Committee on Child Welfare System Oversight

The Committee proposed legislation to amend the Newborn Infant Protection Act to include an option of surrendering an infant to an "infant refuge bassinet," as defined by the legislation, also known as a baby box.

The Committee made a number of additional recommendations related to improving the child welfare system, including the introduction of legislation considered in previous sessions as well as exploring new legislation; appropriating additional funding for Safe Families for Children programs, for community mental health centers to develop programming in Boys and Girls Clubs statewide, and for local court-appointed special advocate (CASA) programs; encouraging law enforcement to develop best practices to minimize emotional harm to a child when a child must be removed from a home; encouraging local CASA programs to enhance efforts to recruit and approve minority advocates; and directing this Committee to review certain relevant data and reports.

Joint Committee on Corrections and Juvenile Justice Oversight

The Committee requested the introduction of four bills: a bill that would prohibit the physical restraint of juveniles in court appearances unless deemed appropriate by the court; a bundled bill that would name the Committee in honor of Representative J. Russell (Russ) Jennings, amend KSA 46-2801(k)(2) to require the Committee to monitor the implementation of juvenile justice reform and the work of the juvenile justice oversight committee, and delete references to the defunct Juvenile Justice Authority; a bill concerning expungement; and a bundled bill named the Representative Gail Finney Foster Care Bill of Rights that includes the Foster Youth Bill of Rights and Foster Parent Bill of Rights.

The Committee made recommendations related to: allowing all Kansas Department of Corrections employees to be included in the Kansas Public Employees Retirement System Corrections Plan; eliminating fines and fees for justice-involved youth to include expungement fees set by each county; review of the “Stand Your Ground” laws; the risk of putting an individual who is known to have COVID-19 in a prone position; reintroduction of 2022 HB 2581 concerning offender registration; requesting the Secretary for Children and Families to report on the progress of the juvenile crisis intervention center law to certain House and Senate Committees by February 1, 2023; community corrections staffing; and support of the refiling of 2022 HB 2575 regarding criminal record expungements.

Joint Committee on Fiduciary Financial Institutions Oversight

The Committee submitted comments and recommendations regarding amendments to the Technology-enabled Fiduciary Financial Institutions (TEFFI) Act and related provisions addressing charitable organizations. The Committee recommends introduction of two bills to address topics identified by the Office of the State Bank Commissioner and the fiduciary financial institution, Beneficient. The Committee also recognized the completion of the application process for the TEFFI, commencement of fidfin transactions, conclusion of the FidFin pilot program, and initial examinations. The Committee further recommended its report be directed to the standing committees on financial institutions for consideration, in consultation with the TEFFI and regulatory agency, of any changes to the TEFFI Act deemed necessary to continue and enhance oversight and conduct of fiduciary financial institution operations in Kansas.

Joint Committee on Information Technology

The Committee made recommendations related to the introduction of legislation regarding the definition of information technology projects, the Information Technology Executive Council (ITEC), and the establishment of a cybersecurity committee similar to the Unemployment Compensation Modernization and Improvement Council. The Committee also recommended increased collaboration between the State and the Air National Guard as well as between the Kansas State Department of Education and school districts.

Joint Committee on Kansas Security

The Joint Committee on Kansas Security (Committee) recommends the Legislature review the overall amount provided for K-12 school safety and security and how funding to specific districts is determined and authorize school safety and security grants to pay for communications systems.

The Committee expresses its support for replicating the efforts of the Kansas Bureau of Investigation Northeast Child Victim Task Force in other parts of the state.

The Committee recognizes concerns regarding the effects of the renovation of the Docking State Office Building on Kansas Highway Patrol operations. It expresses appreciation to the Department of Administration for providing appropriate temporary facilities.

Joint Committee on Pensions, Investments and Benefits

The Committee made recommendations, which include establishment of a joint Select Committee to evaluate Kansas Public Employees Retirement System (KPERS) Tier 3 to determine if it is fulfilling its intended purpose; possible Legislative Division of Post Audit performance audit topics of working after retirement, Kansas Police and Firemen's coverage for KPERS corrections members, and KPERS cost of living adjustments (COLAs); and paying down the KPERS unfunded actuarial liability with surplus State General Fund resources. The Committee also recommended the introduction of legislation to remove the statutory cap of 15.0 percent on alternative investments and delegate that authority to the KPERS Board of Trustees and to reintroduce the provisions of 2022 HB 2612 that provide a self-funded COLA option for new retirees that is similar to the existing option provided for Tier 3 members.

Joint Committee on State Building Construction

The Committee made recommendations regarding the Kansas Bureau of Investigation annual rehabilitation and repair budget, the on-call construction contract limit, appropriations for the Correctional Institutions Building Fund, and increasing the minimum amount for a project to require a bid.

Legislative Budget Committee

The Legislative Budget Committee recommended the Legislative Coordinating Council recommend the State Finance Council approve the transfer of an additional \$107.9 million in federal funds from the Legislative Employment Security Fund to the Employment Security Fund of the Department of Labor (Unemployment Trust Fund). This transfer is in addition to the \$250.0 million transferred to the Unemployment Trust Fund in FY 2022, for a total of \$357.9 million.

The Legislative Budget Committee also recommended that the House Committee on Appropriations and the Senate Committee on Ways and Means consider providing additional

funding to the Budget Stabilization Fund, and consider reevaluating investment priorities for the \$167.0 million remaining in the Legislative Employment Security Fund that may be recouped and reallocated from other purposes.

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

The Committee made recommendations regarding Program of All-inclusive Care for the Elderly (PACE), funding for targeted case management and Centers for Independent Living, the Specialized Medical Care (SMC 1000) rate, the Mental Health Intervention Team, temporary licensure for social workers, and a Committee bill on insulin administration. The Committee also made recommendations regarding a Dementia and Alzheimer's Disease Coordinator position, certified community behavioral health clinics, covering dentures under KanCare, interpreter services available through KanCare. The Committee further recommended including a statement regarding the Kansas Department for Aging and Disability Services not enforcing recently enacted home health regulations that have created concerns until the concerns are resolved.

The Committee recommended introduction of Committee bills regarding the existing statutory Children's Health Insurance Program eligibility threshold percentage, the expiration of the temporary nurse aide authority to provide direct care services, and the reduction of the hours required for certified nurse aide certification.

Capitol Preservation Committee

The Committee recommended a legislator request legislation to be drafted to complete *Ad Astra Plaza* on Statehouse grounds and to authorize installation of a mural honoring the 1st Kansas Colored Voluntary Infantry Regiment in the Statehouse. The Committee also recommended that the League of Women Voters Kansas select a site for the Suffragist Memorial and move forward on the request for proposal process.

Health Care Stabilization Fund Oversight Committee

The Committee continues in its belief the Committee serves a vital role as a link among the HCSF Board of Governors, the health care providers, and the Legislature and should be continued. Additionally, the Committee recognizes the important role and function of the HCSF in providing stability in the professional liability insurance marketplace, which allows for more affordable coverage to health care providers in Kansas.

The Committee submitted recommendations pertaining to the reports submitted by the Board of Governors, the impact and implementation associated with 2021 law, HCSF investment policy, conditions in the insurance marketplace, the impact of the COVID-19 pandemic with specific concern for adult care homes and medical care facilities, and the purpose of the HCSF.

Kansas Senior Care Task Force

The Task Force recommended the 2023 Legislature take action on Tier 1 Recommendations outlined in the Senior Care Task Force Working Groups Report on topics such as a statewide conference on aging; person-centered planning; creating a Rural Health Care Coalition for Aging Services; geriatric psychiatric prescribers; adding non-nursing professionals to adult care home survey teams; reinstating the State Aging Advisory Council; establishing a Dementia and Alzheimer’s Disease Coordinator; housing options for older adults; expansion of the Program for All-Inclusive Care for the Elderly; reimbursement rates for providers; one-time-only service caps; a new Elder Count Book; worker pay; and instructor pay and benefits.

Legislative Task Force on Community and Technical College State Funding

The Task Force made recommendations regarding calculation of funding distributions for tiered and non-tiered education state aid, the statutory definition of “new state money” as it relates to performance agreements, a new performance agreement process to incentivize larger goals, the Excel in Career Technical Education Initiative (SB 155) program, auditing of data submitted by colleges for cost model calculation, residency requirements for technical colleges, reappropriation authority for the tiered and non-tiered funding line items, and allowing the transfer of moneys between tiered and non-tiered accounts. Additionally, the Task Force recommended the Legislature ensure that the recentering of tiered and non-tiered education state aid funding occur as required in 2022 House. Sub. for Sub. for SB 267.

Report of the Special Committee on Education to the 2023 Kansas Legislature

CHAIRPERSON: Representative Kristey Williams

VICE-CHAIRPERSON: Senator Molly Baumgardner

OTHER MEMBERS: Senators Renee Erickson, Beverly Gossage, Alicia Straub, and Dinah Sykes; and Representatives Susan Estes, Kyle Hoffman, Jarrod Ousley, Adam Thomas, and Valdenia Winn

STUDY TOPIC

The Committee is directed to:

- Review special education needs and expenditures, including:
 - Special education funding and how funding is distributed;
 - Current statutory requirements of special education;
 - The current excess cost calculation methodology;
 - Costs for regular and special education as reported by districts;
 - Requirements for students to qualify for special education;
 - Special education funding methodology in other states; and
 - Resources provided to special education students after graduation.

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Special Committee on Education

REPORT

Conclusions and Recommendations

The Special Committee on Education discussion focused on the review of the current status of special education funding in Kansas and the review of possible alternatives to current funding methods.

The Committee made no formal recommendations to the 2023 Legislature, but the Chairperson presented four possible funding methods for special education:

- Increasing State Funding to 92.0 percent statewide;
- Shifting funding above constitutional requirements to special education;
- Amending KSA 72-3422 in the Kansas Special Education for Exceptional Children Act (SEECA) regarding special education state aid; and
- Reestablishing the Special Education Funding Taskforce with changes to its authorizing statute, KSA 72-3441 in SEECA.

[*Note:* The Chairperson requested Committee members submit their thoughts and preferences regarding those funding alternatives. Five members provided responses to staff. All responses recommended exploring the third option (amending KSA 72-3422), with one member also recommending the first option (increasing State Funding), and four members also recommending the fourth option (reestablishing the Special Education Funding Taskforce).]

Proposed Legislation: None.

BACKGROUND

In 2022, the Legislative Coordinating Council (LCC) appointed the Special Committee on Education (Committee), composed of 11 members.

The Committee was directed by the LCC to review special education needs and expenditures, including special education funding and how funding is distributed; current statutory requirements of special education; the current excess cost calculation methodology; costs for regular and special education as reported by districts; requirements for students to qualify for special education; special education funding methodology in other states; and resources

provided to special education students after graduation.

COMMITTEE ACTIVITIES

The Committee met on November 10, 2022. The Committee heard testimony on several topics focusing on special education (SPED) funding.

Special Education Overview

A Kansas Legislative Research Department (KLRD) Fiscal Analyst presented an overview of SPED with a focus on funding, including current federal and state law concerning the process to determine how many students require SPED and

related services. The analyst explained that the first step is determining the category of exceptionality the student has, and the second step includes matching services to the child's exceptionality and needs. The analyst also provided an overview of Individual Education Plans (IEPs), including how an IEP is developed and what it must include. Data was provided detailing the number of students in each of the 14 categories of disability outlined in federal and state law, as well as data pertaining to SPED funding for the past 10 years. In response to questions from Committee members, the analyst provided answers regarding how a child is identified as having an exceptionality and how student populations have changed over time.

Special Education Statute Overview

An Assistant Revisor of Statutes from the Office of the Revisor of Statutes reviewed background information on the federal Individuals with Disabilities Act (IDEA) and the Kansas Special Education for Exceptional Children Act (SEECA) [KSA 72-3403 through 72-3441].

The assistant revisor highlighted differences between IDEA and SEECA and noted that the *Kansas Constitution* does not include SPED policy. A Committee member asked whether the most recent *Gannon* decision agreed that the 92.0 percent reimbursement rate for excess costs was adequate, and the assistant revisor stated that the excess costs were adequate as part of the overall funding scheme, but the court maintained jurisdiction.

Current Special Education Funding

A KLRD Fiscal Analyst reviewed how SPED funding is calculated in Kansas and presented data on historical SPED funding as well as expected funding in coming fiscal years. The analyst noted the federal government sets the goal of funding SPED nationwide at the maximum of 40.0 percent of the national average per pupil expenditures for elementary and secondary education. It was also noted that Kansas sets the reimbursement rate for SPED excess costs at 92.0 percent.

A period of questions followed with a focus on federal SPED funding and estimated teacher additions during the consensus school finance estimating process.

Materials from the Fiscal Analyst's presentation can be found in the Appendix:

- Estimated Special Education Excess Costs FY 2023 and FY 2024;
- Historic Consensus Caseloads Estimates; and
- Headcount of Special Education Students and Headcount of All Students FY 2003–FY 2022.

Excess Costs

A Deputy Commissioner of the Kansas State Department of Education (KSDE) provided testimony regarding SPED funding and excess costs. He noted 86.0 percent of SPED funding is used for teacher entitlements (salaries). The deputy commissioner also noted costs for SPED vary by district, based on student needs.

He also noted the difference between the full-time equivalent (FTE) student amount calculation and the student headcount number and discussed requirements for SPED teachers and paraprofessionals (paras). SPED teachers and paras must also be licensed and have a time and effort log with a percentage of time spent on SPED. He described how SPED state aid is calculated for individual districts and described how this aid is distributed in terms of timing and calculations. He presented data on remaining funds for SPED expenditures from the federal Elementary and Secondary School Emergency Relief (ESSER) grants: \$2,087 from ESSER I and \$9.0 million from ESSER II.

A representative of the Kansas Policy Institute provided testimony regarding excess costs and SPED funding. He stated SPED students are eligible for weightings in addition to SPED funding. He also noted school districts have increased SPED cash reserves over the past few years and said the Legislative Division of Post Audit should conduct an audit of all SPED expenditures.

Testimony was also provided by a representative of the Kansas Association of School Boards, who noted that one in six students in

Kansas benefit from SPED services and Kansas ranks in the top five of states for SPED student graduation rates. It was also noted that the Division of Post Audit previously found that SPED is underfunded in Kansas. The Director of Special Education of the West Central Kansas Special Education Cooperative also provided testimony with a focus on the experience of providing SPED services to rural schools and how SPED cooperatives function.

Discussion on Possible Alternatives to Current Special Education Funding Methods

The Director of Legislative Research, KLRD, provided consensus school finance estimates related to education enrollment and school finance. He stated inflation is a primary contributing factor to the increase in SPED expenditures and education expenditures generally in coming fiscal years. The three-year average inflation estimates for Base State Aid increases are estimated at 5.3 percent for FY 2024, at 6.24 percent for FY 2025, and at 4.82 percent for FY 2026.

The Director noted these are true estimates. He stated the low inflation year is dropping off, so it is estimated costs will rise in FY 2025. In FY 2023 the base rate is \$4,846, it is estimated to be \$5,103 in FY 2024, and it is estimated to be \$5,421 in FY 2025. He stated excess costs will continue to rise, and this will reduce the percentage of SPED funding.

The Committee reviewed and discussed the following possible alternatives to the current funding model for special education:

- Increasing State Funding to 92.0 percent statewide;
- Shifting funding above constitutional requirements to special education;
- Amending KSA 72-3422 in SEECA regarding special education state aid; and
- Reestablishing the Special Education Funding Taskforce with changes to its authorizing statute, KSA 72-3441 in SEECA.

Conclusions and Recommendations

The Committee made no formal recommendations to the 2023 Legislature, but the Chairperson asked for Committee members to provide their recommendations for the possible funding alternatives.

Five members provided responses to staff. All responses recommended exploring the third option (amending KSA 72-3422), with one member also recommending the first option (increasing State Funding) and four members also recommending the fourth option (reestablishing the Special Education Funding Taskforce).

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Estimated Special Education Excess Costs FY 2023 and FY 2024

FY 2023 Estimate			
FY 2022 Actual Expenditures	\$1,059,884,948		
Increase based on average teacher salary increase and estimated total expenditure increases (FY 2022 Actual Exp. multiplied by estimated % increase)	+ 34,446,261	Percent change (Increase in existing SPED costs)	3.25%
Increase for additional teachers and paraprofessionals	+ 13,126,620	Added teachers & paraprofessionals:	195 * \$67,316
Estimated Total FY 2023 Expenditures	\$1,107,457,829		
Excess Cost Computation:			
Projected Total Expenditures	\$1,107,457,829		
Less Average Per Pupil Cost of Regular Ed (\$8,150) multiplied by special education FTE pupils excluding State Hospital residents (29,000)	- 236,350,000		
Less Federal Aid	- 132,442,353		
Less Medicaid Reimbursements	- 53,536,207		
Less State Hospitals Administrative Costs	- 300,000		
FY 2023 Excess Costs	\$ 684,829,269		
FY 2023 Excess Costs Approved	\$ 520,519,379	76.0% Excess Costs	
State Aid at 92% Excess Costs	630,042,927		
Shortfall from 92% Excess Costs	(109,523,548)		

FY 2024 Estimate			
FY 2023 Estimate	\$1,107,457,829		
Increase based on average teacher salary increase and estimated total expenditure increases (FY 2023 est. exp. Multiplied by estimated % increase)	+ 47,066,958	Percent change (Increase in existing SPED costs)	4.25%
Increase for additional teachers and paraprofessionals	+ 14,035,386	Added teachers & paraprofessionals:	200 * \$70,177
Estimated Total FY 2024 Expenditures	\$1,168,560,173		
Excess Cost Computation:			
Projected Total Expenditures	\$1,168,560,173		
Less Average Per Pupil Cost of Regular Ed (\$8,550) multiplied by special education	- 250,515,000		
Less Federal Aid	- 105,000,000		
Less Medicaid Reimbursements	- 48,309,179		
Less State Hospitals Administrative Costs	- 300,000		
FY 2024 Excess Costs	\$ 764,435,994		
FY 2024 Excess Costs Allocated	\$ 520,380,818	68.1% Excess Costs	
State Aid at 92% Excess Costs	703,281,114		
Shortfall from 92% Excess Costs	(182,900,296)		

Date of Consensus Education Meeting (KSDE, DOB, KLRD): October 26, 2022

Kansas Legislative Research Department

11/9/2022

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Historical Consensus Caseloads Estimates

	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
Actual Expenditures for Previous Year *	\$ 768,877,370	\$ 773,590,853	\$ 790,577,520	\$ 814,999,758	\$ 837,451,472
Estimated Percent Change	1.5%	1.0%	2.5%	1.0%	2.5%
<i>Estimated Increase:</i>	<i>+</i> 11,533,161	<i>+</i> 7,735,909	<i>+</i> 19,764,438	<i>+</i> 8,149,998	<i>+</i> 20,936,287
Estimated Additional Teachers and Paras *	25	25	75	25	100
Estimated Average Salary for Teachers and Paras	62,576	62,521	62,104	25,725	63,385
<i>Estimated Increase for Additional Teachers and Para Salaries:</i>	<i>+</i> 1,564,400	<i>+</i> 1,563,025	<i>+</i> 4,657,800	<i>+</i> 1,568,125	<i>+</i> 6,338,500
Estimated Total Expenditures	\$ 781,974,931	\$ 782,889,787	\$ 814,999,758	\$ 814,999,758	\$ 864,726,259

Excess Cost Computation:

Average Per Pupil Cost of Regular Education * Unweighted SPED FTEs	\$ 6,711	\$ 6,540	\$ 6,575	\$ 6,640	\$ 6,674
<i>Less Average Cost Per Pupil of Regular Education</i>	<i>-</i> 177,841,500	<i>-</i> 176,959,320	<i>-</i> 172,685,800	<i>-</i> 176,132,640	<i>-</i> 179,343,728
Less Federal Aid	- 154,900,000	104,700,000	102,900,000	102,900,000	104,500,000
Less Medicaid Reimbursements	- 27,000,000	25,000,000	22,300,000	22,300,000	25,600,000
Less State Hospital Administrative Costs	- 300,000	300,000	300,000	300,000	300,000
Estimated FY Excess Costs	\$ 421,933,431	\$ 475,930,467	\$ 519,838,678	\$ 523,085,241	\$ 554,982,531
Approved Special Education State Aid	367,688,843	428,140,397	430,426,426	428,702,584	428,360,566
Percent Excess Costs	87.1%	90.0%	82.8%	82.0%	77.2%

Historical Consensus Caseloads Estimates

	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
Actual Expenditures for Previous Year *	\$ 845,036,304	\$ 843,110,861	\$ 862,481,386	\$ 899,723,699	\$ 966,008,742
Estimated Percent Change	1.0%	1.0%	4.5%	4.0%	4.5%
<i>Estimated Increase:</i>	<i>8,450,363</i>	<i>8,431,109</i>	<i>38,811,662</i>	<i>35,988,948</i>	<i>43,470,393</i>
Estimated Additional Teachers and Paras *	50	50	80	200	300
Estimated Average Salary for Teachers and Paras	65,336	64,980	64,980	66,994	66,994
<i>Estimated Increase for Additional Teachers and Para Salaries:</i>	<i>3,216,800</i>	<i>3,249,000</i>	<i>5,198,400</i>	<i>13,398,800</i>	<i>20,098,200</i>
Estimated Total Expenditures	\$ 856,703,467	\$ 854,790,970	\$ 906,491,448	\$ 949,111,447	\$ 1,029,577,335

Excess Cost Computation:

Average Per Pupil Cost of Regular Education * Unweighted SPED FTEs	\$ 6,898	\$ 6,841	\$ 7,149	\$ 7,230	\$ 7,645
<i>Less Average Cost Per Pupil of Regular Education</i>	<i>186,673,676</i>	<i>184,228,130</i>	<i>197,240,910</i>	<i>223,256,935</i>	<i>223,256,935</i>
Less Federal Aid	105,500,000	105,500,000	104,000,000	106,000,000	106,000,000
Less Medicaid Reimbursements	25,600,000	33,300,000	36,756,516	37,939,756	38,684,720
Less State Hospital Administrative Costs	300,000	300,000	300,000	300,000	300,000
Estimated FY Excess Costs	\$ 538,629,791	\$ 531,462,840	\$ 568,194,022	\$ 602,778,731	\$ 661,335,680
Approved Special Education State Aid	434,902,949	434,128,540	445,981,646	490,380,818	497,894,780
Percent Excess Costs	80.7%	81.7%	78.5%	81.4%	75.3%

Historical Consensus Caseloads Estimates

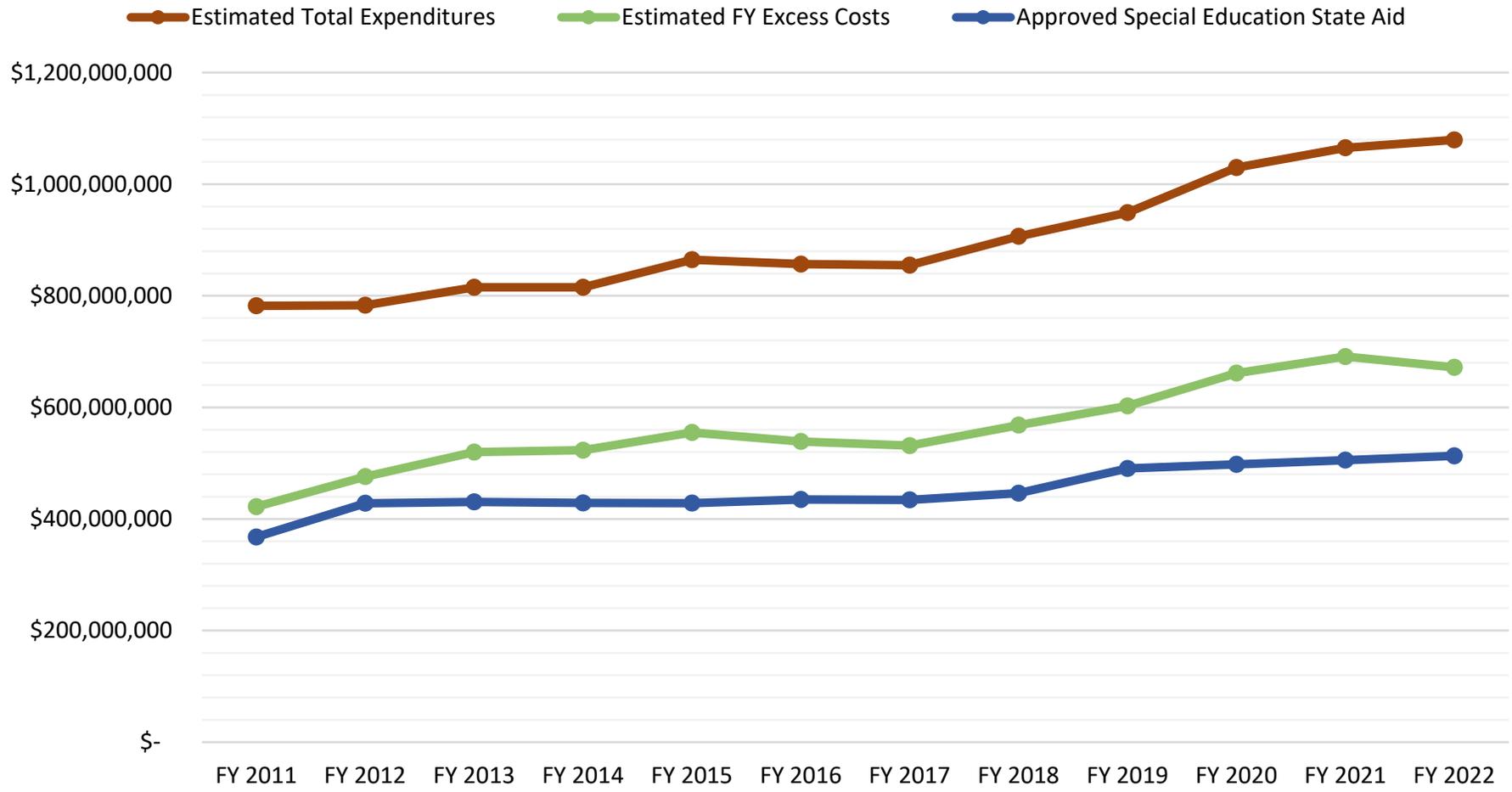
	FY 2021	FY 2022
Actual Expenditures for Previous Year *	\$ 1,009,074,869	\$ 1,017,356,006
Estimated Percent Change	3.5%	4.0%
<i>Estimated Increase:</i>	<i>35,317,620</i>	<i>40,694,240</i>
Estimated Additional Teachers and Paras *	300	300
Estimated Average Salary for Teachers and Paras	69,004	71,074
<i>Estimated Increase for Additional Teachers and Para Salaries:</i>	<i>20,701,200</i>	<i>21,322,200</i>
Estimated Total Expenditures	\$ 1,065,093,689	\$ 1,079,372,446

Excess Cost Computation:

Average Per Pupil Cost of Regular Education * Unweighted SPED FTEs	\$ 7,726	\$ 7,909
<i>Less Average Cost Per Pupil of Regular Education</i>	<i>224,054,000</i>	<i>229,361,000</i>

Less Federal Aid	105,000,000	132,614,188
Less Medicaid Reimbursements	44,692,737	45,312,943
Less State Hospital Administrative Costs	300,000	300,000
Estimated FY Excess Costs	\$ 691,046,952	\$ 671,784,315
Approved Special Education State Aid	505,566,465	513,030,935
Percent Excess Costs	73.2%	76.4%

Historic Education Consensus Caseloads Estimates

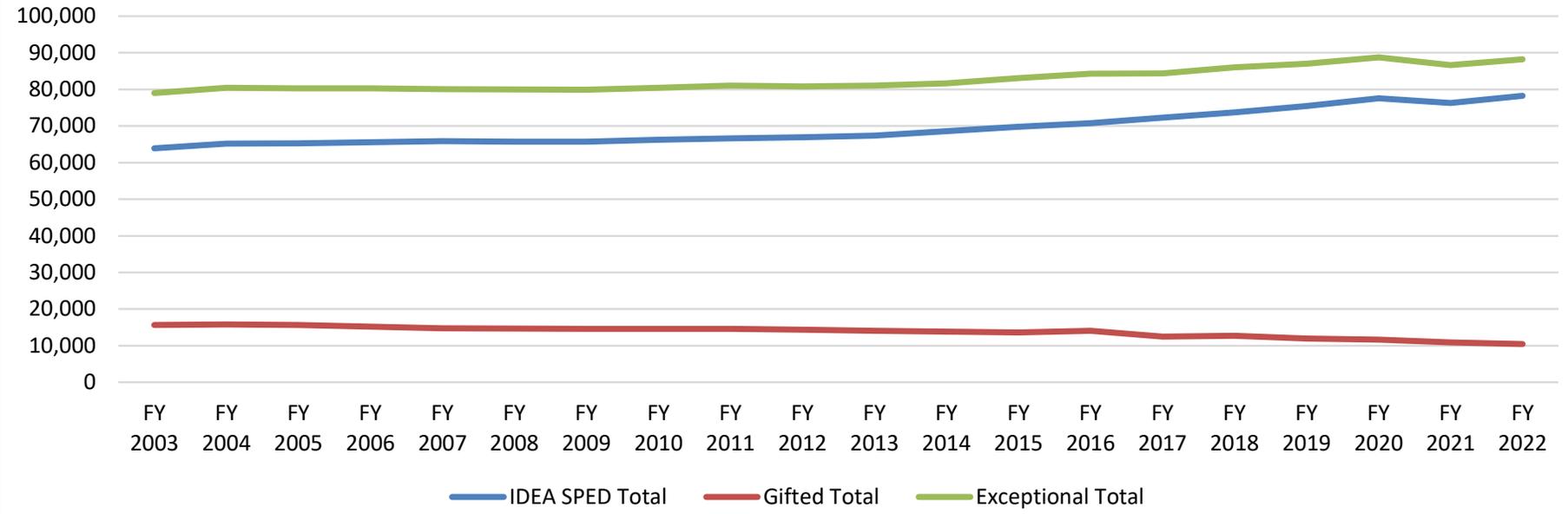


Special Education Student Headcounts, FY 2003- FY 2022																				
	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
IDEA SPED Total	63,909	65,146	65,258	65,595	65,831	65,716	65,730	66,219	66,700	66,901	67,369	68,626	69,845	70,762	72,286	73,729	75,511	77,559	76,283	78,273
Gifted Total	15,658	15,803	15,650	15,203	14,739	14,690	14,592	14,585	14,607	14,363	14,078	13,858	13,608	14,025	12,491	12,736	11,963	11,650	10,845	10,439
Exceptional Total	79,005	80,401	80,301	80,287	80,097	79,927	79,894	80,389	81,064	80,863	81,038	81,672	83,038	84,304	84,366	86,024	87,039	88,751	86,697	88,271

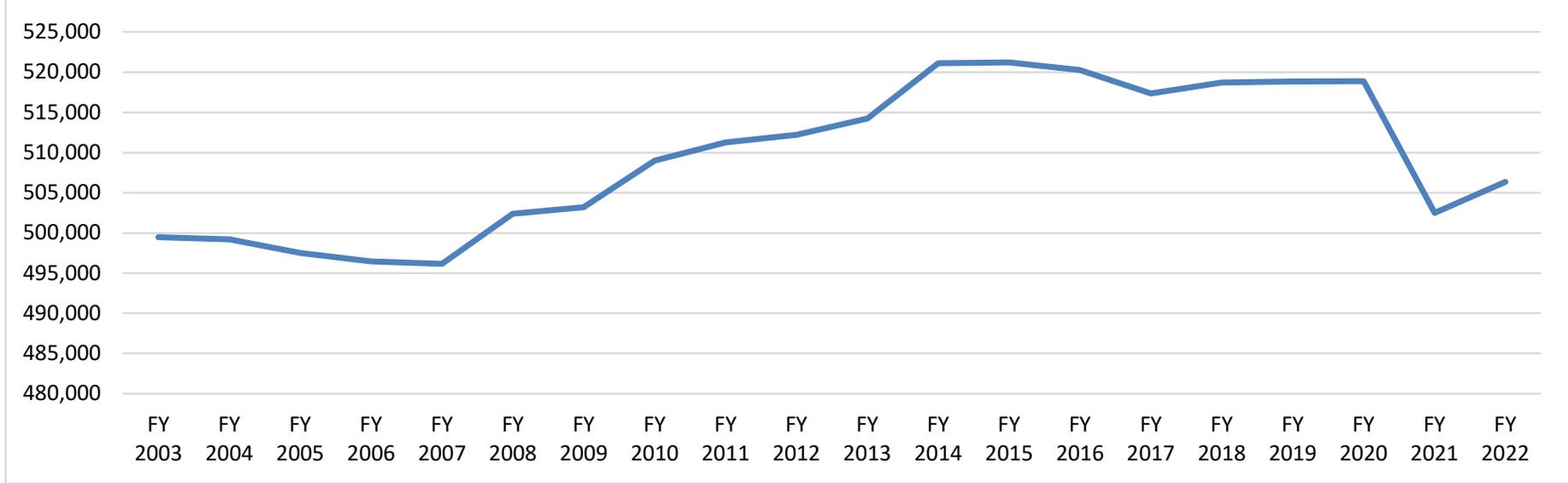
All student Headcounts, FY 2003 - FY 2022																				
	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
Total Headcount Enrollment (all students, including Special Education)	499,458	499,189	497,514	496,490	496,143	502,366	503,229	509,018	511,258	512,201	514,237	521,089	521,208	520,252	517,336	518,712	518,836	518,889	502,492	506,371

Percent Change from Prior Year, All Students and Special Education Students																				
	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
IDEA SPED Total		2%	0%	1%	0%	0%	0%	1%	1%	0%	1%	2%	2%	1%	2%	2%	2%	3%	-2%	3%
Gifted Total		1%	-1%	-3%	-3%	0%	-1%	0%	0%	-2%	-2%	-2%	-2%	3%	-11%	2%	-6%	-3%	-7%	-4%
Exceptional Total		2%	0%	0%	0%	0%	0%	1%	1%	0%	0%	1%	2%	2%	0%	2%	1%	2%	-2%	2%
Total Headcount Enrollment (all students, including Special Education)		0%	0%	0%	0%	1%	0%	1%	0%	0%	0%	1%	0%	0%	-1%	0%	0%	0%	-3%	1%

Special Education Enrollment FY 2003- FY 2022



Total Headcount Enrollment (All Students, including Special Education)



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Report of the Special Committee on Intellectual and Developmental Disability Waiver Modernization to the 2023 Kansas Legislature

CHAIRPERSON: Representative Will Carpenter

VICE-CHAIRPERSON: Senator Richard Hilderbrand

OTHER MEMBERS: Senators Molly Baumgardner, Tom Hawk, Carolyn McGinn, and Mike Thompson; and Representatives Barbara Ballard, John Barker, Bill Clifford, Brenda Landwehr, and Susan Ruiz

STUDY TOPIC

The Committee is directed to:

- Review and recommend options to modernize the Intellectual and Developmental Disability (I/DD) Waiver and its structure in an attempt to address the I/DD Waiver waitlist and workforce struggles and utilize a working group structure similar to the 2021 Special Committee on Kansas Mental Health Modernization Reform that is facilitated by an independent third party organization. [*Note:* The Legislative Coordinating Council authorized the Special Committee on Home and Community Based Services I/DD Waiver to meet during the 2021 Interim. Utilization of the working group structure was one of that committee's key recommendations.]

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Special Committee on Intellectual and Developmental Disability Waiver Modernization

REPORT

Conclusions and Recommendations

The Special Committee on Intellectual and Developmental Disability Waiver Modernization (Committee) generally agreed the State should pursue a Community Support Waiver (CSW). Therefore, the Committee recommends:

- The Kansas Department for Aging and Disability Services (KDADS) provide a fiscal impact statement for each service discussed by the Committee for possible inclusion in the CSW;
- A \$20,000 annual individual cap be placed on the CSW;
- The Executive Branch transition the Medicaid managed care system from a 1115 waiver to a 1915(b) waiver;
- KDADS provide an estimate on the number of individuals likely to request self-determination;
- The Kansas Department of Health and Environment (KDHE) and KDADS continue to study strengths-based assessments, such as the Supports Intensity Scale or the Medical Functional Eligibility Instrument (MFEI), as alternatives to the deficit-based BASIS assessment tool for the Home and Community Based Services Intellectual and Developmental Disability Waiver, with the acknowledgment that the University of Kansas is still working on the financial portion of the MFEI assessment used to determine funding levels;
- The CSW include individual budget authority across all services; and
- KDHE and KDADS identify a process to prevent children from being removed from the Autism Waiver proposed recipient list without notification.

Proposed Legislation: None.

BACKGROUND

The 2021 Special Committee on Home and Community Based Services (HCBS) Intellectual and Developmental Disability (I/DD) Waiver included a recommendation in its report to the 2022 Legislature that the Legislative Coordinating Council (LCC) consider approving a task force or

committee, with a similar structure to the 2020 and 2021 Special Committees on Kansas Mental Health Modernization and Reform, to study modernization of the HCBS I/DD Waiver. The Chairperson of the 2021 Special Committee on HCBS I/DD Waiver requested the LCC appoint a 2022 interim committee to review and recommend options to modernize how the I/DD waiver could

be restructured in an attempt to address the I/DD waiver waitlist and the workforce struggles, and further requested authorization to utilize a working group structure similar to the 2021 Special Committee on Kansas Mental Health Modernization and Reform, to be facilitated by an independent third-party organization.

The Special Committee on I/DD Waiver Modernization (Committee) was granted three meeting days by the LCC and met September 28, October 13, and November 1, 2022, at the Statehouse.

COMMITTEE ACTIVITIES

The Committee's three meetings focused on an overview of national and other states' information regarding modernizing the HCBS I/DD Waiver; public testimony regarding concerns of the I/DD population; input from Roundtable members on areas to be addressed to meet the needs of the I/DD population; and a review of proposed items for inclusion in a Community Support Waiver (CSW) provided by Roundtable/Working Group members for the Committee's consideration.

September 28 Meeting

Background Information

At the September 28 meeting, the Committee received background information on the HCBS I/DD waivers employed by each state, the services provided to the I/DD population, the authorizing section of the Social Security Act, and each state's waitlist from Kansas Legislative Research Department (KLRD) staff. KLRD staff also provided in-depth information on the purpose, eligibility requirements, and waitlist for I/DD waivers in select states recommended for further review by InterHab, the Kansas Council on Developmental Disabilities (KCDD), the Kansas Department for Aging and Disability Services (KDADS), and other stakeholders. Additionally, KLRD staff provided a document tracing the history of the Kansas I/DD waitlist from January 2013 to July 2022 and HCBS I/DD Waiver expenditures for FY 2012 to FY 2023.

State I/DD Waiver Modernization Considerations

A representative of the Kansas University Center on Developmental Disabilities (KUCDD) and the State of the States in Intellectual and Developmental Disabilities Longitudinal Data Project of National Significance reviewed national information regarding modernizing the HCBS I/DD Waiver, including funding data over the past 35 years for individuals in institutions and in community settings, and families providing for such individuals. The representative said most data cannot be relied on, since only 20 percent has focused on state support rather than providing a broad spectrum of information, and data varies from state to state and does not fully represent funding issues for I/DD. The representative noted the best way to draw conclusions from data is, over the years, to be aware of the shifts in focus and identify innovations.

The KUCDD and State of the States representative provided a State of the States Kansas Profile, including the number of individuals with I/DD living with family members, the number of those living with aging caregivers, and public I/DD spending for services.

Nationwide Overview and Trends in I/DD Waiver Programs

A representative of the National Association of State Directors of Developmental Disability Services (NASDDDS) provided information on national trends related to I/DD waivers. The representative noted, nationwide, 85 percent of individuals with I/DD and 59 percent of recipients of long-term supports and services live with family, noting the reliance on aging family caregivers (caregivers aged 60 and older) should be considered. In Kansas, 72 percent of individuals with I/DD receive services in their homes, with 24 percent of these individuals living with aging family caregivers.

The NASDDDS representative noted the lack of a model or pattern for state support in the I/DD Waiver because agencies are diverse in structure and varied in service delivery, with Medicaid being the primary source for both health care and long-term services. The representative noted the main challenges involving the I/DD population are the workforce shortage, waitlists, data availability and utilization to inform policy direction, and

providing support for individuals with complex needs. The representative's presentation also included an explanation of the CSW, common objectives, and the essential steps for Medicaid authority development. The NASDDDS representative recommended the Committee include all stakeholders in designing and modifying a waiver program.

The NASDDDS representative provided the following additional information in response to Committee member requests: a workforce availability report, state initiatives on using federal American Rescue Plan Act funding to address workforce issues, wages for direct support workers across states, and benefits provided to direct support workers.

History of Kansas I/DD Waiver Modernization Efforts and Kansas-specific Considerations

A representative of KCDD reviewed the history of the I/DD Waiver in Kansas from 1974 to the present and highlighted innovative efforts and initiatives to change the I/DD system, such as Employment First legislation, Supports and Training for Employing People Successfully (STEPS), and the Jim Porter Transition work group.

The KCDD representative noted a need for a better strengths-based assessment tool, such as the Supports Integrity Scale (SIS), to replace the currently used, outdated, and deficit-based BASIS assessment tool. The representative stated most Kansans with disabilities are not known to the system and noted the proposed comprehensive study of the I/DD Waitlist by the KUCDD will help identify the needs of those on the waitlist. The representative noted nearly all individuals with I/DD are capable of working when provided appropriate supports; however, improving the reimbursement rate for supported employment is a key factor in addressing workforce issues. Kansas reimbursement for supported employment is \$12 per hour, and some states reimburse at \$40 per hour.

The KCDD representative provided a list of states that eliminated sub-minimum wage rates and the legislation used to accomplish that.

Presentations from Individuals, I/DD Service Providers, and Local I/DD Advocacy Groups

The Committee heard presentations from private citizens and two local I/DD advocacy groups: InterHab and the Disability Rights Center of Kansas.

The private citizens discussed the following issues: the lack of services for individuals with complex needs; the harmful effects of the waitlist; the community service failures of the HCBS I/DD Waiver and the need for institutional services for profoundly disabled individuals; the lack of day services, crisis funding, respite care, and other supports; the inconsistency and lack of safety in transportation services; the embarrassment caused by and need to replace the BASIS assessment tool currently in use, which was seen as "disrespectful"; the need for a consumer-directed CSW with individual budget authority, increased wages for case managers, annual cost-of-living adjustments and behavior supports; the failure to provide notification when a child is removed from the Autism Waiver proposed recipient list; the denial of durable medical equipment and the barriers of the appeal process; and the need for community living choices for individuals with I/DD.

The I/DD advocacy groups noted the lack of a strong network of community-based supports for persons with I/DD; the need to further the promise of the Kansas Developmental Disabilities Reform Act by providing financial adequacy and certainty, offering service alternatives, meeting the complex needs of some individuals, and utilizing locally driven planning to address the waitlist; recommendations regarding person-centered and family-centered CSWs, improved care coordination by KanCare managed care organizations (MCOs), service cost estimates for these waivers, individually directed goods and services, and the use of assisted technology; the waitlist's blocking of support for medically and intellectually needy individuals; and the need to move from the BASIS assessment to the strengths-based SIS assessment.

Roundtable Introduction and Committee Directions

Kansas Health Institute (KHI) staff noted Roundtable participants would serve as a resource

for Committee members by assisting in the development of comprehensive and relevant recommendations and considerations for the Legislature. The Roundtable was composed of 26 parents, agency leaders, and professionals with experience and knowledge of the I/DD Waiver process. Each Roundtable member provided a brief introduction. Committee members directed the Roundtable members to identify issues all could agree on and bring those to the Committee while continuing to work on issues where agreement was lacking, help the Committee stay on track and develop a more flexible waiver, consider transportation issues, and prioritize waitlist reduction.

I/DD Waiver Options and Administrative Processes

A joint presentation by KDADS and Kansas Department of Health and Environment (KDHE) representatives outlined the history and purposes of the HCBS I/DD Waiver and the waiver approval process.

The KDADS representative noted the points of entry for the I/DD Waiver are the Community Developmental Disability Organizations (CDDOs) designated in each area of the state. The KDADS representative stated there were 4,814 individuals on the I/DD waitlist as of August 2022, with a 10-year wait time for the individual waiting the longest. KDADS was pursuing a waitlist study project using one-time funding through the 10 percent federal medical assistance percentage (FMAP) enhancement to improve data-driven funding decisions by enabling the State and providers to develop data-driven strategic plans that could include a new CSW as an option to reduce the waitlist. Development and implementation considerations for the CSW were provided by the KDADS representative.

The KDHE representative reviewed the HCBS waiver approval process, a joint effort between KDADS and KDHE, which would result in a waiver application being submitted to the federal Centers for Medicare and Medicaid Services (CMS). After the CMS waiver application review and approval, the State could initiate implementation of a new waiver. The representative explained if a new HCBS waiver is considered supplemental to an existing waiver, no transition is required. If a new waiver replaces a

current waiver, a transition process is required. The KDHE representative stated a transition process is onerous. The KDHE representative noted the state agencies were not looking to replace the current I/DD Waiver, but to add a new waiver to serve more individuals and tailor services to meet the needs of those individuals.

The KDHE representative explained the current Kansas Medicaid demonstration waiver allowed by Section 1115 of the Social Security Act (1115 waiver) is an umbrella over all HCBS waivers. If the 1115 waiver were to change, it would not change the HCBS waivers allowed under Section 1915(c) of the Social Security Act (1915(c) waivers). Changing Medicaid from an 1115 demonstration waiver to a waiver under Section 1915(b) of the Social Security Act (§1915(b) waiver) would allow the State to no longer worry about federal spending caps on what the State chooses to do with those waivers.

Presentations on Other States' I/DD Waivers by State Agencies

Presentations were made by representatives of the following state agencies responsible for the administration of I/DD waiver services: the Missouri Department of Mental Health, the Ohio Department of Developmental Disabilities, the Oklahoma Department of Human Services, the Pennsylvania Department of Human Services, the Tennessee Department of Intellectual and Developmental Disability, and the Washington State Department of Social and Health Services. Written-only information was provided by the Colorado Department of Health Care Policy and Financing and the Wisconsin Department of Health Services.

Presentations by representatives of the other states' agencies included the following information on each state's multiple I/DD waivers: waiver services; application process and functional assessment; funding sources; waitlist status, management, and elimination plans and access to resources while on the waitlist; data collection and analysis to forecast and plan for future needs; self-direction features; studies to improve and track health outcomes; and efforts to address workforce shortage and retention. Additionally, the representatives discussed state initiatives including Employment First, Technology First, Enabling

Technology, and Housing Transition and Sustaining Service.

Presentations from Other States' Developmental Disability Council Directors and Advocates

The Committee heard presentations from other states' developmental disability council directors and advocates regarding the success of and need for improvement of the various states' I/DD Waivers from the stakeholders' perspectives. Presentations were made by representatives of the North Carolina Council on Developmental Disabilities, the Pennsylvania Developmental Disabilities Council, the Tennessee Council on Developmental Disabilities, and the Wisconsin Board for People with Developmental Disabilities.

The concerns identified by the developmental disability council directors and advocates included:

- Addressing the fragmentation of services due to a shrinking provider network of highly trained professionals with specialized skills and the expertise necessary to successfully work with specialized populations, which was an unintended consequence of adoption of one HCBS waiver to serve frail elders, those with physical disabilities, and individuals with I/DD;
- The need to build provider capacity;
- Addressing aging unpaid caregivers and caregiver shortages that impinge on available services;
- Addressing prevalence data indicating the state may be serving less than one-tenth of its developmental disability population, and funding for HCBS cannot keep up with the need of the unserved population;
- Meeting the unique needs of individuals on Employment and Community First Choices;
- Reaching individuals needing services who are not connected to the system;

- Providing HCBS information to the public in accessible, understandable, plain language;
- Addressing a waitlist for the unserved and underserved;
- The lack of individualized services in private homes due to workforce shortages; and
- Working with inadequate state budget allocations to eliminate the waitlist and provide the services necessary.

Successes or benefits identified by the developmental disability council directors and advocates included:

- Increased awareness of the number of unpaid and aging caregivers, resulting in more interest in technology and housing and addressing family future planning and transition when appropriate;
- Creation of a new Community Living Waiver to address the waitlist by providing up to \$85,000 per person per year, which fills the gap for those living in private homes whose needs could not be met by a smaller waiver capped at \$41,000 per person annually and not obligating the state to provide the services of the comprehensive I/DD Waiver;
- Implementation of Advanced Supported Employment to the Employment First Services;
- Use of the Prioritization of Urgency of Need for Services (PUNS) tool to collect data and analyze it for greater awareness of the needs of individuals on the waiting list and their families;
- Ensured enrollment in services for high school graduates transitioning from school; and

- Flexibility for individuals to move to a higher waiver as needs change.

The representative of the North Carolina Council on Developmental Disabilities outlined the transformation of its Medicaid system by developing a Tailored Plan for individuals with I/DD that uses Section 1915(i) of the Social Security Act (§1915(i)) to transition a person from an institution to a community setting. The plan uses Community Living and Support services to enable an identified person age three and older to live successfully in their home. The 1915(i) program is not a waiver, but is part of a State Plan and is an entitlement. The services under the 1915(i) program are not available to individuals with the most comprehensive needs who are under the Innovations Waiver, which had 15,585 individuals on the waitlist as of the meeting date.

October 13 Meeting

At its October 13 meeting, the Committee received three documents prepared by KLRD staff in response to Committee requests made at the September 28 meeting: a memorandum containing responses to questions from the prior meeting, a memorandum on assessment tools for individuals with I/DD, and a spreadsheet on waiver support assessments by state.

The focus of the October 13 meeting was a series of Roundtable discussions facilitated by KHI staff. The Roundtable discussions provided the Committee members with an opportunity to hear the Roundtable members' considerations focused on the topics of workforce, the I/DD Waiver waitlist, assessment tools, and services and to ask questions and provide input on the discussion topics. The topics for the Roundtable discussions were developed from a survey distributed to Roundtable members prior to the meeting. KHI staff explained the topics would assist the Committee in formulating recommendations for a new, less comprehensive waiver to address the needs of individuals with I/DD and help reduce the waitlist.

The Kansas Disability Rights Center provided written testimony containing additional feedback on the Roundtable Survey Tool.

Roundtable Discussions

Workforce

The Roundtable members' comments on workforce included the following:

- Additional training for caregivers is required to meet the needs of individuals with more complex needs;
- Without a higher rate of reimbursement for caregivers and agencies, recruitment and retention of a trained workforce will fail to meet the needs of the I/DD population;
- Two training programs, the Kansas Registered Apprenticeship Program administered through the Department of Commerce and the Systemic, Therapeutic, Assessment, Resources, and Treatment (START) behavioral training program could assist in covering the cost of training the I/DD workforce and could attract more individuals to the workforce;
- Regarding the I/DD Waiver workforce, it is important to look at the advanced skills requirement, workforce credentialing and regulation for accountability, and employer authority for super-care workers who can provide a variety of direct care tasks;
- Kansas needs supported living for individuals with I/DD who want to remain in a family setting. Kansas has a shared living program in residential supports in the I/DD Waiver that could be adapted;
- A continuum of care is needed to adapt to a person's changing needs. Self-directed care is one way to address the changing needs of an individual;
- There is a need to address aging family caregivers when they can no longer care for their family member with I/DD; and
- Having one department for I/DD services would simplify the I/DD system's

structure and the navigation process for families trying to access services, especially for individuals with complex needs.

I/DD Waiver Waitlist

KHI staff referenced the comments included in the Roundtable member survey related to the I/DD Waiver waitlist and invited members to comment on the subcategories of targeted case management (TCM) and assistance in the navigation of services. Roundtable members made preliminary observations that a multi-pronged, multi-year approach that includes early intervention would best serve I/DD families.

Navigation. The Roundtable members' discussion on navigation focused on the following points:

- A one-stop system for the assessment questionnaires is needed, with the same intake forms used for all CDDOs;
- The waitlist process needs to be more transparent for caregivers. Increased transparency would also give providers the ability to forecast needs;
- Navigators would fill a gap in communication among the various entities. Roundtable members suggested a university or the CDDOs would best serve as navigators. A targeted case manager enters the waiver process too late to serve as a navigator;
- The Charting the LifeCourse framework is a problem-solving tool and an excellent resource for navigation; and
- The Tennessee approach to navigation offers a model to consider.

TCM. The Roundtable members made the following comments:

- TCM services are provided through the Medicaid State Plan. Individuals on the I/DD Waiver receive TCM. Medicaid

eligible individuals on the I/DD waitlist have access to care coordination through the MCO and TCM through the CDDO. Due to a shortage of targeted case managers, some individuals are on a waiting list for TCM; in those cases; the MCO is expected to provide additional assistance;

- I/DD TCM services are paid at an hourly rate of \$43.32, which has not been adjusted for a decade and only covers about half of the cost of providing TCM. A rate of \$75 per hour would bring TCM to a level of sustainability; and
- Targeted case managers are limited in the assistance they can provide. Well-trained navigators are needed and can provide additional assistance to locate community resources beyond what TCM provides. A roundtable member noted the navigator services need to be at the state level to ensure they have the newest and most accurate information and to avoid misinformation.

Assessment Tools

The Roundtable members discussed the following assessment tool considerations:

- Some rules for assessment are from CMS. BASIS is one assessment tool adopted for those rules, which is a deficit-based tool with excessive costs; the SIS offers a more positive assessment that is less intrusive and focuses on a person's strengths. In light of these statements, Committee members asked for the cost of the BASIS assessment, the cost to administer it, why Kansas uses the BASIS, the length of time needed to switch to SIS, and the cost and steps involved in the switch;
- Standardized assessment guidelines are needed for the CDDOs. Inter-rater reliability is needed across all CDDOs;
- The Medical Functional Eligibility Instrument (MFEI) is similar to interRAI;

- The Priority of Need (PON) assessment could help determine access to services; and
- Some members believed an annual contact with the CDDO would help evaluate changes in need for those on the waitlist.

Services

Roundtable members discussed specific service areas to be included in an I/DD waiver and provided comments on the prioritization of themes of services, including CSWs, transportation, self-direction and individual budget authority, resources for individuals with complex needs, supported employment, enabling technology and remote supports, family supports, safe and affordable housing, children’s waiver services, and students transitioning out of school services into adult services.

CSW. Roundtable members focused the majority of comments around a CSW, which would be available to those who do not need 24-hour comprehensive care. Roundtable member comments included:

- Many CSWs have cost caps, which if exceeded would move the person to the next applicable waiver with a higher level of service;
- The Autism Waiver has few benefits and could be expanded to cover populations of all ages and be merged into a CSW;
- Respite services should be included;
- The resources of all stakeholders should be utilized in designing a CSW so the scope does not create service gaps; and
- Inter-rater reliability should be completed to ensure the assessments are rated in the same manner by all CDDOs.

Transportation. Roundtable member comments included:

- For those with Medicaid services under KanCare, the MCOs provide transportation for clients, and some Roundtable members expressed challenges accessing such services for family members;
- An annual cap could be considered for transportation under a CSW. If transportation is only used for supported employment, it might be possible to cover all transportation for that purpose. To better assess an annual cap on transportation, a data request was made to the MCOs for the average monthly spending for transportation and the number of members using less than the monthly average in transportation;
- If transportation is provided in a proposed waiver, tools must be developed to make the service equitable. Transportation options must be flexible, especially in rural areas where access to transportation may be difficult;
- Two innovative programs in Kansas offer transportation: a Johnson County pilot program using those with mental health issues as drivers to transport individuals with I/DD, and public transportation services serving multi-county areas developed in north-central and northwest Kansas; and
- CDDOs could be a resource in developing transportation services.

Self-direction and individual budget authority. The Roundtable members discussed how self-direction and individual budget authority work, how they differ, and how the budget is determined. Individual budget authority allows the family caregivers and the individual the ability to spend the budgeted funds on a set list of items to meet the individual’s needs. Under self-direction in Kansas, with limited exceptions, individuals or family caregivers have employer budget authority that allows them to hire, train, and fire the direct service worker but not individual budget authority. As of 2020, approximately 75 percent of self-

directed programs in the United States have individual budget authority. The Roundtable members made the following comments:

- Most states use the interRAI assessment connected with financial management services (FMS) to set up budgets for independent budget authority. The MFEI includes a resource intensity scale that helps with determining the budget. Kansas already has FMS, which could be expanded to set budgets for individual budget authority. FMS providers would need training on assistive technology; and
- A Medicaid buy-in program, the Work Opportunities Rewarding Kansans (WORK) program under Working Healthy, offers individual budget authority. Kansas does not allow members to set their own rates. Although individuals could pay a higher rate, the budget is based on the Medicaid rate for the number of hours of the individual's determined need. A CMS rule applies to the WORK program that requires the state agency to make reasonable attempts to prevent the premature depletion of the funds over which there is individual budget authority. It is uncertain if this same rule would apply to a §1915(c) HCBS waiver program.

Resources for individuals with complex needs. Roundtable members discussed resources for individuals with complex needs that could be considered for a CSW. Individuals with I/DD and mental health needs, those with I/DD and Alzheimer's or dementia, and those with profound I/DD and physical health needs are all subsets of the complex needs population. Individuals with complex needs are often beyond the expertise of community support services. A gap in services exists for the complex needs population between community living and state hospitals or intermediate care facilities. Crisis services for this population are also limited.

The Roundtable members commented the CSW was not envisioned as providing behavioral health supports, other than perhaps respite services. If behavioral health was placed into a

CSW, those services would have to be removed from personal care or state plans.

Supported employment. The Roundtable discussion on supported employment under a CSW also considered innovations, such as Employment First, enabling technology and remote supports, and Technology First. Roundtable members stressed the need to include the private sector as a resource in supported employment.

Roundtable members stated the current rate of \$12 per hour for supported employment services is inadequate and attracts few service providers, as the job coach typically earns less than the individual they are coaching. It was stated that the rate should be \$48, which is approximately the national average. It was suggested the more competitive and integrated the job is, the higher the reimbursement should be. Additionally, periodic support is needed to maintain the employment. Research by Project Search indicates that individuals with I/DD who receive support for their work experience maintain a 70 percent retention rate while retention falls to 0 percent within five years for those without support.

A Committee member provided information regarding Washburn Institute of Technology's (Washburn Tech's) pilot program for technical education for students with Individualized Education Programs (IEPs) that is available to all high schools served by Washburn Tech. The Kansas State Department of Education and Washburn Tech will work to identify the potential skills of students with IEPs and how they may fit into the certificate programs and technical career pathways at Washburn Tech. Washburn Tech would build in counseling and supports for these students. As of the meeting date, funding allocated by the Legislature had not been received by Washburn Tech or the high schools, but a counselor had been hired to work with high school and college students with I/DD who have IEPs.

A Roundtable member shared information on Project Search, a supported employment program with 15 sites that creates a bridge from education to employment.

Enabling technology and remote supports. Roundtable members stated Technology First and

Employment First offer resources for assistive technology. Technology First is a statewide initiative in Oklahoma that considers enabling technology as a first option for waiver recipients. It was stated that an array of services in a CSW should include technology resources, which must be offered but not required.

Family supports. The Roundtable members stated respite services should be included in family supports. It was noted parent support in navigating the I/DD system and training to assist parents to meet the needs of their family member should also be included as a CSW service.

Safe and affordable housing. Roundtable members expressed that the removal of barriers for those wanting housing must be a priority. Independent budget authority for individuals with I/DD would allow greater flexibility in wraparound services to make independent living possible. It was noted CMS rules prohibit the use of HCBS funds for room and board.

Children's waiver and transitioning. In discussions on the possibility of a children's waiver or services focused on children being included in a CSW, the Roundtable members noted children on Medicaid also have access to a variety of services. The Roundtable members discussed several options to serve children with I/DD through Medicaid. One option was for Kansas, by policy, to allow access to Medicaid through a children's waiver and limit the waiver to a certain disability; this option would disregard parental income. The second option would be implementing the Katie Beckett option to provide Medicaid to all children and youth with a disability under 21 years of age, which 25 other states have done.

[*Note:* The Katie Beckett Medicaid Program established in federal law permits the State to ignore family income for certain children who are disabled and who live at home.]

It was noted that approximately 30 percent of children on the I/DD Waiver do not qualify for Medicaid, likely because of parental income. If parental income was disregarded for children on the I/DD Waiver, these children may not need much funding for HCBS services and could instead access many services through Medicaid

under Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) in schools that were not available to them without Medicaid.

The Roundtable members also discussed merging the Autism Waiver into the CSW. It was noted the average age for an autism diagnosis is six and a half years of age. Due to the cost of tests to diagnose autism, many children are not diagnosed until after they are no longer eligible for the Autism Waiver.

Working Group Options

At the conclusion of the Roundtable discussion, Committee members discussed working group options. The Committee approved one working group consisting of Committee and Roundtable members be formed to address assessment and services in the CSW, with the workforce and waitlist topics to be part of that discussion. KHI staff will facilitate the working group. Participation in the working group is voluntary.

The Committee and Roundtable members noted what they believed to be the key issues: prioritizing the CSW given the limited time available for the working group and Committee to meet; postponing the complex issue of the workforce shortage; focusing on assessment and services and providing solutions, not merely pointing out roadblocks; including training as part of assessment and services; and addressing the need for a new assessment tool.

In preparation for the working group meetings, the Committee members provided directions to the working group regarding items to consider and information to provide to the Committee regarding the assessment tools.

Update on I/DD Waitlist Study

At the October 13 meeting, KDADS and KDHE staff provided an update on the I/DD waitlist study. KDADS staff reported the I/DD Waiver had 9,039 enrolled, with 4,814 on the waitlist as of August 2022. KDADS has limited information about each individual on the waitlist and has no process to gather information on the current needs or anticipated needs during the next five years of the individuals on the waitlist. Additionally, KDADS staff noted a significant

number of individuals had moved off the I/DD waitlist due to a crisis, and waitlist member information is critical to planning and building system capacity.

KDADS staff stated a planned waitlist study to be conducted by KUCDD will be funded by a 10 percent FMAP enhancement and will cost slightly less than \$1 million, with funds available through March 2025. Committee members stressed the time-sensitive nature of the study and urged completion as soon as possible. KDADS staff noted the spend-by-date was extended to March 2025 to allow for projects that could arise from the study. A copy of the waitlist study contract was provided at the November 1 meeting.

A KUCDD representative reviewed the planned waitlist study, noting the study's partners: the University of Kansas School of Social Welfare Center for Research on Aging and Disability Options, the University of Kansas Institute for Health and Disability Policy Studies, and KDADS. The KUCDD representative explained the aims of the study: to collect and analyze existing waitlist data, interview those on the waitlist, and offer recommendations for reducing the waitlist, which could include more ready access to data systems. The first year of the study will develop a predictive model for risks and services needs, and the second year will offer a comprehensive basis for using the information effectively.

The Committee and Roundtable members provided comments regarding the need to offer preventive care to meet an individual's needs before a crisis occurs, access to services using the Katie Beckett option, and replacement of the BASIS assessment tool with the SIS assessment. The Committee requested it would like to see the progress of the waitlist study survey and weigh in on the questions to be asked.

Additional Resources

After the October 13 meeting, Roundtable members and KLRD staff provided additional information regarding assessment tools, the CSW decision matrix, services provided by the MCO Aetna, and a list of disability acronyms.

Roundtable/Working Group

The members of the Roundtable participating in the working group met on October 17 and October 21, 2022, with facilitation provided by KHI staff, to review and discuss the elements of the CSW for consideration by the Committee. The Roundtable members completed a short survey between working group meetings relating to the topics of services, individual budget authority, assessments, and cost caps.

November 1 Meeting

At the November 1 Committee meeting, KLRD staff provided follow-up information requested at prior meetings as follows: a memorandum compiling responses to requests from the two prior Committee meetings, a state-by-state chart outlining the funding limits for transportation services for HCBS I/DD waivers, a memorandum on the role of Navigators as health care facilitators as outlined by CMS and different navigator types and programs, a copy of the waitlist study contract awarded by KDADS to the University of Kansas Center for Research, Inc., and an outline of the CDDO eligibility determination process provided by InterHab.

Process for Amending or Creating an HCBS Waiver

KDHE and KDADS staff reviewed the process for submitting a waiver request to CMS.

Noting the CMS manual for the process is more than 300 pages long, KDHE staff highlighted the salient features of the process for new, renewal, and amended waiver applications. CMS' receipt of an application starts a 90-day clock (using calendar days), during which CMS must approve the application, deny it, or issue a written request for additional information (RAI). An RAI pauses the 90-day clock until CMS receives the requested updated information. Once a state responds to the RAI, a new 90-day clock begins. To avoid a denial of the application if significant problems are identified, a state may also stop the clock by notifying CMS its application is incomplete; when the completed application is resubmitted, a new 90-day clock begins. According to KDHE staff, an application for a new waiver will take at least six months and likely longer, and an RAI should be expected.

Additionally, KDHE staff explained Kansas has been operating the HCBS 1915(c) waivers under a 1115 demonstration waiver, with services administered through the MCOs. Since a 1115 waiver has strict neutrality spending caps, placing a new 1915(c) waiver under a 1115 waiver would impact budget neutrality. The State would prefer to move from an 1115 waiver to a 1915(b) waiver, which has no budget neutrality requirements, which increases spending flexibility. KDHE staff noted, under federal law, application and management of Medicaid waivers are directed by the single state agencies that oversee Medicaid in each state. In Kansas, the single state Medicaid agency is KDHE.

KDADS staff reviewed the details involved in the waiver renewal process: engaging stakeholders; analyzing the fiscal and programmatic impacts of the stakeholder feedback received; writing the impacts into the waiver; review of the waiver by KDHE; opening the public comment period on the waiver; responding to each comment, regardless of whether a change was made because of the comment; making any necessary edits to the waiver after review of the comments; another review by KDHE; and then KDHE submitting the waiver to CMS to start the 90-day clock. The KDADS staff explained the current I/DD Waiver renewal application timeline, which would begin in January 2023 and conclude by July 2024, allotting 180 days for CMS approval after submission of the renewal application. The delay in CMS application approvals was explained by KDADS, as reported by CMS, to be a result of a 300 percent increase in CMS' workload since the COVID-19 pandemic began but with the same number of staff.

Additionally, KDADS staff stated all seven Kansas HCBS waivers are in the renewal or amendment process. CMS will not allow amendments to a waiver when it is in the renewal or amendment process, so the State would have to write an additional eighth waiver for Community Supports, which would be time and labor intensive.

Members discussed the option of creating a CSW and renewing the present comprehensive I/DD Waiver and whether to incorporate the Autism Waiver into either. Concerns were expressed that not all providers would meet the

requirements of the HCBS final settings rule [42 CFR 441.301(c)(4)-(5)], regarding where services are provided, by March 17, 2023, and would need additional time to complete the transition plan, which is an option under an existing waiver. Under a new waiver, all providers would have to meet the settings rule at the time of implementation.

KDADS staff responded to the members' concerns indicating it is on target for approval of its final settings transition plan by March 17, 2023, and the plan involves ongoing monitoring to ensure providers are in compliance with the final settings rule.

KDADS staff noted the State would be better off financially and have more flexibility for those served on the waiver if it keeps the comprehensive I/DD Waiver and creates a new CSW.

Presentation of Roundtable/Working Group Considerations

KHI staff provided testimony compiling the results of the Roundtable member survey and October 17 and 21 Roundtable/Working Group meeting discussions for consideration by the Committee, which included input from the CDDOs, targeted case managers, and MCOs. The testimony included high-level considerations and recommendations for many components of a CSW. Services to be considered for inclusion in the CSW were provided in the testimony, including their definitions and limitations, definition examples in Appendix A of the KHI testimony, and additional examples of Enabling Support services available in Missouri.

Questions for discussion by the Roundtable/Working Group regarding the CSW included administration roles; eligibility criteria; the special income group/217 group; a waiver cost cap; assessment tools; service plan development; self-direction; quality improvement strategy and metrics; and services.

Committee and Roundtable/Working Group Members' Discussion of Considerations

The Chairperson explained the purpose of the Committee and Working Group member discussions was to help the legislative members identify services to be included in any proposed CSW for the I/DD population.

BASIS Assessment Tool

Comments expressed by the Committee and Roundtable/Working Group members regarding the BASIS assessment tool included:

- The BASIS tool is intrusive and negative, and the annual requirement for assessment could be accomplished with a condensed assessment in many situations. BASIS is used to determine the tier level of need and the funding required to meet those needs; and
- Research is needed to determine the most effective assessment tool. No other state uses the BASIS, and the SIS is used by 39 other states. Other assessment tools are the MFEI and a similar tool, the interRAI. Moving to another assessment tool will require significant additional funding, with the costs presenting a barrier for such a change.

Committee members agreed to reject the BASIS, but there was no consensus on a replacement assessment tool.

Services

KHI staff reviewed the different kinds of services discussed by the Roundtable/Working Group that could be made available through the proposed CSW. The services included transportation, supported employment, individual directed goods and services, personal care (including personal assistant and personal attendant), respite, therapy, assistive technology, independent living and community engagement skills, family and caregiver support and training, financial management services, support broker, and benefits counseling; and other services including home and vehicle modification, behavioral support, STEPS and community service coordinators, and WORK services, which include supported employment and independent living counseling.

A list of questions not discussed by the Working Group but that should be considered for the CSW application was included in the testimony compiled by KHI staff.

The Chairperson asked for questions from Committee and Roundtable/Working Group members. This led to a discussion on the range of interpretation for self-directed care versus individual budget authority. The Roundtable/Working Group members urged caution regarding the use of the term “self-determination,” as it has a broader meaning and differs from TARC’s self-determination pilot program in the state. For clarity, it was suggested the term “individual budget authority across all waiver services” be used for the CSW to include combined budget and employer authority across all waiver services. It was noted the TARC self-determination pilot program should be looked at as an example.

In response to a question regarding the meaning of “individual goods and services,” a Roundtable/Working Group member noted the definition on page 7 of the testimony compiled by KHI, which defines the term as “a service, support, or good that enhances the individuals’ opportunities to achieve outcomes related to full membership in the community.” The eight criteria each service, support, and good must meet are outlined on the same page.

Committee Discussion and Consideration of Committee Recommendations to the 2023 Kansas Legislature

KHI staff reviewed the early discussion regarding the CSW and summarized the key points discussed. Committee members were invited to share other priorities that were raised during the discussion.

Autism Waiver Inclusion

Further discussion and comments centered around the inclusion of the Autism Waiver in the CSW:

- Only an autism diagnosis is needed to be placed on the Autism Waiver proposed recipient list. No functional eligibility assessment is completed for placement on that list. An autism diagnosis qualifies an individual for early intervention services without being on the Autism Waiver;
- As of September 30, 2022, there were 428 individuals on the Autism Waiver

proposed recipient list, with 58 persons eligible to receive services. There is a limit of 65 slots on the Autism Waiver;

- Children aging out of the Autism Waiver who have a dual diagnosis of autism and I/DD and have had a functional eligibility assessment would be eligible for the I/DD Waiver and would be placed on the I/DD Waiver waitlist. Children receiving Autism Waiver services are automatically transitioned to the I/DD Waiver waitlist when they age out of the Autism Waiver;
- Simplifying navigation through the waiver process would enable parents to make more informed choices for their children; and
- Parental income is not considered for individuals receiving waiver services. Parental income is considered for those on the waitlist for I/DD Waiver services, preventing access to non-waiver services such as Medicaid, EPSDT, and case management. Parental income would not be considered for a child to receive services if a parent gave up custody or placed a child in an institution. The Special Income 217 Group exempts parental income to allow eligibility for Medicaid coverage for individuals who would be eligible for Medicaid if they were in a medical institution, would require an institutional level of care in the absence of the provision of HCBS, and will receive 1915(c) services. [Note: This eligibility group is further described in 42 CFR §435.217 and is commonly referred to as the “217 group.”] CMS requires an individual to be on a waiver to get Special Income 217 Group eligibility. If a CSW was created with no waitlist, parental income could be disregarded for those on the waiver, removing the incentive for a parent to give up custody or place their child in an institution. If the CSW lacked sufficient funding, resulting in a waitlist, and a Katie Beckett option was not adopted, parental income would be considered for individuals on that waitlist

and would render some ineligible for Medicaid.

Tiered Services and Funding

The Committee and Roundtable/Working Group members’ discussion moved to tiered services and funding. It was noted a waitlist for the CSW is likely because the cost involved would be approximately \$40 million if the waiver were capped at \$20,000 per person annually and only half of the I/DD waitlist were served. Concerns were expressed regarding inflation and a desire not to have to remove individuals from services if the funding available is reduced. It was noted, if a CSW is created, services would essentially be in tiers, with basic Medicaid, a CSW, and the comprehensive I/DD Waiver.

Combining Services, Behavioral Supports, Transitioning, and Funding Caps

Members noted the range of services considered by the working group and suggested combining vehicle and home modification under home enabling services and placing support broker services under FMS. Noting the growing need for behavioral supports, especially in rural areas, suggestions were made to widen “behavioral supports” to include applied behavioral analysis (ABA) and behavioral supports, broaden the definition of “therapy” to include ABA and positive behavior supports, or expand parent support and training to add behavioral supports.

Members discussed transitioning between the CSW and the comprehensive I/DD Waiver, noting slots could be reserved in the I/DD Waiver. CMS would require the reservation of slots so an individual could return to the more comprehensive waiver to ensure continuity of services if the CSW no longer met his or her needs.

A request was made for KDADS to provide information to the Legislature on the cost of various levels of annual individual caps on the CSW: either aggregated totals for various caps (\$20,000, \$30,000, and \$40,000) or individual caps for each service.

The Chairperson expressed appreciation for the service of the Roundtable members, noting they provided unique perspectives and invaluable

information, and then convened the legislators to offer final recommendations for the Committee's report to the 2023 Legislature.

CONCLUSIONS AND RECOMMENDATIONS

The Committee generally agreed the State should pursue a CSW. After discussion, the Committee recommends:

- KDADS provide a fiscal impact statement for each service discussed by the Committee for possible inclusion in the CSW;
- A \$20,000 annual individual cap be placed on the CSW;
- The Executive Branch transition the Medicaid managed care system from a 1115 waiver to a 1915(b) waiver;
- KDADS provide an estimate on the number of individuals likely to request self-determination;
- KDHE and KDADS continue to study strengths-based assessments, such as the SIS or the MFEI, as alternatives to the deficit-based BASIS assessment tool for the HCBS I/DD Waiver, with the acknowledgment that the University of Kansas is still working on the financial portion of the MFEI assessment used to determine with funding levels;
- The CSW include individual budget authority across all services; and
- KDHE and KDADS identify a process to prevent children from being removed from the Autism Waiver proposed recipient list without notification.

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Report of the Special Committee on Medical Marijuana to the 2023 Kansas Legislature

CHAIRPERSON: Senator Robert Olson

VICE-CHAIRPERSON: Representative John Barker

OTHER MEMBERS: Senators Larry Alley, Cindy Holscher, Rick Kloos, and Jeff Longbine; and Representatives John Eplee, Christina Haswood, Dennis “Boog” Highberger, Nick Hoheisel, and Eric Smith

STUDY TOPIC

The Committee is directed to:

- Study medical marijuana legislation recently considered by the Legislature;
- Solicit testimony (based upon the provisions of 2021 House Sub. for SB 158 and 2022 SB 560) from potential licensees, state agencies, medical providers, and law enforcement; and
- Make recommendations to the 2023 Legislature for comprehensive medical marijuana legislation.

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Special Committee on Medical Marijuana

REPORT

Conclusions and Recommendations

The Special Committee on Medical Marijuana (Committee) recommends the 2023 Legislature consider the information and perspectives provided to the Committee when it considers medical marijuana legislation. The Committee further agreed that the Legislature should especially consider the information and perspectives provided on:

- Expungement of marijuana-related convictions;
- Independent laboratory testing requirements;
- Licensing fees;
- Use of medical marijuana in jails and correctional facilities;
- Methods of administration;
- Physician education;
- Physician-patient relationships;
- Whether a pilot program is needed;
- Qualifying conditions;
- Seed-to-sale tracking systems;
- Taxes;
- Tiered licensing;
- Transferability of licenses; and
- Workers' compensation.

Proposed Legislation: None.

BACKGROUND

The study directive from the Legislative Coordinating Council (LCC) to the Special Committee on Medical Marijuana (Committee) was to study recent medical marijuana legislation, solicit testimony from stakeholders based on that legislation, and to make recommendations to the 2023 Legislature for comprehensive medical marijuana legislation.

COMMITTEE ACTIVITIES

The LCC authorized four meeting days for the Committee during the 2022 Interim. The

Committee met on the following days: October 12 and 19, and December 9 and 15.

October 12 Meeting

The Committee heard informational presentations from legislative staff and received testimony on the potential legalization of medical marijuana from state agencies, law enforcement, and local government stakeholders.

The Committee also heard testimony from a representative of Oklahoma's medical marijuana regulatory body.

Staff Presentations

A Senior Assistant Revisor, Office of Revisor of Statutes, provided an overview of medical marijuana legislation considered in the 2022 Legislative Session. He explained and compared the provisions of each bill.

Committee members asked questions concerning the bills and other topics, including the effect of marijuana being rescheduled in federal law, 30-day supply limits, expungement of marijuana convictions, and county opt-out provisions.

The Managing Research Analyst, Kansas Legislative Research Department (KLRD), provided an overview of medical marijuana taxation and fee structures. He compared and explained various policy provisions of medical marijuana regulatory systems.

The Committee requested more information regarding minority ownership considerations, tiered licensing systems, local taxes, THC (tetrahydrocannabinol) caps, seed-to-sale tracking, packaging requirements, and the use of medical marijuana in correctional facilities.

State Agency Testimony

A representative of the Kansas Bureau of Investigation summarized the agency's public safety concerns regarding medical marijuana. He discussed topics including federal drug schedules, review by the U.S. Food and Drug Administration (FDA), and concerns with illegal extraction.

The Director of Alcoholic Beverage Control (ABC), Department of Revenue, summarized the agency's concerns on topics related to the promulgation of rules and regulations, needed resources for implementation, and licensee oversight.

The Executive Secretary of the Kansas Board of Pharmacy discussed with the Committee how the state's prescription monitoring system (K-TRACS) would operate within the context of medical marijuana. She also discussed oversight of pharmacist consultants, packaging, and medical marijuana dosage.

Law Enforcement Testimony

A representative of the Kansas Association of Chiefs of Police, Kansas Peace Officers Association, and the Kansas Sheriffs Association summarized concerns of these organizations related to public safety. He discussed topics including medical marijuana in local jails, concerns with illegal extraction, and 30-day supply limitations, and he raised additional concerns.

Local Government Testimony

A representative of the League of Kansas Municipalities requested that cities be a coordinating partner in implementation of medical marijuana laws. He further discussed topics including local taxes, city opt-in provisions, and zoning.

Presentation on the Oklahoma Medical Marijuana Regulatory System

The Executive Director of the Oklahoma Medical Marijuana Authority discussed the history of the medical marijuana system in Oklahoma and described regulatory issues the Authority has had to address since it has been in operation. She covered many aspects of regulation, including license quotas, a seed-to-sale system, and laboratory standards. Among her remarks, the Executive Director stated her hope that Kansas could avoid particular issues experienced by Oklahoma by attempting to address the issues ahead of time.

October 19 Meeting

Proponent Testimony

A representative of the Michigan Cannabis Manufacturers Association discussed the history of the Michigan medical marijuana program and noted particular challenges faced by the state due to lack of regulation. He further discussed the Michigan Legislature's work to regulate the industry and noted specific topics Kansas should consider including in its legislation.

A representative of Greenlight summarized a set of regulations that have worked well (local opt-out, limited licenses, and economic spread) and those that have not worked well (unlimited licenses, onerous and expensive barriers for

patients, and bans on smoking the substance) in other states. In response to questions, the representative discussed qualifying conditions and keys to avoiding illegal sales activity, including a sufficient number of participating physicians and an economically sustainable industry.

A representative of Kanha Technology Solutions recommended a seed-to-sale tracking system that provides tracking from seed or immature plant stage to a consumable product in the hands of the patient. He further discussed the benefits of such a system in the context of a regulatory system.

A representative of the Kansas Cannabis Chamber of Commerce summarized various policy aspects that he described as being supported by consensus among stakeholders, including limiting patients to possessing a 30-day supply, a licensing fee calculation, and packaging and advertising requirements.

A representative of the Kansas Cannabis Industry Association discussed the need for a balanced regulatory system that would clearly define what is allowed, while discouraging illegal sales activity. He further expressed a desire for a “safe harbor” for products legally produced and obtained out-of-state.

A representative of the Kansas Cannabis Coalition recommended changes to previously considered bill language from 2022 SB 560 on topics such as licensing fees, law enforcement access to data, usage when commuting or traveling, and expedited implementation of regulations.

A representative of the Scottsdale Research Institute discussed the organization’s work in marijuana research and the scientific basis for marijuana treatment of various conditions. She also stated her concern with the potential for out-of-state companies to make up a large portion of suppliers to the Kansas market.

An addiction psychiatrist stated his belief in the need for legal access to marijuana treatments, and he cautioned against making access to treatment too cumbersome and expensive.

A medical doctor discussed caregiver terminology, treatment for military veterans, and the safety of vaping, and concluded by noting that many adverse reactions to marijuana are due to illegal products.

A representative of the Kansas Silver Haired Legislature (KSHL) discussed potential benefits for seniors who use medical marijuana products and a resolution passed by the KSHL that urges the State to legalize the medical use of marijuana.

A representative of the American Cannabis Nurses Association stated the Committee has a responsibility to allow Kansans to benefit from the use of marijuana. She further shared her experiences related to the criminalization of marijuana.

A registered nurse shared information in response to points made at the prior meeting on adolescent suicides. She also addressed the various forms of medical marijuana that a patient may benefit from.

A private citizen discussed challenges faced by veterans. He encouraged more marijuana research to be conducted by universities and the U.S. Department of Veterans Affairs medical facilities.

A representative of Kansans for Hemp, Planted Association of Kansas, and the Kansas Cannabis Association discussed sustainability issues and made recommendations concerning operating protocols, canopy sizes, patient-to-caregiver ratios, and laboratory testing.

A private citizen urged the State to consider public-private partnerships for clinical trials and discussed U.S. Department of Defense track and trace technology.

A private citizen discussed his concerns that larger companies operating in multiple states may force smaller Kansas businesses out of the market.

A private citizen suggested compliance training be required of marijuana business licensees.

A representative of the American Civil Liberties Union of Kansas offered several recommendations and offered sample language to address those recommendations. She discussed topics such as participation by small businesses, allowing persons with prior felony convictions to use medical marijuana, and capping local taxes on sales.

A private citizen shared his experiences as a Kansas CBD business owner and asked that smoking and vaping of marijuana products be allowed.

A private citizen discussed her son's experiences using marijuana to alleviate symptoms of Crohn's disease.

A private citizen shared his experiences with chronic pain due to previous injury and his need to use medical marijuana to keep working.

A representative of Gatsby's Cannabis Company asked the Committee to be mindful of small businesses when setting license and application fees.

Committee members asked questions concerning license caps, the population differences between Kansas and Oklahoma, and whether rules and regulations should allow plants to be grown and processed before sales begin.

Opponent Testimony

A representative of the Kansas Medical Society asked that the Committee not recommend medical marijuana legislation. The representative discussed various points in opposition related to FDA approval, lack of clinical testing, and whether medical marijuana should be treated as medicine. The representative concluded by noting various areas of concern with the proposed legislation, including limitations on prescribing until other treatments have been tried, the percentage of allowable THC content, the makeup of the advisory committee, physician liability, and advertisements.

A medical doctor began his testimony with general comments before making more specific recommendations. He stated his belief that the end goal of the marijuana industry is to use medical

marijuana as a stepping stone to legalization for recreational use. He also discussed concerns with potential legislation being used to bypass federal regulations and stated dosage ranges and THC potency should be specified for each qualifying condition. The medical doctor concluded by making recommendations for legislation on topics such as required medical examinations and documentation, dosage and THC limitations, physician standards of care, product labeling, and required drug testing.

A representative of American Family Action of Kansas and Missouri asked the Committee to not recommend medical marijuana legislation due to issues in other states. He also noted concerns with language contained in bills considered in the 2022 Session on this topic.

A representative of the Johnson County Sheriff's Office stated his office's opposition to medical marijuana legislation. He further stated that his office would like to provide its input in drafting bill language to address concerns of local law enforcement. The representative discussed topics including marijuana in county jails, canine officer operations, auto accidents due to driving under the influence, and additional law enforcement resources needed for roadside testing.

A representative of the Culture Shield Network testified in opposition to medical marijuana legalization. She discussed marijuana-influenced automobile deaths and addiction.

Neutral Testimony

A representative of the Kansas Chamber of Commerce asked the Committee to adopt a position on drug testing of employees in the workplace to include clear guidance for both employers and employees.

A representative of the Kansas Self-Insurers Association asked the Committee to ensure provisions regarding workplace expectations and prohibitions are clear. He further stated that impaired workers who are injured on the job should not be eligible for workers' compensation.

A representative of Lamar Outdoor Advertising stated his concern with language in a previously considered bill that required advertisers

to obtain state-agency approval of advertisements. He stated requirements for advertising should be defined in statute.

A representative of DCCCA, Inc., expressed her desire that the marijuana industry be strictly regulated in the same manner as alcohol and tobacco. She asked that the Committee especially consider topics such as dispensary density regulations, employment restrictions, funding toward education and treatment of marijuana addiction, restrictions on advertising, and protections for minors.

A private citizen discussed constitutional protections, federal and state regulations, and other regulatory inconsistencies.

December 9 Meeting

Presentations on Research Topics

KLRD staff presented information on a variety of research topics based on Committee questions from the October 12 meeting.

A KLRD Principal Research Analyst presented information to the Committee concerning the use of medical marijuana in jails and correctional facilities. She stated that no state requires jails or correctional facilities to provide medical marijuana as a medicine to incarcerated persons. She further discussed state policies and litigation regarding marijuana use by incarcerated persons and persons on probation.

The KLRD Principal Research Analyst next presented information concerning seed-to-sale tracking systems. She discussed the technology used in such systems, noting that radio frequency identification (RFID) technology is the typical method for tracking information. She further discussed the stages at which seeds and plants are tracked, as well as the ways in which states use the information. Committee members discussed additional security measures such as cameras and keycode access at facilities and asked questions concerning current vendors for seed-to-sale tracking systems.

A KLRD Research Analyst presented information concerning packaging and labeling requirements in other states. She discussed common packaging requirements, including the

requirement in all medical marijuana states that packaging be child-resistant and tamper-evident. She further discussed package coloring, noting that nearly all medical marijuana states require packaging to be in either opaque or light-resistant packaging. Next, she covered label requirements, noting that most medical marijuana states require labels to include information on content and potency, lot and batch numbers, specific THC or marijuana symbols, warning statements, expiration dates, instructions, nutritional information, and manufacturing facility information. She reviewed additional label requirements of medical marijuana states.

The KLRD Research Analyst next presented information concerning medical marijuana possession limitations. She noted that some states allow specific amounts of medical marijuana to be purchased within a 14-day, 30-day, 60-day, or 90-day time period. The Research Analyst also discussed weight limitations set by states and noted Alabama is the only state that sets limitations by daily dose. The Research Analyst concluded by discussing plant and seedling limitations in states that allow home cultivation. A Committee member asked a question regarding limitations by types of product.

The KLRD Managing Research Analyst presented information concerning THC potency limits set by states. He began by discussing potency limits set by states that have legalized both recreational marijuana as well as medical marijuana, noting the potency allowed by product type. He stated four states with both regulatory systems do not have THC potency limits. He also discussed limits set in states with only medical marijuana and potency limits by product type.

The KLRD Managing Research Analyst next presented information on taxation of medical marijuana by local governments. He first noted that 15 of the 37 medical marijuana states do not have city, county, or state medical marijuana taxes. Next, he presented information on states without city or county medical marijuana taxes that levy a state tax. He also discussed states with city or county medical marijuana taxes, or both. Finally, he reviewed laws of states with taxes specific to medical marijuana, in which general sales tax is not levied on purchases.

A KLRD Research Analyst presented information on medical marijuana license tiers and social equity programs. She stated social equity programs are used by states to create pathways into the marijuana industry for persons who have been disproportionately impacted by the prohibition on marijuana, noting 15 states have social equity programs for medical use marijuana. The Research Analyst stated social equity programs offer various benefits to those impacted, including special loan programs, priority application processing, reserved licenses, and fee reductions.

The Research Analyst also discussed licensing tiers. She stated nine states use tiers to determine license fees. She summarized state provisions and tier definitions, including applicable fees and the limit on plant canopy or number of plants.

Review of Policy Issues Raised by Conferees

A Senior Assistant Revisor of Statutes discussed information in a memorandum summarizing policy issues raised by various conferees during the October 12 and October 19 meetings.

General Administration of Regulatory Act

The Senior Assistant Revisor discussed testimony on topics such as effective dates of rules and regulations, advisory committee composition, pilot programs, public education, and medical research.

Patient and Caregiver Regulation

The Senior Assistant Revisor summarized testimony concerning patient and caregiver registration, K-TRACS information and access, medical evaluation requirements, standards of care, physician regulatory requirements, qualifying medical conditions, prior relationship requirements, 30-day supply amount, THC limitations, forms of THC and products, prohibitions on smoking and vaporization, restrictions on use, transportation of product, and prohibition on home cultivation.

Business Entity Regulation

The Senior Assistant Revisor discussed testimony concerning enforcement attorneys; fines and penalties; orders of the Director of ABC;

regulatory funding; statutory definitions; license fees, restrictions, issuance, and effective dates; ownership restrictions and license transfers; regulatory compliance; laboratory and testing restrictions; seed and plant origination; licensure of cultivators; packaging and labeling requirements; advertising regulations; retail sales; transfer of product; retail dispensary training; record retention; security requirements; pharmacist consultants; income tax changes; and financial institution protections.

Taxation Issues

The Senior Assistant Revisor of Statutes summarized conferee recommendations related to taxation issues, including taxation of products, taxation to fund drug addiction prevention and education funding, community grant funds, and State Fire Marshal funding.

Law Enforcement Issues

The Senior Assistant Revisor described suggestions from conferees on law enforcement issues including prohibiting vegetative forms of marijuana, prohibiting unauthorized extraction, waste disposal procedures, criminal penalties for distribution to a minor or unauthorized patient, access to patient and caregiver information and recommendations, presentation of registration to law enforcement, reporting of violations, cooperation with investigations, use in local jails, statutory defense for the use of CBD, unlawful storage, law enforcement costs, and reevaluation of marijuana crime convictions.

Local Government Issues

The Senior Assistant Revisor discussed local government issues including municipality opt-outs, zoning regulations, and distribution of revenue to municipalities.

Other Legal Issues

The Senior Assistant Revisor concluded by discussing other legal issues including employee drug testing policies, workers' compensation benefits, professional practice discipline, and prevention of discriminatory practices.

Members asked questions and further discussed physician standard of care, public housing, and drug testing policies in other states.

Committee members requested research on physician liability, public housing, and tax revenue.

December 15 Meeting

Presentations on Research Topics

KLRD staff presented information on a variety of research topics based on Committee questions from the December 9 meeting.

The KLRD Managing Research Analyst presented information on physician liability. He noted that six states specify immunity from civil and criminal penalties when there is a *bona fide* physician-patient relationship. He stated eight other states allow disciplinary boards to sanction a physician for breaching the standard of care notwithstanding other immunity protections. Certain states do not allow physicians to hold a financial interest in a medical marijuana establishment.

The Managing Research Analyst next discussed medical marijuana use in public housing, noting federal laws treat current public housing tenants differently than public housing applicants. He also reviewed laws from other states that provide protections for tenants of public housing who use medical marijuana, but also allow for a smoking prohibition. The Managing Research Analyst also discussed recent litigation by tenants and prospective tenants.

The Managing Research Analyst also reviewed a memorandum concerning regional state medical marijuana revenues. He discussed figures from either calendar year 2021 or fiscal year 2021, depending on the state. He noted that the states in the region are at differing stages of implementation and that sales per patient and the number of patients per 100,000 of population vary among the states.

A KLRD Research Analyst discussed employer laws and workers' compensation in the context of medical marijuana. She noted employee and employer protections in each state with a medical marijuana program; those protections generally consist of anti-discrimination protections while also allowing employers to address the scenario of impaired employees.

Committee members asked questions concerning whether persons under the influence at work had any legal protections and whether employees are required to notify their employers of their status as medical marijuana patients.

The Research Analyst next discussed social equity litigation. She summarized cases from Connecticut, New York, Los Angeles, and Maricopa County, Arizona, in which plaintiffs sued medical marijuana regulatory bodies due to the conduct of license lotteries and certain residency requirements. The Research Analyst also discussed a federal 1st Circuit Court of Appeals case concerning residency in which the court's holding cited a U.S. Supreme Court case on liquor license residency requirements (holding such requirements to be unconstitutional). Members asked questions concerning residency and qualifications of the plaintiffs.

A KLRD Research Analyst presented information regarding how eight other states (Michigan, Mississippi, Missouri, Nevada, Oklahoma, Rhode Island, Virginia, and Washington) have established limitations on possession of usable medical marijuana.

Committee Discussion

Following the research presentations, Committee members discussed the following topics:

- Tiered licensing;
- Taxes;
- Transferability of liquor licenses;
- Physician-patient relationships;
- Physician education;
- Qualifying conditions;
- Expungement of marijuana-related convictions;
- Independent laboratory testing requirements;

- Licensing fees;
- Medical marijuana in jails and correctional facilities;
- Methods of administration;
- A possible pilot program;
- Seed-to-sale tracking systems; and
- Workers' compensation.

CONCLUSIONS AND RECOMMENDATIONS

Following discussion, the Committee agreed to recommend that the 2023 Legislature consider the information and perspectives provided to the Committee when it considers medical marijuana legislation. The Committee further agreed that the Legislature should especially consider the information and perspectives provided on:

- Expungement of marijuana-related convictions;
- Independent laboratory testing requirements;

- Licensing fees;
- Medical marijuana in jails and correctional facilities;
- Methods of administration;
- Physician education;
- Physician-patient relationships;
- Whether a pilot program is needed;
- Qualifying conditions;
- Seed-to-sale tracking systems;
- Taxes;
- Tiered licensing;
- Transferability of licenses; and
- Workers' compensation.

Report of the Special Committee on State Employee and Board Member Compensation to the 2023 Kansas Legislature

CHAIRPERSON: Representative Troy Waymaster

VICE-CHAIRPERSON: Senator Michael Fagg

OTHER MEMBERS: Senators Rick Billinger, Ethan Corson, Rick Kloos, and Gene Suellentrop; and Representatives Leo Delperdang, Susan Humphries, Mari-Lynn Poskin, Bill Sutton, and Brandon Woodard

STUDY TOPIC

The Committee is directed to:

- Review state employee compensation topics including:
 - State compensation as compared to compensation for other public sector and private sector employees, using market studies prepared by the Department of Administration;
 - Continued use of classified and unclassified service;
 - Compliance with existing Kansas statutes regarding state employees;
 - Other states' employment systems for comparison with the Kansas system;
 - Options to tie compensation to performance reviews; and
 - Other duties as determined by the Chairperson related to state employees and the state employment system;
- Review state board member compensation topics including a review of the statutes governing what boards receive compensation and the fiscal impact of increasing that compensation; and
 - Hear from state agencies governed by state boards to determine what, if any, issues they might face in board member recruitment; and
 - Receive information on private sector board compensation to see how compensation for individuals serving on private sector boards compares to compensation for service on state boards.

January 2023

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Special Committee on State Employee and Board Member Compensation

REPORT

Conclusions and Recommendations

The Special Committee on State Employee and Board Member Compensation (Committee) notes increasing challenges in retaining qualified employees and recommends the Legislature adopt a consistent compensation philosophy that recognizes both equity and competitiveness. To accomplish that goal, the Committee submits the following recommendations.

To the Legislature, the Committee recommends:

- Board member compensation be increased to match that of state legislators, unless the board member is also a state employee;
- House budget and Senate committees review the agencies with employee compensation more than 5.0 percent below market rate according to the 2022 market survey and recommend steps to bring compensation for those positions to market rates, reflecting both salary and benefits;
- The Legislature review statutory restrictions on recruitment and referral bonuses and determine whether they need to be adjusted;
- The Legislature develop a new system for compensation that allows agencies to adjust compensation to match the market pay by region; and
- The Legislature develop a consistent compensation philosophy, potentially with an official compensation study, incorporating the three recommendations for a healthy compensation system provided by the Director of Personnel Services:
 - General adjustments should change the entire pay structure including that for all unclassified employees receiving a set increase and adjust the pay matrix for classified employees;
 - The compensation system should provide movement through the pay structure with regular steps for classified employees and merit increases for unclassified employees; and
 - Targeted adjustments should be provided for particular jobs or groups of jobs based on market or other workforce conditions.

To state agencies, the Committee recommends:

- State agencies review their recruitment techniques and share that information with other state agencies;

- The Kansas Public Employees Retirement System (KPERS) complete an actuarial study on the cost to restore KPERS Tier 2 and roll all current Tier 3 employees into Tier 2. KPERS should report on the study to the House Committee on Financial Institutions and Pensions on or before the 2023 Omnibus Session; and
- Agencies review options for eliminating excess or redundant positions and reallocate those resources.

Proposed Legislation: None.

BACKGROUND

The Legislative Coordinating Council created the Special Committee on State Employee and Board Member Compensation (Committee) to review the process by which Kansas state employees are employed and compensated and make recommendations to improve the system tying performance to compensation. The Committee was also charged with determining whether the daily compensation rate of \$35 for Kansas board members is adequate and reasonable.

COMMITTEE ACTIVITIES

The Legislative Coordinating Council authorized three meeting days for the Committee. The Committee met twice during the 2022 Interim, on November 29 and December 14.

Overview

The Committee received overview briefings regarding state employee and board member compensation from staff of the Office of the Revisor of Statutes (Revisor's Office), the Kansas Legislative Research Department (KLRD), and the Department of Administration Office of Personnel Services (DPS).

Revisor's Office staff briefed the Committee on statutes governing classified and unclassified state positions. The staff indicated that, prior to the amendment of KSA 75-2935, a position is classified unless it is designated as unclassified. In 2015, HB 2391 amended the statute so that any vacant position in the classified service may be converted to unclassified. According to data provided by DPS, the majority of state employee

positions are now unclassified. Revisor's Office staff also reviewed the statutes governing bonuses and board member compensation. Pursuant to KSA 75-3223, most board members receive \$35 per day plus subsistence, which includes meals, lodging, mileage, and other reasonable expenses.

A KLRD staff member provided background on the implementation of the 5.0 percent salary increases included in 2022 House Sub. for Sub. for SB 267, full-time-equivalent employee adjustments, the statutory boards and commissions, and budgeted expenditures for boards and commissions in FY 2023.

A representative of DPS provided the 2022 market analysis of state employee salaries. The market analysis indicated that compensation of the majority of state employees is between 5.0 and 25.0 percent under market rates, with compensation for a few positions slightly above or below comparable market rates. DPS indicated the target for market rate comparisons was within 5.0 percent above or below market values.

The Executive Director of the Kansas Public Employees Retirement System (KPERS) provided an overview of the State's retirement system, including the types of retirement plans offered, the three tiers of employees within the KPERS State/School/Local group, and cost-of-living allowances. While most KPERS plans are defined benefit plans, KPERS 3 is a cash benefit plan for which benefits are based on the total account balance at retirement.

Agency Briefings

The Committee received briefings from public safety, human services, and other state agencies regarding state employee compensation.

Public Safety Agencies

A representative of the Kansas Department of Corrections (KDOC) stated that the implementation of the 24/7 Pay Plan, including enhancements to base pay and the use of shift differentials, had reduced the rate of vacancy at KDOC facilities. However, as of November 14, 2022, the average vacancy rate for adjusted facilities was 21.0 percent, the rate for parole officers was 10.0 percent, and the rate for the Kansas Juvenile Correctional Complex was 38.0 percent. KDOC indicated the agency is having difficulty competing with compensation rates in Colorado and Nebraska as well as with local non-correctional compensation rates.

A representative of the Kansas Highway Patrol (KHP) stated the agency has experienced a decrease of 83 uniformed officers and 10 civilian staff members since 2019. The KHP representative also indicated the agency is having difficulties with recruitment and retention due, in part, to competition with other law enforcement agencies.

A representative of the Kansas Bureau of Investigation (KBI) indicated the agency has averaged a vacancy rate of 16.6 percent since FY 2018. The KBI representative stated the starting investigator pay is not competitive with that of many police departments, despite the high level of requirements for KBI special investigators.

The Secretary of Wildlife and Parks stated the starting pay for natural resource officers at the Kansas Department of Wildlife and Parks (KDWP) is 16.0 percent below market rate according to the most recent market survey, which is hampering recruitment. The Secretary also stated that agency law enforcement personnel are not eligible for the Kansas Police and Firemen's Retirement System, which allows earlier retirement, but takes a longer time to vest. KDWP officials are of the opinion that inclusion of agency law enforcement positions in that retirement system would aid recruitment.

Human Services Agencies

A representative of the Kansas Department for Aging and Disability Services (KDADS) stated the agency is experiencing extreme challenges in recruitment and retention of personnel, specifically for mental health/developmental disability

technicians, nurses, and security officers. As of October 12, 2022, vacancies at three hospitals (Parsons State Hospital and Training Center [Parsons], Osawatomi State Hospital, and the Kansas Neurological Institute [KNI]) ranged from 39.5 to 113 vacancies. Larned State Hospital had 344.5 vacancies in these positions. The KDADS representative indicated that the 24/7 Pay Plan appears to have stopped the loss of employees at KNI and Parsons while having limited to no effect at the Larned and Osawatomi state hospitals.

The Secretary for Children and Families stated that Department for Children and Families Human Services employees are paid between 14.0 and 30.0 percent below market rates; social worker compensation is 35.0 to 41.0 percent below market rates; and disability examiner compensation is between 11.0 and 27.0 percent below market rates. The Secretary stated that low salaries have contributed to vacancy rates of between 9.0 and 77.0 percent for these positions.

Other State Agencies

A representative of the Judicial Branch briefed the Committee on the FY 2024 agency request for an increase in compensation for judges of 15.29 percent and for other Judicial Branch employees of 8.5 percent. The Judicial Branch representative stated the adjustments are necessary to continue to support market compensation after major adjustments to the Judicial Branch salaries in FY 2022 and FY 2023.

The Secretary of Transportation briefed the Committee on the Kansas Department of Transportation (KDOT) plan to use excess funds from vacant positions to provide salary increases to most KDOT employees of between 5.0 and 34.0 percent. The Secretary indicated that low salaries since FY 2014 have resulted in actual expenditures for salaries being substantially lower than the budgeted amount. KDOT will use the salary savings to fund the salary adjustments.

A representative of the Kansas Department of Revenue (KDOR) reported the vacancy rate among driver's license employees within the Division of Vehicles is 15.0 percent. This is an increase from 6.0 percent at the end of FY 2020. The vacancy rates have increased the average wait time for driver's license services.

Board Member Compensation

Representatives of the Kansas Board of Pharmacy, Kansas Human Rights Commission, Kansas State Board of Healing Arts, Office of the State Bank Commissioner, KDOR, Kansas State Board of Technical Professions, and the Board of Accountancy submitted written-only testimony regarding board member compensation. The agency representatives indicated the compensation rate of \$35 per day hampered their ability to recruit and retain board members.

A KLRD staff member also provided written testimony detailing the boards and commissions within the State that have not met recently.

CONCLUSIONS AND RECOMMENDATIONS

At its December 14 meeting, the Committee discussed the challenges in retaining qualified employees and recommended the Legislature adopt a consistent compensation philosophy that recognizes both equity and competitiveness. To accomplish that goal, the Committee made the following recommendations.

Recommendations to the Legislature

The Committee recommends that House budget committees and the Senate committees review agencies with position compensation more than 5.0 percent below market rates according to the 2022 market survey and recommend steps to bring compensation for those positions to market rates, reflecting both salary and benefits.

The Committee also recommends the Legislature review statutory restrictions on recruitment and referral bonuses and determine whether they need to be adjusted.

The Committee recommends that the Legislature develop a new system for compensation that allows agencies to adjust compensation to match the market pay by region.

The Committee recommends the Legislature develop a consistent compensation philosophy, which may or may not require an official compensation study. This philosophy should incorporate the three recommendations for a healthy compensation system provided by the Director of Personnel Services.

The Committee recommends that board member compensation be increased to match that of state legislators unless the board member is also a state employee.

Recommendations to State Agencies

The Committee recommends that KPERS complete an actuarial study on the cost to restore KPERS Tier 2 and roll all current Tier 3 employees into Tier 2, and that KPERS report on the study to the House Committee on Insurance and Pensions on or before the 2023 Omnibus Session.

The Committee recommends that state agencies review their recruitment techniques and share that information with other state agencies.

The Committee recommends state agencies review options for eliminating excess or redundant positions and reallocate those resources.

Report of the Special Committee on Taxation to the 2023 Kansas Legislature

CHAIRPERSON: Representative Adam Smith

VICE-CHAIRPERSON: Senator Caryn Tyson

OTHER MEMBERS: Senators Renee Erickson, Tom Holland, Virgil Peck, and Gene Suellentrop; and Representatives Mike Amyx, Tom Kessler, Les Mason, Vic Miller, and Carl Turner

STUDY TOPIC

The Committee is directed to study and make recommendations concerning:

- The effective implementation of the *Kansas Constitution's* requirement of statewide uniformity in assessment of property for *ad valorem* tax purposes;
- The continued necessity and utility of Kansas' membership in the Streamlined Sales and Use Tax Agreement;
- The individual income taxation of retirement plan income and Social Security benefits; and
- Any inactive taxing jurisdictions or unused tax provisions that may be ripe for repeal.

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Special Committee on Taxation

REPORT

Conclusions and Recommendations

The Committee recommends the 2023 Legislature:

- Eliminate the tax “cliff” and marriage penalty related to the income taxation of Social Security benefits;
- Consider eliminating the income taxation of Social Security benefits, including review of the formulaic elimination of the taxation previously included in the Conference Committee Report for 2022 HB 2597;
- Explore gradually reducing or eliminating the income taxation on retirement plan income, including the approach previously considered in the Conference Committee Report for 2022 HB 2597. The Committee specifically recommended the Legislature consider the equity of taxation of retirement income, specifically certain plans for employees of Kansas Board of Regents institutions that result in no tax being paid on retirement income;
- Discuss the property valuation process throughout the state, including statutory requirements, constitutional assessment ratios, the administrative process used by the Division of Property Valuation, and the practices of county appraisers;
- Clarify statutes to specify the voting procedure or the Kansas delegation to the Streamlined Sales and Use Tax Agreement (SSUTA);
- Continue to evaluate the impact of the SSUTA on Kansans and Kansas businesses;
- Evaluate the \$100,000 threshold of taxable sales for use taxes prior to remote sellers being required to collect and remit use taxes to consider the equity of the policy on in-state businesses and consider implementing a similar policy for in-state retailers;
- Consider re-adding the compensating use tax line to the Kansas individual income tax return; and
- Evaluate any expired and unused taxing provisions and consider them for possible repeal.

Proposed Legislation: None.

BACKGROUND

The Special Committee on Taxation (Committee) was created by the Legislative Coordinating Council to study Kansas income

taxation of Social Security benefits and retirement income, Kansas’ continued participation in the Streamlined Sales and Use Tax Agreement (SSUTA), the effective implementation of the *Kansas Constitution’s* requirements related to

uniformity of valuation for property tax purposes, and any unused or inactive tax provisions in Kansas statutes. The Committee was authorized to meet for two days.

COMMITTEE ACTIVITIES

The Committee met at the Statehouse on November 18 and December 12, 2022. At the November 18 meeting, the Committee reviewed information related to income taxation of Social Security benefits and retirement income, unused and inactive taxing provisions, and property valuation uniformity. At the December 12 meeting, the Committee reviewed information related to the SSUTA and made recommendations to the 2023 Legislature.

November 18, 2022, Meeting

Consensus Revenue Estimates

The Senior Economist, Kansas Legislative Research Department (KLRD), presented the most recent economic and revenue forecasts of the Consensus Revenue Estimating Group, made on November 9, 2022. The presentation noted the Kansas economy is expecting to have modest real growth throughout calendar years 2022, 2023, and 2024, but that elevated levels of inflation will result in robust nominal economic growth, leading to continued growth in tax revenues through the end of FY 2024. Tax receipts are expected to grow by 3.1 percent in FY 2023 and a further 0.9 percent in FY 2024. Non-tax revenues are anticipated to be volatile throughout the forecast period as extraordinary transfers out of the State General Fund are provided for in each year. Accordingly, total receipts are projected to grow by 22.6 percent in FY 2023 and a further 4.4 percent in FY 2024.

Income Taxation of Social Security Benefits and Retirement Income

KLRD staff provided an overview and history of the federal and Kansas income taxation of Social Security benefits and retirement plan income.

A representative of the Tax Foundation provided information about tax policy. The representative noted that for states levying a

broad-based income tax, the ideal neutral tax policy is to treat all retirement income, including Social Security benefits, as ordinary income. However, if a state chooses to provide non-neutral taxation of such income, the representative advised that Kansas should modify its tax treatment by ensuring that the current tax “cliff” related to Social Security benefits is converted to a phaseout and by ensuring the tax code contains no marriage penalties or bonuses as it relates to retirement income.

A representative of the Kansas Department of Revenue (Department) provided estimates of the impact on state revenues of various possible changes to tax policy related to Social Security benefits and retirement income. The Department representative noted that the current policy regarding Social Security benefits is estimated to reduce state receipts by approximately \$31 million per year. Fully exempting such benefits would reduce state receipts by an additional amount of approximately \$117 million per year once fully implemented. The Department representative noted that fully exempting retirement plan income would reduce state receipts by an estimated \$267 million per year once fully implemented.

Inactive and Unused Tax Provisions

Department representatives provided detailed information concerning Kansas tax credits and their utilization and expiration, Kansas sales tax exemptions and their utilization, and local sales tax authority in Kansas and its utilization.

Property Valuation Uniformity

KLRD staff provided an overview of the *Kansas Constitution's* requirements concerning the uniformity of valuation and taxation of property under the state’s general *ad valorem* property tax.

The Director of Property Valuation from the Department presented information concerning the constitutional and statutory requirements related to property valuation, the current status of the Division of Property Valuation and County Appraisers, the annual appraisal compliance review process, and current legal and technological issues within property valuation.

Staff from the Office of the Revisor of Statutes provided an overview of the Kansas Supreme

Court case, *In the Matter of the Walmart Stores*, which pertained to evidentiary issues related to the valuation of “big box” retail stores and mentioned the issue of the “dark store theory” of property valuation.

The Court’s ruling overturned a previous case prohibiting the Board of Tax Appeals from considering unadjusted build-to-suit leases in determining the value of a property and remanded the matters back to the Board of Tax Appeals for further consideration under the evidentiary standard. The Director of Property Valuation indicated that the matter had since been settled between the parties with the property values being stipulated.

December 12, 2022, Meeting

Streamlined Sales and Use Tax Agreement

KLRD staff presented a history of Kansas’ legislative actions concerning the SSUTA. The Legislature’s work on the topic began in 2000, and the SSTUA was entered into in 2002. Legislation enacted in 2003 generally brought Kansas’ tax laws into compliance with the SSUTA’s provisions and 2007, and 2010 legislation updated Kansas law to remain in compliance with the SSUTA following amendments thereto.

The Secretary of Revenue presented information to the Committee concerning the administration of the SSUTA by the Department and the revenue received by Kansas pursuant to it. In calendar year 2021, Kansas received \$68.4 million of state and local tax pursuant to the SSUTA and allowed SSUTA customer service providers to retain \$2.0 million under the terms of the agreement. In FY 2022, Kansas’ member dues for the SSUTA were \$35,805.

The Executive Director of the SSUTA and representatives from the Council on State Taxation presented information to the Committee concerning the agreement; its history and governance; its goals, results, and key features; the burdens on retailers imposed by sales taxes and how the SSUTA seeks to minimize those burdens; recent U.S. Supreme Court decisions and their impact on the SSUTA; and the organization’s successes and current projects.

CONCLUSIONS AND RECOMMENDATIONS

The Committee held preliminary discussion of possible recommendations at the conclusion of its November 18 meeting, with further discussion and agreement on final recommendations at the conclusion of its December 12 meeting.

The Committee recommends the 2023 Legislature:

- Eliminate the tax “cliff” and marriage penalty related to the income taxation of Social Security benefits;
- Consider eliminating the income taxation of Social Security benefits, including review of the formulaic elimination of the taxation previously included in the Conference Committee Report for 2022 HB 2597;
- Explore gradually reducing or eliminating the income taxation on retirement plan income, including the approach previously considered in the Conference Committee Report for 2022 HB 2597. The Committee specifically recommends the Legislature consider the equity of taxation of retirement income, specifically certain plans for employees of Kansas Board of Regents institutions that result in no tax being paid on retirement income;
- Discuss the property valuation process throughout the state, including statutory requirements, constitutional assessment ratios, the administrative process used by the Division of Property Valuation, and the practices of county appraisers;
- Clarify statutes to specify the voting procedure or the Kansas delegation to the SSUTA;
- Continue to evaluate the impact of the SSUTA on Kansans and Kansas businesses;
- Evaluate the \$100,000 threshold of taxable sales for use taxes prior to remote sellers

being required to collect and remit use taxes to consider the equity of the policy on in-state businesses and consider implementing a similar policy for in-state retailers;

- Consider re-adding the compensating use tax line to the Kansas individual income tax return; and

- Evaluate any expired and unused taxing provisions and consider them for possible repeal.

Report of the Special Committee on Water to the 2023 Kansas Legislature

CHAIRPERSON: Senator Dan Kerschen

VICE-CHAIRPERSON: Representative Ron Highland

OTHER MEMBERS: Senators Carolyn McGinn, Ronald Ryckman, Alicia Straub, and Mary Ware;
and Representatives Cyndi Howerton, Jim Minnix, Joe Newland, Lindsay Vaughn, and Rui Xu

STUDY TOPIC

The Committee is directed to study issues related to Kansas aquifers, dam storage capacity, and funding.

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Special Committee on Water

REPORT

Conclusions and Recommendations

The Special Committee on Water did not make formal recommendations. The Committee requested additional information regarding the following funding options: utilizing 0.1 percent of sales and use taxes without increasing the current rate of 6.5 percent state sales and use tax, and a water bottle fee of \$.04 per bottle of water sold in Kansas. [Note: Approximately \$67.6 million would be raised from a 0.1 percent sales and use tax in FY 2024, and \$688,000 would have been raised in calendar year 2021 from the bottle fee.]

Proposed Legislation: None.

BACKGROUND

The Legislative Coordinating Council (LCC) appointed the Special Committee on Water (Committee), composed of 11 members of the House Committee on Agriculture, the House Committee on Water, and the Senate Committee on Agriculture and Natural Resources. The LCC directed the Committee to study issues related to Kansas aquifers, dam storage capacity, and funding.

COMMITTEE ACTIVITIES

The LCC approved two meeting days for the Committee during the 2022 Interim. The Committee met August 29 and August 30, 2022, in the Statehouse.

August 29, 2022, Meeting

Staff Overview

Research analysts from the Kansas Legislative Research Department (KLRD) provided a review of the Committee's study topic and additional resources.

Overview of the Division of Water Resources

The Chief Engineer of the Division of Water Resources (DWR), Kansas Department of Agriculture (KDA), provided an overview of

DWR. The Chief Engineer noted DWR has been part of KDA since 1927. He stated DWR administers 30 laws and has responsibility for allocation and use of water, water structures, and interstate compacts.

The Chief Engineer provided a funding overview. He stated funding for DWR is \$11.0 million to \$12.0 million annually and noted federal funding provides the largest amount of revenue.

The Chief Engineer then provided information regarding interstate water compacts, dam safety, the National Flood Insurance Program, and permitting of water structures.

The Chief Engineer discussed how water is used throughout the state, including industrial, irrigation, municipal, recreation, and stock uses. Irrigation uses the most water. The Chief Engineer also provided an overview of water right development and flexibility and conservation tools, such as multi-year flex accounts, water conservation areas, and local enhanced management areas (LEMAs).

Overview of the Kansas Water Office

The Director of the Kansas Water Office (Water Office) provided an overview of the Water Office. The Director noted that DWR is responsible for the quantity of water in Kansas; the Kansas Department of Health and Environment

(KDHE) is responsible for the quality of the water, and the Water Office, established in 1981, is responsible for water planning, coordination, and marketing. The Water Office is required to develop a comprehensive State Water Plan, with the most recent update approved in August 2022. The Water Office is also responsible for drought monitoring and response and for securing contracts for public water storage that is bought by municipalities.

The Director provided information about the Kansas Water Authority (KWA) and the 2022 State Water Plan.

The Director also discussed three major areas of concern: current and future reservoir sedimentation, declining water availability from the High Plains Aquifer, and water quality.

Overview of the Division of Conservation, Kansas Department of Agriculture

The Director of Conservation (Director), KDA, provided the mission statement of the Division of Conservation (Division) and its objectives, which include protecting federal reservoirs and other public water supplies, reducing flood damage, reducing pollutants to meet total maximum daily load and water quality standards, improving the health of wetlands and riparian stream areas, improving soil health and reducing soil erosion, improving wildlife habitat, and reducing the consumptive use of groundwater supplies.

The Director said that to achieve these objectives, the State partners with stakeholders, including 105 conservation districts; 88 organized watershed districts; other local, state, and federal nongovernmental organizations; and private industry partners.

He indicated more partnership opportunities are becoming available. The Division aids conservation districts by providing matching funds to deliver local, state, and federal conservation programs. Each conservation district has a volunteer five-member board.

The Director also provided an overview of the Division's programs and discussed the Division's challenges and opportunities.

Overview of the Division of Environment, Kansas Department of Health and Environment

The Deputy Secretary of Environment (Deputy Secretary), KDHE, reported the agency's mission is to protect and improve the health and environment of all Kansans and, specifically, the KDHE Division of Environment protects Kansans by ensuring clean air, clean water, and clean soil.

The Deputy Secretary described governing federal legislation, such as the Clean Air Act, the Clean Water Act, and the Safe Drinking Water Act.

The Deputy Secretary provided information about the bureaus within the Division of Environment and an overview of district office operations, livestock waste management, and non-point source water pollution.

The Deputy Secretary provided information about the State Revolving Fund. The Deputy Secretary stated the Kansas Water Pollution Control Revolving Fund issues loans to municipalities for clean water projects.

Introduction to the Kansas Geological Survey

The Director of the Kansas Geological Survey (KGS) stated KGS does not have regulatory responsibility and does not take a position on policy, but the KGS does collect, correlate, preserve, and disseminate information about the geological resources of Kansas. The Director noted about 20.0 percent of the KGS workforce is focused on water.

Aquifer History, Rates of Decline, and Life Expectancy

The Manager of Geohydrology Services, KGS, provided an overview of groundwater resources in Kansas including information about the range of precipitation across the state, the use of groundwater in the western part of the state and surface water in the east, and how water is used throughout the state.

The KGS conferee described the nine aquifers in the state and gave an example of the

assessment of groundwater resources in the Missouri Planning Area.

The KGS conferee stated the Legislature provided funds to establish a well network to develop a groundwater model, and more than 95.0 percent of the wells in Kansas High Plains Aquifer have flow meters.

The KGS conferee also presented a map illustrating how long water will be available from the High Plains Aquifer and explained that portions of the aquifer are already at a minimum threshold of saturated thickness, which means water is becoming less available.

Pumping Reductions

A senior scientist with the KGS provided information on water pumping and said that based on past water pumping data of the High Plains Aquifer, water availability can only be maintained by reducing pumping.

The senior scientist stated that using 25 years of data collected from Groundwater Management District (GMD) 4 informs predictions of the amount of water use reduction necessary to extend the viability of the High Plains Aquifer; those data indicate an average decrease of 19.0 percent would be necessary. The KGS conferee provided data showing pumping reductions in the Sheridan-6 LEMA and Wichita County LEMA.

The KGS conferee also provided information regarding water quality concerns between Lakin and Garden City.

Funding Overview

A senior fiscal analyst with KLRD provided a funding overview for each of the state water agencies. The analyst stated the funding total for FY 2021 was \$243.4 million, and 63.0 percent of the total came from federal funds. The analyst also reviewed how the State Water Plan Fund is allocated and its revenue sources.

August 30, 2022, Meeting

Overview of Kansas Water Laws

A Washburn University School of Law professor provided information about Kansas

water laws. The professor discussed the history of Kansas water laws, water quality issues, water as a public resource, and voting in GMDs.

The professor also reviewed ways Kansas water law could be reformed, including:

- Implementing a quasi-judicial process to help protect water rights and prevent overuse;
- Clarifying the duties of the chief engineer;
- Restoring the independence of the chief engineer and DWR; and
- Reforming the representation of GMDs so all water users are eligible voters.

Overview of Financial Plan from the 2017 Blue Ribbon Funding Task Force for Water Resource Management

Representative Joe Newland provided an overview of the 2017 Blue Ribbon Funding Task Force for Water Resource Management (Task Force). Representative Newland stated the Task Force found that roughly \$55.0 million in annual funding is needed to implement its “Long Term Vision for the Future of Water Supply in Kansas” and recommended that 0.1 percent of state sales tax be dedicated to meeting the annual funding needs. He also noted a fee on bottled water was considered.

Additional Information

KLRD staff provided additional information after the Committee’s meetings regarding the fiscal impacts of the funding options discussed. Currently, the state sales and use tax is 6.5 percent; directing a 0.1 percent sales and use tax in FY 2024 would yield \$67.6 million. Funds from the remaining 6.4 percent state sales and use tax would be available for the State General Fund and State Highway Fund purposes to which the tax is directed in current law. KLRD staff noted that if a fee of \$.04 per bottle of water had been assessed in calendar year 2021, an estimated \$688,000 of additional funding would have been available for water agencies and programs, based on data from the Beverage Marketing Corporation.

CONCLUSIONS AND RECOMMENDATIONS

The Committee made no recommendations. The Committee requested additional information regarding the following funding options for water agencies and programs:

- Utilizing 0.1 percent of state sales and use taxes without increasing the current rate of 6.5 percent sales and use tax; and
- Assessing a water bottle fee of \$.04 per bottle of water sold in Kansas.

Report of the Special Committee on Workforce Development to the 2023 Kansas Legislature

CHAIRPERSON: Representative Sean Tarwater

VICE-CHAIRPERSON: Senator Renee Erickson

OTHER MEMBERS: Senators Brenda Dietrich, Virgil Peck, Jeff Pittman, and Kellie Warren; and Representatives Avery Anderson, Tory Marie Arnberger, Jesse Borjon, Stephanie Clayton, and Pam Curtis

STUDY TOPIC

The Committee is directed to study workforce development and laws or regulations that may act as barriers to entry into the workforce.

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Special Committee on Workforce Development

REPORT

Conclusions and Recommendations

The Special Committee on Workforce Development recommends the 2023 Legislature:

- Assist adult learners who are seeking an online education to achieve college degrees in fields that are critical to the economic growth of the Kansas. This may include supporting actions that foster competency-based education so that students can finish their degrees in an effective and efficient manner, and promoting programs that expand the skills of existing staff utilizing micro-credentials and short-term training;
- Examine ways to provide financial assistance to more students, including those who decide to complete degrees through an online-based model;
- Ensure an increasing amount of scholarship funding provided by the State is tied to requirements to live and work in Kansas;
- Encourage the Kansas Department of Commerce to create a statewide marketing campaign about technical careers that encourages enrollment in short-term credential and degree programs to meet the needs of Kansas businesses for skilled workers. This campaign should highlight the well-paying jobs that can be obtained without four years of postsecondary education, without student debt, in Kansas, and encourage parents to urge their students to consider training for these careers;
- Develop and support innovative approaches and programs to address critical workforce shortages and attract new people to Kansas through means such as tax incentives, tuition forgiveness, a review of the state tax structure, and other creative means to grow the Kansas population to meet the workforce needs of Kansas businesses;
- Continue and increase support for workforce development programs that are effective, including the Excel in Career Technical Education initiative, the National Center for Aviation Training, Promise Act scholarships, work-based learning, and apprenticeships. The Legislature should also eliminate and cease support for any program that is funding careers that are no longer needed or that consist of low-income jobs;
- Advocate for enhanced re-entry programs that encourage ex-offenders to re-enter the workforce. The Legislature should also support programs that encourage work and help recipients of government assistance with obtaining employment. Additionally, the Legislature should examine all benefits that may be keeping able-bodied individuals from returning to work, and consider an automated process to streamline expungement;
- Support growing the Kansas and local economies through applied research and private-public partnerships, like the National Institute of Aviation Research; partnerships between universities and business to create innovation programs (like Wichita State University's Innovation Campus); and career pathways for high school students;

- Support and increase focus on science, technology, engineering, and mathematics learning initiatives, including support for computer science classes in school, as well as initiatives to explore leadership and business skills such as the Distributive Education Clubs of America, Future Business Leaders of America, and the Business Professionals of America;
- Support accountability measures for increased funding for need-based aid for postsecondary credentials;
- Support policies that expand access to affordable child care options, including a comprehensive review of regulations;
- Support changes that enable teachers from other states to obtain licensure more quickly and easily in Kansas and develop a Para-to-Teacher program;
- Have Kansas Legislative Research Department staff present answers to the workforce indicator questions from small businesses presented in testimony to the House Committee on Commerce, Labor and Economic Development and the Senate Committee on Commerce;
- Request a representative of the Kansas Chamber of Commerce present and review its Work Force Study and its recommendations to both the House Committee on Commerce, Labor and Economic Development and the Senate Committee on Commerce;
- Investigate the disability pay caps to understand how they affect workforce and benefits;
- Consider amending statutes to allow the Kansas State Department of Education to provide outside access to the State Longitudinal Data System compiled by the agency for the purposes of research and study;
- Proceed cautiously regarding the legalization of marijuana;
- Consider the creation or expansion of individual child care tax credits; and
- Have the appropriate House and Senate committees study and make recommendations regarding the child care shortage.

Proposed Legislation: None.

BACKGROUND

The Special Committee on Workforce Development (Committee) was created by the Legislative Coordinating Council (LCC) to study workforce development.

The Committee was directed to study laws and regulations that may act as barriers of entry into the Kansas workforce.

The Committee was authorized by the LCC to meet for two days and met at the Statehouse on September 29 and November 21, 2022.

COMMITTEE ACTIVITIES

September 29, 2022

The Committee met to hear an informational presentation from legislative staff and stakeholder testimony regarding the labor economy in Kansas.

Overview of the Kansas Labor Economy

The Senior Economist with the Kansas Legislative Research Department provided an overview of the state of the labor economy in Kansas. He discussed the two primary job surveys done by the U.S. Bureau of Labor Statistics, how these surveys differ from each other, and what information and trends one can ascertain from each survey. He also discussed the workforce participation rate within the state and how that participation is broken down by age categories. He noted that from 2011 to 2021, the civilian noninstitutional populations in the 16 – 24-year-old and 25 – 54-year-old cohorts decreased by 3.0 and 4.0 percent, respectively, while the number in the 55-year-old and above cohort increased by 18.0 percent.

Stakeholder Testimony

The Committee heard testimony from a variety of stakeholders who discussed a combination of workforce challenges, what each conferee is doing to increase the workforce, or ideas of each conferee to lower the barrier of entry to the workforce.

Western Governors University

A representative of Western Governors University discussed the concepts of competency-based education, upskilling, reskilling, and micro-credentialing as means by which individuals who have no or some postsecondary experience but no traditional degree could obtain the education and skills necessary to increase their participation in the workforce.

Wichita State University

A representative of Wichita State University (WSU) discussed the university's focus on integrating industry experience into degree pathways through student internships. The conferee also provided an overview of various initiatives WSU is utilizing to help bring new students to Kansas and expand the Kansas workforce, such as targeted in-state tuition programs and the National Institute for Aviation Research (NIAR) WERX Program. The conferee noted that 49.0 percent of the first graduating class utilizing the I-35 and I-70 in-state tuition programs have taken jobs and chosen to stay in Kansas after graduation.

Overland Park Chamber

A representative for the Overland Park Chamber provided an overview of a recent business roundtable that the organization held with local business leaders about the challenges they are facing. While noting some of the challenges addressed required federal action or internal action within the business, the representative provided a list of suggestions of actions the Legislature could take to help address the concerns voiced at the roundtable.

Kansas Association of Community College Trustees

A representative of the Kansas Association of Community College Trustees provided information about how Kansas community colleges were helping address workforce issues. She primarily focused on the Kansas Promise Scholarship Act, enacted in 2021 and amended in 2022, which provides last-dollar scholarships to students seeking degrees in specific fields.

She also described the extensive work community colleges do in providing non-credit courses such as commercial driver licensing and other training required by business and industry.

Kansas Information Security Office

The Chief Information Security Officer with the Kansas Information Security Office provided an overview of workforce recommendations made by the Governor's Cybersecurity Taskforce.

Zephyr Products, Inc.

A representative of Zephyr Products, Inc. (Zephyr) provided background information on Zephyr and how its programs work; the programs utilize inmates within the Lansing Correctional Institution to fabricate products for Zephyr's clients.

The conferee extensively discussed the training and supports given to Zephyr employees and the historically low recidivism rate of individuals who are employed by Zephyr at the end of their sentences.

Spirit AeroSystems

A representative of Spirit AeroSystems (Spirit) provided testimony regarding the workforce challenges faced by Spirit and the Wichita aerospace industry at large. She discussed the steps Spirit has taken to attract new employees as well as establishing a robust in-house training program to allow Spirit to train individuals in the required skills.

A representative of Textron Aviation was present for questions but did not provide oral or written testimony.

November 21, 2022

The Committee met to hear information from the Kansas Board of Regents regarding postsecondary participation with regard to workforce development. The Committee also heard from additional stakeholders on workforce development in general and on issues of child care that were raised by the Committee at its prior meeting.

Overview of Postsecondary Participation

The President and Chief Executive Officer of the Kansas Board of Regents presented an overview of long- and short-term trends in postsecondary education in general and with regard to the talent pipeline of the state's future workforce. He provided statistics regarding the quantity and types of degrees awarded in the previous academic year as well as a breakdown of what economic sectors those degrees were in. He also noted that, since 2013, the state's postsecondary institutions have seen an average decline in enrollment of 1.0 percent year over year, with the community and technical colleges seeing a larger decline than the four-year Regents universities. He also discussed college readiness, economic impacts of postsecondary education, and what could be done to increase postsecondary education participation at all levels.

Stakeholder Testimony

Goodwill

Representatives of Goodwill of Western Missouri and Eastern Kansas and Goodwill Industries of Kansas provided a joint presentation to the Committee. Both conferees provided

information on what programs their organizations provide to aid individuals seeking greater participation in the workforce.

Aligned

A representative for Aligned spoke about her organization's request of the State to establish a State Longitudinal Data System that would allow for large-scale longitudinal research by connecting K-12, postsecondary, and labor data to answer a myriad of questions, examples of which were provided in testimony.

The Golden Scoop

Representatives of The Golden Scoop provided testimony to the Committee on The Golden Scoop and its mission to help employ individuals with disabilities. The conferees also discussed with the Committee the various challenges the organization faces in helping their employees navigate current regulations that limit the income individuals with disabilities can make before they begin losing governmental benefits. During discussion, it was acknowledged that these issues have a significant federal component.

Build Up Kansas

A representative of Build Up Kansas provided an overview of the program and the impacts it has had and hopes to continue to have on the construction industry in the state. The conferee also provided an update on how the organization had utilized funds appropriated to it by the 2022 Legislature.

Kansas Chamber of Commerce

A representative of the Kansas Chamber of Commerce (Kansas Chamber) provided an overview of a report the Kansas Chamber had commissioned in 2020 regarding challenges in the Kansas workforce.

City of Lindsborg

A representative of the City of Lindsborg presented an overview of a city-led effort to construct and establish a new, nonprofit child care facility in that community. The conferee discussed the public-private partnership that was established and how the center is structured to provide affordable, high quality, sustainable child care.

SugarCreek Food Solutions

A representative of SugarCreek Food Solutions described how his company has worked to address child care issues faced by company employees. The representative discussed several examples in other states where the company established or helped repurpose a facility and partnered with a child care provider to provide services for the company's employees and the community at large. Plans were also shared for the current effort at the company's plant in Frontenac, Kansas, to build and furnish a facility.

Kansas Policy Institute

A representative of the Kansas Policy Institute (KPI) presented a report published by KPI regarding student achievement in the state's K-12 education system and its impact on the future workforce.

CONCLUSIONS AND RECOMMENDATIONS

Following stakeholder testimony during the November 21, 2022, meeting, the Committee recommended the 2023 Legislature:

- Assist adult learners who are seeking an online education to achieve college degrees in fields that are critical to growth of Kansas. This may include supporting actions that foster competency-based education so that students can finish their degrees in an effective and efficient manner and promoting programs that upskill and reskill existing staff utilizing micro-credentials and short-term training;
- Examine ways to provide financial assistance to more students, including those who decide to achieve their degrees through an online-based model;
- Ensure an increasing amount of scholarship funding provided by the State is tied to requirements to live and work in Kansas;
- Encourage the Kansas Department of Commerce to create a statewide marketing campaign about technical careers that encourages enrollment in short-term credential and degree programs to meet the needs of Kansas businesses for skilled workers. This campaign should highlight the well-paying jobs that can be obtained without four years of education, without student debt, in Kansas, and encourage parents to urge their students to consider training for these careers;
- Develop and support innovative approaches and programs to address critical workforce shortages and attract new people to Kansas through means such as tax incentives, tuition forgiveness, a review of the state tax structure, and other creative means to grow the Kansas population to meet the workforce needs of Kansas businesses;
- Continue and increase support for workforce development programs that are effective, including the Excel in Career Technical Education initiative, the National Center for Aviation Training, Promise Act scholarships, work-based learning, and apprenticeships. The Legislature should also eliminate and cease support for any program that is funding careers that are no longer needed or consist of low-income jobs;
- Advocate for enhanced re-entry programs that encourage ex-offenders to re-enter the workforce and support programs that encourage work and help recipients of government assistance with obtaining employment. The Legislature should also examine all benefits that may be keeping able-bodied individuals from coming back to work, and consider an automated process to streamline expungement;
- Support growing the Kansas and local economies through applied research and private-public partnerships, like the NIAR; partnerships between universities and business to create innovation programs (like WSU's Innovation Campus); and career pathways for high school students;

- Support and increase focus on science, technology, engineering, and mathematics (STEM) learning initiatives, including support for computer science classes in school, as well as initiatives to explore leadership and business skills such as the Distributive Education Clubs of America, Future Business Leaders of America, and the Business Professionals of America ;
- Support accountability measures for increased funding for need-based aid for postsecondary credentials;
- Support policies that expand access to affordable child care options, including examining regulations;
- Support changes that enable teachers from other states to obtain licensure more quickly and easily in Kansas and develop a Para-to-Teacher program;
- Submit the workforce indicator questions from small businesses (P3 Aligned presentation) to the Kansas Legislative Research Department and have staff present answers to the House Committee on Commerce, Labor and Economic Development and the Senate Committee on Commerce;
- Request the Kansas Chamber present and review its Work Force Study and its recommendations to both the House Committee on Commerce, Labor and Economic Development and the Senate Committee on Commerce;
- Investigate the disability pay caps to understand how they affect workforce and benefits;
- Consider amending statutes to allow the Kansas State Department of Education to provide outside access to the State Longitudinal Data System compiled by the agency for the purposes of research and study;
- Proceed cautiously regarding the legalization of marijuana;
- Consider the creation or expansion of individual child care tax credits; and
- Have the appropriate House and Senate committees study and make recommendations regarding the child care shortage.

Report of the Joint Committee on Corrections and Juvenile Justice Oversight to the 2023 Kansas Legislature

CHAIRPERSON: Senator Molly Baumgardner

VICE-CHAIRPERSON: Representative Stephen Owens

RANKING MINORITY MEMBER: Senator Ethan Corson

OTHER MEMBERS: Senators Elaine Bowers, John Doll, Renee Erickson, Oletha Faust-Goudeau, and Kristen O’Shea; and Representatives Sydney Carlin, Dennis “Boog” Highberger, Kyle Hoffman, Jo Ella Hoye, John Resman, and Eric Smith

CHARGE

KSA 2021 Supp. 46-2801 directs the Joint Committee on Corrections and Juvenile Justice Oversight (Committee) to monitor inmate and juvenile offender populations and to review and study the programs, activities, plans, and operations of the Kansas Department of Corrections (KDOC).

The Committee studied issues relating to the KDOC workforce and retention issues and the impact of the recent salary adjustments, and it reviewed and considered amendments to the Committee’s duties and functions.

The Committee also reviewed and considered the following during the 2022 Interim:

- Mental health intervention policy, especially in western Kansas and rural areas;
- Potential recommendations from the Sedgwick County Community Task Force investigation of the in-custody death of Cedric Lofton related to mental health issues and “Stand Your Ground” laws;
- Criminal records expungement and associated costs and comparison with other states;

- Offender registry statutes;
- SB 367 (2016) Juvenile Justice Reform and the changes proposed in 2021 HB 2200 as amended by the House Committee on Corrections and Juvenile Justice;
- Practice and policies regarding recording devices in juvenile correctional facilities; and
- Juvenile crisis intervention centers.

The Committee is authorized to tour the Kansas Children's Service League headquarters in Topeka and observe community corrections in the field and see how they function in Douglas County.

Joint Committee on Corrections and Juvenile Justice Oversight

ANNUAL REPORT

Conclusions and Recommendations

The Joint Committee on Corrections and Juvenile Justice Oversight (Committee) recommends allowing all Kansas Department of Corrections (KDOC) employees to be included in the Kansas Public Employees Retirement System Corrections Plan.

The Committee recommends the Legislature consider eliminating fines and fees for justice-involved youth to include expungement fees set by each county.

The Committee requests the Chairperson, on behalf of the Committee, request the Judicial Council review the “Stand Your Ground” laws.

The Committee recommends that KDOC, the Kansas Department for Aging and Disability Services (KDADS), and Kansas Department of Health and Environment (KDHE) distribute information to first responders about the risk of putting an individual who is known to have COVID-19 in a prone position.

The Committee requests the Kansas Judicial Council reintroduce 2022 HB 2581 concerning offender registration, revised as appropriate.

The Committee requests the Secretary for Children and Families to report on the progress of the juvenile crisis intervention center law [KSA 65-536] to the House Committee on Appropriations, Senate Committee on Ways and Means, House Committee on Corrections and Juvenile Justice, Senate Committee on Judiciary, the House Committee on Health and Human Services, and the Senate Committee on Public Health and Welfare by February 1, 2023.

The Committee requests KDOC use salary funds for community corrections staffing instead of salary increases in FY 2023.

The Committee supports the refiling of 2022 HB 2575 regarding criminal record expungements.

Proposed Legislation: Four bills. The Committee requests legislation be introduced in the House:

- The Committee requests the filing of a bill similar to 2022 HB 2471 and SB 321 that would prohibit the physical restraint of juveniles in court appearances unless deemed appropriate by the court.
- The Committee requests the filing of a bundled bill that would name the Committee in honor of Representative J. Russell (Russ) Jennings, amend KSA 46-2801(k)(2) to require the Committee to monitor the implementation of juvenile justice reform and the work of the juvenile justice oversight committee, and delete current KSA 46-2801(k)(5) concerning the defunct Juvenile Justice Authority.

- The Committee requests the refiling of a bill similar to 2022 HB 2556 concerning expungement, to also include amending the timing of the waiting period to start at the date of conviction or adjudication for both adults and juveniles.
- The Committee requests the filing of a bundled bill named the Representative Gail Finney Foster Care Bill of Rights, including provisions similar to those of 2022 HB 2468 (foster youth bill of rights) and 2022 HB 2469 (foster parents bill of rights).

BACKGROUND

The 1997 Legislature created the Joint Committee on Corrections and Juvenile Justice Oversight (Committee) to provide legislative oversight of the Kansas Department of Corrections (KDOC) and the Juvenile Justice Authority. Pursuant to Executive Reorganization Order No. 42, on July 1, 2013, the jurisdiction, powers, functions, and duties of the Juvenile Justice Authority and the Commissioner of Juvenile Justice were transferred to KDOC and the Secretary of Corrections.

Statewide, there are eight adult correctional facilities: El Dorado Correctional Facility, Ellsworth Correctional Facility, Hutchinson Correctional Facility, Lansing Correctional Facility, Larned Correctional Mental Health Facility, Norton Correctional Facility, Topeka Correctional Facility, and Winfield Correctional Facility. KDOC also operates parole offices throughout the state and is responsible for the administration of funding and oversight of local community corrections programs.

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

The Committee's duties, as outlined in KSA 2021 Supp. 46-2801(k), are to monitor the inmate population and review and study KDOC's programs, activities, and plans regarding its statutorily prescribed duties, including the implementation of expansion projects; the operation of correctional food service and other programs for inmates; community corrections; parole; and the condition and operation of the

correctional institutions and other facilities under KDOC's control and supervision. The Committee is also charged to review and study the adult correctional programs, activities, and facilities of counties, cities, and other local governmental entities, including the programs and activities of private entities operating community correctional programs and facilities, and the condition and operation of jails and other governmental facilities for the incarceration of adult offenders.

With regard to juvenile offenders, KSA 2021 Supp. 46-2801(k) directs the Committee to review and study programs, activities, and plans involving juvenile offenders, including the responsibility for their care, custody, control, and rehabilitation, and the condition and operation of the juvenile correctional facilities. Further, the Committee is charged to review and study the juvenile offender programs, activities, and facilities of counties, cities, school districts, and other local government entities, including programs for the reduction and prevention of juvenile crime and delinquency; programs and activities of private entities operating community juvenile programs and facilities; and the condition and operation of local governmental residential or custodial facilities for the care, treatment, or training of juvenile offenders.

In addition to its statutory duties, the 2022 Committee was charged by the Legislative Coordinating Council to study the following topics:

- Mental health intervention policy, especially in western Kansas and rural areas;
- Potential recommendations from the Sedgwick County Community Task Force investigation of the in-custody death of

Cedric Lofton related to mental health issues and “Stand Your Ground” laws;

- Criminal records expungement and associated costs and compare with other states;
- Offender registry statutes;
- SB 367 (2016) Juvenile Justice Reform and consideration of the changes proposed in 2021 HB 2200 as amended by the House Committee on Corrections and Juvenile Justice;
- The practice and policies regarding recording devices in juvenile correctional facilities; and
- Juvenile crisis intervention centers.

COMMITTEE ACTIVITIES

The Committee requested and received Legislative Coordinating Council approval for three meeting days and authorization to observe community corrections in the field and see how they function. The Committee met November 28, 29, and 30, 2022, at the Statehouse. The Committee also toured the facilities of the Shawnee County Community Corrections and attended drug court at the Shawnee County District Court on November 28.

November 28, 2022, Meeting

Overview — Kansas Open Meetings Act and Kansas Open Records Act

A Senior Assistant Revisor from the Office of Revisor of Statutes provided an overview of the Kansas Open Meetings Act (KOMA) and the Kansas Open Records Act (KORA) for the Committee.

The Senior Assistant Revisor stated KOMA declares it is public policy of the State of Kansas that meetings for the conduct of governmental affairs and the transaction of governmental business be open to the public (KSA 75-4317).

The Senior Assistant Revisor stated KORA declares it is public policy of the State of Kansas that public records be open for inspection by any person unless otherwise prohibited in the Act (KSA 45-216). KORA requires each public agency to adopt procedures regarding requesting access to and obtaining copies of public records. The Senior Assistant Revisor noted this Committee is a public agency under KORA.

Overview — Committee’s Duties and Functions in KSA 46-2801

A Senior Assistant Revisor from the Office of Revisor of Statutes provided an overview of the Committee’s statutory duties and functions. The Senior Assistant Revisor stated several sections of law contain outdated language that refer to the Juvenile Justice Authority.

Overview — Committee Recommendations and Proposed Legislation from the Five Prior Interim Meetings

A Research Analyst from the Kansas Legislative Research Department provided an overview of the Committee’s historical recommendations and proposed legislation from the previous five interim meetings.

Overview — SB 367 Juvenile Justice Reform and Consideration of the Changes Approved in 2021 HB 2200 as Amended by the House Committee on Corrections and Juvenile Justice

An Assistant Revisor from the Office of Revisor of Statutes provided an overview of 2016 SB 367 Juvenile Justice Reform legislation and trailer bills, 2017 House Sub. for SB 42 and 2018 House Sub. for SB 179. The Assistant Revisor then gave an overview of 2021-2022 HB 2200 and its procedural history and the amendments adopted by the 2022 House Committee on Corrections and Juvenile Justice.

The Vice-chairperson provided additional information on 2021-2022 HB 2200, stating the House Committee had heard from conferees and worked the bill to allow evidence-based program account money to be used for more juveniles, require KDOC to build data systems, and allow the overall case length limit to be extended for certain juvenile offenders.

Overview — Court Services

A Court Services Specialist from the Office of Judicial Administration provided an overview of Court Services. Court Services is administered by the Office of Judicial Administration (OJA), which is part of the Judicial Branch. The state contains 31 judicial districts with 403 Court Services officers, who are Judicial Branch employees.

Statutory responsibilities for adults by Court Services include pretrial supervision, presentence investigation reports, risk and needs assessments, house arrest, supervision, and dispute resolution. The specialist stated OJA currently supervises 8,267 adult misdemeanor cases and 2,876 adult felony cases.

Statutory responsibilities for juveniles by Court Services include pretrial supervision, predisposition reports, risk and needs assessments, house arrest, immediate intervention, and child-in-need-of-care informal supervision.

Overview — Community Corrections

Three representatives of adult and juvenile Community Corrections associations and agencies provided an overview of their functions. Community Corrections agencies in Kansas are part of county governments and make up 31 statutorily mandated programs that provide community-based supervision of adults and juvenile offenders in place of incarceration.

The representatives thanked the Committee for approving the FY 2022 request of \$14.3 million added to their grant allocation that provided \$2.6 million in FY 2022 and will provide \$9.2 million in FY 2023. The representatives also requested \$6.0 million in additional funds for operational costs due to previous flat funding, \$4.5 million to increase staffing, and \$1.0 million for behavioral health services for FY 2024. They highlighted the need for flexibility in using additional grant funds from KDOC for new hires in addition to wage increases.

Tour — Shawnee County Community Corrections Office

The Director of the Shawnee County Community Corrections along with several Community Corrections officers talked about their

experiences working with adults and juveniles in the office. The Committee members asked questions about programming, the funding source of those programs, and what priorities needed to be addressed by the Legislature.

Tour — Shawnee County District Court

A Shawnee County District Court Judge and members of the drug court staff gave the Committee an overview of what drug court is and how it is operated. A recent graduate of the program described how the program turned their life around and helped them recover from a drug addiction. Finally, current drug court program participants checked in with the Judge. Committee members asked questions of the Judge and drug court staff.

Overview — Community Taskforce to Review Youth Corrections Systems Standards in Sedgwick County

The Assistant County Manager of Sedgwick County and the Director of the Sedgwick County Department of Corrections gave the Committee background information on the reasons for the creation of the taskforce. The Assistant County Manager also gave an overview of the work of the task force including work done in its 13 sessions and task force recommendations.

November 29, 2022, Meeting

Overview — Criminal Records Expungements and Associated Costs

A Research Analyst from the Kansas Legislative Research Department provided an overview of expungement processes and costs for Kansas and surrounding states. A member of the Kansas Judicial Council's Advisory Committee on Criminal Law suggested five recommendations from the Kansas Judicial Council regarding expungements. The Director of Information Services with the Kansas Bureau of Investigation (KBI) testified about the expungement process from that agency's perspective, specifically on expunging DNA evidence.

Overview — Offender Registration

An Assistant Revisor from the Office of Revisor of Statutes provided an overview of offender registration laws and reforms in Kansas.

Two members of the Kansas Judicial Council’s Advisory Committee on Offender Registration presented the Committee with their recommendations to reform the Kansas Offender Registration Act, emphasizing the recommendation to repeal sex offender registration requirements for juvenile offenders. The Manager for the Offender Registration Unit with the KBI then presented an overview of the offender registration website and its data analytics.

Overview — Substance Abuse Treatment and SB 123 Program

The Executive Director of the Kansas Sentencing Commission gave an update on the Substance Abuse Treatment Program implementing 2003 SB 123 and subsequent amending legislation.

Panel — Workforce Training

A workforce training panel consisting of the Executive Director of Programs and Risk Reduction for KDOC, the Mayor *Pro Tem* of Leavenworth, the Chief Executive Officer of Zephyr Products, the Chief People Officer of Zephyr Products, and the Executive Director of NCircle, a nonprofit, spoke to the Committee about their individual roles in getting formerly incarcerated citizens to return to the workforce.

Several of the panelists shared their personal experiences from incarceration back into society and the workforce. Other panelists described the needs of inmates and the needs of employers in making it a success to integrate inmates and former inmates into their private businesses. The KDOC representative discussed the importance of a sustained liveable wage to keep returned citizens on the path to success.

November 30, 2022, Meeting

Overview — Kansas Department of Corrections

The Secretary of Corrections (Secretary) provided information on various KDOC operations and issues.

Workforce Retention and Initiatives

The Secretary described current KDOC staffing issues, including critical staff shortages and vacancies, challenges in recruiting and

retention, and the resulting impacts on public, inmate, and staff safety. The Secretary noted that staffing in correctional settings is a national challenge and not unique to Kansas. He stated Colorado and Nebraska departments of corrections have implemented new hire and retention bonuses along with increased hourly pay to reduce vacancies.

KDOC implemented base pay increases for adult and juvenile correctional officers that work in 24/7 facilities. For newly hired correctional officers, base pay increases occur at 3, 9, and 12 months with the agency. Previously hired correctional officers, parole officers, and unit team members received a one-time base pay increase.

The Secretary addressed four temporary pay differentials that hourly employees working at 24/7 facilities were eligible for, from \$1.50 to \$4.50 of pay per hour. Salaried employees working in a 24/7 facility were eligible for a one-time meritorious bonus of up to \$3,500. For FY 2023, \$33.9 million was appropriated to cover the 24/7 facility pay plan expenditures.

KDOC representatives gave an update on recruiting efforts, their application process, and increasing focus on employee wellness.

Budget Enhancements and Capital Improvements

The Secretary gave an overview of requested budget enhancements, including fully funding existing contract costs, replacement of equipment and vehicles, investments in workforce and programs, and indexing the Correctional Institution Building Fund appropriation to inflation.

The Secretary listed capital improvement projects for FY 2024 and FY 2025:

- Lansing Correctional Facility – Demolish old units and provide Career Campus seed money;
- Topeka Correctional Facility – Construct new behavioral health/medical/support building, construct new laundry, and construct work release center for women;

- Hutchinson Correctional Facility – Construct new minimum security unit, and construct new facility to replace the current Hutchinson facility;
- Kansas Juvenile Correctional Facility – Construct vocational building;
- Statewide staff development center; and
- Douglas County/northeast Kansas – Construct work release center for men.

Federal COVID-19 Funds Received by KDOC

The Secretary provided an overview of the COVID-19 federal funds appropriated to KDOC from three sources: Coronavirus Relief Funds, Coronavirus Emergency Supplemental Fund, and American Rescue Plan Act moneys. The total amount from all sources was \$57,621,821.

Juvenile and Adult Updates

The Secretary described updates to both the juvenile correctional system and the adult correctional system. He said in this labor economy, KDOC is focused on both staffed and physical capacity of facilities. The Secretary noted there are increased postsecondary education opportunities through the Second Chance Pell program, and KDOC now has Pell-eligible college programming in all correctional facilities.

The Secretary said KDOC has moved forward with public-private partnerships authorized by 2021 HB 2401 [KSA 75-52,167 *et seq.*]. KDOC has created an approved 501(c)(e) nonprofit entity, and there is a contract with a consultant to perform a pre-fundraising campaign study to identify the feasibility of raising funds for the Lansing Career Campus. The Secretary discussed the impact of a sustained livable wage job to providing stability for returning citizens.

The Secretary said 2022 SB 267 included \$6.7 million, all from the American Rescue Plan Act (ARPA) funds, for new technical education equipment for Wi-Fi network and tablets, commercial driver’s license simulators, and virtual welders. The Secretary said demolition of Honor Camps is moving forward, the remodeling project

for the dorms for the geriatric/cognitive care unit at the Winfield Correctional Facility will be completed in December, remodeling of the Winfield Correctional Facility dining hall and kitchen is delayed due to sourcing of supplies, and remodeling on the substance abuse treatment and work release unit at the Lansing Correctional Facility is ongoing. He gave an update on the Athena data system implementation and evidence-based program fund.

Legislative Initiatives

The Secretary said KDOC would like to work with the 2023 Legislature to change the name of the Larned Correctional Mental Health Facility and to provide authority for state agencies to pay employee bonuses for recruiting and retention.

Overview — Report on KDOC Facility Study

Representatives of the Dewberry firm, National Justice Practice division, presented their findings from the Juvenile Facility Study they conducted with Clark & Enersen, an architectural and engineering firm. They described the threefold scope of the study: to establish three or more smaller, new regional juvenile facilities; to review the repurposing of the existing Kansas Juvenile Correctional Complex for adults; and to study only enhancing the existing Kansas Juvenile Correctional Complex for youth.

The Committee asked the Secretary his opinion on the best option regarding use of the Kansas Juvenile Correctional Complex. He answered he does not know the best path forward for the building. He said national trends are moving towards smaller unit prisons, but that building more facilities is costly and staffing of those facilities could prove difficult.

Presentation — Arista Recovery

The Vice President of Arista Recovery addressed the establishment of Arista Recovery and the mental health and substance abuse treatment services that the for-profit treatment facility offers.

Overview — Juvenile Crisis Intervention Centers

The Director of the Johnson County Department of Corrections provided background on 2018 House Sub. for SB 179, which created

and amended law to establish juvenile crisis intervention centers (JCICs). The Director described a facility in Johnson County that could serve as a JCIC if there were sustainable state funding and support from the Johnson County Board of County Commissioners. The Committee had lengthy discussion about the history of the Department for Children and Families (DCF) and the Kansas Department for Aging and Disability Services (KDADS) and the requirements to fulfill the requirements of 2018 bill. Although no agency representatives were present at the meeting, KDADS and DCF submitted written-only testimony.

Overview — Justice Reinvestment Initiative in Kansas

The Committee heard an overview on the Justice Reinvestment Initiative (JRI) from a policy analyst from the Council of State Governments (CSG) Justice Center. The analyst explained that the JRI process, which started in 2020, helped identify three key challenges in Kansas: increases in sentences to prison for drug offenses, use of prison to sanction people who violate supervision conditions, and barriers to work and limited behavioral health and reentry supports. The recommendations were targeted toward four policy areas: diversion and specialty courts, community supervision, behavioral health, and reentry. The CSG analyst suggested policy recommendations to the Committee for the next legislative session to continue to address the challenges identified in Kansas.

Overview — Juvenile Fines and Fees

The Campaign Director of Kansas Appleseed and the State Policy Manager for Justice Action Network presented an overview of the types of fines and fees that can be assessed to justice-involved youth.

CONCLUSIONS AND RECOMMENDATIONS

At the end of its November 30 meeting, following discussion, the Committee adopted the following recommendations.

The Committee recommends allowing all KDOC employees to be included in the Kansas

Public Employees Retirement System Corrections Plan.

The Committee recommends the Legislature consider eliminating fines and fees for justice-involved youth to include expungement fees set by each county.

The Committee requests the Chairperson on behalf of the Committee request the Judicial Council review the “Stand Your Ground” laws.

The Committee recommends that KDOC, KDADS, and the Kansas Department of Health and Environment distribute information to first responders about the risk of putting an individual who is known to have COVID-19 in a prone position.

The Committee requests the Kansas Judicial Council reintroduce 2022 HB 2581 concerning offender registration, revised as appropriate.

The Committee requests the Secretary for Children and Families report on the progress of the juvenile crisis intervention center law [KSA 65-536] to the House Committee on Appropriations, Senate Committee on Ways and Means, House Committee on Corrections and Juvenile Justice, Senate Committee on Judiciary, and both health committees by February 1, 2023.

The Committee requests KDOC use salary funds for community corrections staffing instead of salary increases in FY 2023.

The Committee supports the refiling of 2022 HB 2575 regarding criminal record expungements.

The Committee also recommended introduction of several bills regarding prohibiting the physical restraint of juveniles in court appearances unless deemed appropriate by the court, naming the Committee in honor of Representative J. Russell (Russ) Jennings and amending KSA 46-2801, expungements and timing, and naming a bundled bill in honor of Representative Gail Finney that includes the foster youth bill of rights and the foster parents bill of rights.

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Report of the Joint Committee on Fiduciary Financial Institutions Oversight to the 2023 Kansas Legislature

CHAIRPERSON: Senator Jeff Longbine

VICE-CHAIRPERSON: Representative Jim Kelly

OTHER MEMBERS: Senators Michael Fagg, Ty Masterson, and Jeff Pittman; and Representatives Nick Hoheisel, Dan Osman, Stephen Owens, and Rui Xu

CHARGE

Monitor and Make Recommendations on Fiduciary Financial Institutions in Kansas

Pursuant to KSA 46-4001, the Committee is directed to monitor, review, and make recommendations regarding fiduciary financial institutions' operations in the state of Kansas and the fiduciary financial institutions pilot program, and to receive a report from the Office of the State Bank Commissioner.

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Joint Committee on Fiduciary Financial Institutions Oversight

ANNUAL REPORT

Conclusions and Recommendations

The Joint Committee on Fiduciary Financial Institutions Oversight submits the following comments and recommendations:

- **Amendments to the Technology-enabled Fiduciary Financial Institutions (TEFFI) Act and related provisions addressing charitable organizations.** The Committee acknowledges its receipt, consideration, and recommendation of these two requested proposals for legislation:
 - The first addresses the inability of the Office of the State Bank Commissioner (OSBC) to obtain background checks from the Federal Bureau of Investigation. The proposal would add definitions to KSA 9-2301 to define certain officials within the fiduciary financial institution subject to the background check (under KSA 9-2302, which would be amended to require, rather than permit, fingerprinting of such officials). [Requested by OSBC]
 - The second addresses expansion of the definition of “charitable beneficiaries” within the TEFFI Act (KSA 9-2301(b)(4) and KSA 79-32,283) regarding an income tax credit for certain qualified charitable distributions of fiduciary financial institutions. [Requested by Beneficient]
- **Progress report to the Legislature, review of the standing committees on financial institutions.** The Committee directs its report to the standing committees of the Kansas Legislature for possible oversight during the 2023 Session. These committees are requested to review and consider any requested changes relevant to the findings associated with the ongoing examination of Beneficient, and the Committee requests both the regulatory agency (OSBC) and the participating fiduciary financial institution submit to those standing committees any changes to the TEFFI Act deemed necessary to continue and enhance oversight and conduct of fiduciary financial institution operations in Kansas.
 - Additionally, the Committee recognizes the completion of the application process for the Beneficient Company Group, LP; the State Banking Board’s recognition of issuance of the permanent charter on December 31, 2021, commencement of fidfin transactions, and conclusion of the FidFin Pilot Program; and the ongoing working relationship and information gained as a result of the two initial examinations (IT, Bank Secrecy Act) and the progress on a compliance examination. Such information will be necessary to formulate any future regulation to ensure the ongoing oversight of fiduciary financial institutions in Kansas.

Proposed Legislation: Two bills (background checks; charitable organizations).

BACKGROUND

The Joint Committee on Fiduciary Financial Institutions Oversight (Committee) was established by the enactment of 2021 Senate Sub. for HB 2074, Section 29, codified at KSA 2021 Supp. 46-4001. This nine-member joint committee is required to:

- Monitor, review, and make recommendations regarding fiduciary financial institutions' operations in the state of Kansas;
- Monitor, review, and make recommendations regarding the FidFin Fiduciary Institution Pilot Program (pilot program); and
- Receive a report from the Office of the State Bank Commissioner (OSBC). [*Note:* The bill also required the OSBC to submit an initial report prior to December 31, 2021, that provided an update on the implementation of the Technology-enabled Fiduciary Financial Institutions (TEFFI) Act and pilot program. The bill required this report to include recommendations from the OSBC for any legislation necessary to implement provisions of the TEFFI Act.

The Legislative Coordinating Council authorized the Committee to meet for one day.

COMMITTEE ACTIVITIES

The Committee met on December 1, 2022, to review 2022 law and legislation regarding fiduciary financial institutions and the oversight assigned to the Committee and receive updates on fiduciary financial institutions operations and activities in the state. Testimony was provided by representatives of the fiduciary financial institution (often referred to as a "TEFFI") by the 2021 law (The Beneficient Company Group, LP [Beneficient]), the regulatory authority authorized by the 2021 law (the State Bank Commissioner [Commissioner] and representatives of the OSBC), and a representative of the Kansas Department of Commerce (Department).

Overview of Fiduciary Financial Institutions' Legislation and Law–2022 Session

Committee staff from the Kansas Legislative Research Department (KLRD) provided a summary and background information for legislation passed by the 2022 Legislature related to fiduciary financial institutions and also highlighted a concurrent resolution related to the scope of the Committee. The KLRD Assistant Director for Research indicated six bills were considered, and three were advanced to the Governor for consideration (approved):

- **SB 337** – Conversion to a Full Fiduciary Financial Institution Charter. This bill amends provisions pertaining to the pilot program established within the TEFFI Act to clarify and retroactively codify the intended date for the issuance of a full charter to Beneficient. The bill specifies that on December 31, 2021, the conditional charter granted under this pilot program shall be converted to a full fiduciary financial institution charter. [*Note:* The bill incorporates the recommendation and statement of legislative intent regarding issuance of a permanent charter published in this committee's report to the 2022 Legislature.]

Effective Date: Publication in the *Kansas Register* (March 10, 2022);

- **HB 2489** – TEFFI Act Amendments, Required Reporting of Elder Abuse. This bill makes several amendments to the Act pertaining to an updated definition, fingerprinting requirement, existing application fee, governing documents, evaluation and examination, customer disclosure, and services and authorized activities. The bill also amends the definition of "financial institution" within a statute requiring the reporting of abuse, neglect, or exploitation of certain individuals to include fiduciary financial institutions. [*Note:* The bill, as introduced, reflected the draft legislation submitted by the OSBC to this Committee at its December 2021 meeting. The Committee

recommended the draft legislation be introduced by the standing committees on financial institutions during the 2022 Session.]

Effective Date: Publication in the Statute Book (July 1, 2022); and

- **HB 2547** – Captive Insurance Law – TEFFI insurance companies. This bill amends and enacts law supplemental to the Captive Insurance Act to allow a TEFFI insurance company to operate as an authorized captive insurance company in Kansas (to operate as a pure captive). Under the bill, a TEFFI insurance company issued a certificate of authority under this act will be deemed as an “insurance company” under KSA 40-222c and will be subject to the supervision of the Commissioner of Insurance.

Effective Date: Publication in the *Kansas Register* (April 14, 2022).

The KLRD Assistant Director also noted HCR 5034, which would have provided several findings regarding environmental, social, and governance (ESG) standards. The concurrent resolution, if adopted, would have directed the Committee, the resolution’s sponsors, and the State Treasurer, where appropriate, at the Legislature’s direction “to work with concerned parties to study the topic of ESG standards and draft legislation that protects the State of Kansas and its citizens from the use of ESG standards.”

Update on Fiduciary Financial Institutions’ Operations in the State of Kansas

Office of the State Bank Commissioner

The Commissioner provided an update on the status of the state’s pilot program for TEFFIs and the activities of the authorized participant (Beneficient). The Commissioner was joined by the Deputy Bank Commissioner, who addressed the status of OSBC examinations and the working relationship with Beneficient, and by the OSBC General Counsel, who addressed proposed amendments to the TEFFI Act. Two examiners were also present to address Committee questions.

Resolution of Application Delays

The Commissioner first addressed the material delays experienced in Beneficient’s application submission, noting the most significant delays were due to the inability of the applicant to provide the required audited financial statements and the OSBC’s inability to obtain background checks conducted by the Federal Bureau of Investigation (FBI) due to the way the TEFFI Act is written. (The Committee received updates on both issues at its December 2021 meeting).

The Commissioner reported the audited financial statements for the periods ending December 31, 2020, December 31, 2021, and March 31, 2022, were delivered by the applicant to the OSBC on October 27, 2022. However, the OSBC had not been able to make any progress with the FBI regarding background checks, so it has relied on alternative checks.

State Banking Board Actions; Application Status; Conclusion of Pilot Program Recognized by Board and OSBC

The Commissioner noted the State Banking Board (Board), the entity that acts on applications by state-chartered banks and trust companies, recognized that Beneficient’s authority to transact business was enacted by the Kansas Legislature in language essentially granting Beneficient a charter to do business in KSA 9-2325(d)(1). [Note: SB 337, discussed earlier in this report, retroactively codified a full charter as of December 31, 2021; the bill was effective upon its publication in the *Kansas Register* in March 2022.] Consequently, the Commissioner noted, the Board has taken no action on the Beneficient application. He confirmed that both the Board and the OSBC consider this application complete as required by KSA 9-2325(a)(1).

Additional items recognized by the Board regarding the state-granted charter for Beneficient include:

- The Board’s authority to approve or deny Beneficient’s license pursuant to KSA 9-2302 was superseded by Beneficient’s satisfying all conditions of KSA 9-2325(d)(1);

- Beneficiary's charter was granted without review of the financial standing, general business experience and character of Beneficiary's organizers, or the character, qualifications, and experience of Beneficiary's officers; and
- The pilot program has concluded, and the Board has authority to approve or deny any other TEFFI charter applications submitted pursuant to TEFFI Act requirements (KSA 9-2302).

The Commissioner said that as a result of the Board's recognition of the transactional authority granted to Beneficiary by the Legislature and the anticipated conclusion of a third examination (described in the following section), the OSBC considers the provisions of the pilot program will be complete and the pilot program can be concluded. This would permit other TEFFI businesses to apply for a charter in Kansas, the Commissioner stated; and as of this meeting, no inquiries have been made to the OSBC from potential applicants.

The Commissioner also indicated the OSBC continues to monitor business connections and interlocking management between Beneficiary and a former affiliate, GWG Holdings, Inc. The OSBC is following an ongoing federal Securities and Exchange Commission (SEC) investigation and related bankruptcy filing, which will be acted upon if Beneficiary or its principal are adversely impacted.

Examinations; Relationship and Dialogue with Beneficiary

The Commissioner noted continued concerns regarding the OSBC's ability to conduct meaningful examinations. He particularly noted the limitations in the TEFFI Act that disallow consideration of safety and soundness principles as well as departures from Generally Accepted Accounting Principles (GAAP). (A request regarding examination language is noted in the legislative proposal described later in this section.)

The OSBC has conducted two targeted examinations of Beneficiary in 2022, and a third is scheduled to commence in December 2022. The

Committee noted a pass/fail examination determination finding will serve as the alternative to a safety and soundness examination that determines whether certain standards are met.

The Deputy Bank Commissioner reported the OSBC has completed examinations in the areas of BSA (Bank Secrecy Act) compliance and information technology (IT) to help determine whether industry standards and regulations have been met. Noting examination reports, materials, and ratings are confidential, the Deputy Commissioner indicated he could state that Beneficiary was well-prepared for these examinations and examiners found Beneficiary to be in a position that did not cause any deep concern in these two areas. Examiners appreciated the prompt responses for materials and data requests.

The third examination designed to determine compliance with the TEFFI Act is scheduled to commence with an on-site visit to Beneficiary's office in Hesston on December 19. Materials have been requested and received by examiners to analyze and conduct off-site review; this will allow the on-site review to be more productive and efficient. A visit to Beneficiary's Dallas, Texas office will likely occur in early January 2023.

The Deputy Commissioner indicated due to the uniqueness of the TEFFI business model, there is no anticipated completion date. Going forward, the OSBC plans to treat a TEFFI in a consistent manner as with other financial institutions (the common practice for a *de novo* financial institution is to receive annual examinations for at least the first three years of its operation). Future examination schedules will be dependent on examination findings and the actions of Beneficiary.

The Deputy Commissioner addressed the communications and OSBC/Beneficiary meeting schedule set up to facilitate any current issues of concern and the scheduling of examinations. These conversations have resulted in improved dialogue between the two parties, and the OSBC views this arrangement as beneficial as it continues to develop standards and expectations from the regulated entity (TEFFI) and regulator (OSBC).

Proposed Legislation

The OSBC General Counsel next addressed a proposal to amend two statutes in the TEFFI Act (KSA 9-2301 *et seq.*). He noted the agency's concern and inability to receive background checks on any TEFFI officer, director, or organizer. Despite the inclusion of the changes requested by the FBI in 2022 HB 2489 (law), the FBI has refused to permit the OSBC to submit and receive background checks. The proposed bill would:

- Add definitions to KSA 9-2301 to define an “officer,” “director,” and “organizer.” (These individuals are subject to background checks under KSA 9-2302); and
- Amend KSA 9-2302 to clarify that the Commissioner has the authority to require fingerprinting.

The General Counsel indicated the OSBC, as a customary practice, requests and reviews background checks on behalf of the State Banking Board. As a condition to receive background checks from the FBI, he noted, the OSBC is required to agree not to accept any private entity criminal history record checks. This new language complies with the FBI request and the OSBC will also meet FBI requirements to not disclose criminal history information for any other purpose and to treat background checks as confidential.

Discussion

The Committee and representatives of the OSBC discussed safety and soundness requirements associated with examinations of other financial institutions, with the Commissioner noting the TEFFI Act does not consider intangibles and earnings (generally, “capital”) and TEFFIs do not accept deposits.

Capital, the Commissioner stated, could be eroded without quality earnings and is critical in the determination of safety and soundness (two of six standards typically reviewed relate to capital). The discussion also included proceeding beyond the financial statements provided and how to treat “goodwill” as an intangible asset. The Commissioner responded to a question regarding

alternatives to the FBI background check, noting the FBI check would address any criminal activities, while an alternative check may or may not include these activities (civil record check).

Beneficient Company Group, LP

The Beneficient Chief Executive Officer (CEO) and Chairman of the Board; President and Chief Fiduciary Officer (CFO); Managing Director and Co-Head, Fiduciary Financial Institutions (Managing Director); and a legal representative from Crossroads Legal Solutions provided an update addressing operating achievements and Economic Growth Zone (EGZ) funding, TEFFI pilot program milestones and legislative proposals, and the planned grocery store and activities in Hesston and a “Go Public” opportunity (*i.e.*, upon closing of a business combination agreement, Beneficient would become a publicly traded company). A Beneficient board member and Beneficient fiduciary financial institutions and accounting staff members also were present at the meeting.

Beneficient representatives submitted two reports for the Committee reference and record: Management report for Beneficient (combined statement of financial position of the Kansas TEFFI Economic Growth Trust and Subsidiary, and Beneficient Heartland Foundation, Inc. and Subsidiary, as of September 20, 2022) and Legislative report for Kansas TEFFI charitable activity (an independent auditor's report for these consolidated financial statements).

Goals and Operational Achievements

The legal representative first highlighted three goals Beneficient and its officers set for the establishment of TEFFI business in Kansas: through enactment of TEFFI legislation, creating a world-class technology platform for alternative asset liquidity; by the end of calendar year 2022, having over \$250 million invested in TEFFIs in Kansas; and having \$10 to \$15 million generated for rural economic development in the EGZs or going directly to the Department. The representative confirmed Beneficient had met and exceeded these goals, noting for the period of December 31, 2021, through September 30, 2022, an approximate \$255 million has been generated in closed FidFin transactions and a total of \$18.15 million was generated for EGZ contributions

(\$2.92 million to the Department and \$15.23 million to the EGZ and Beneficient Heartland Foundation for the EGZs).

Technology platform. The CFO highlighted the technology platform, which he termed a key element of the TEFFI Act (“technology-enabled”). The platform serves as a robust, online transaction processing system, where a customer is able to engage with Beneficient online, transact business, select the kind of liquidity to be received, and submit and close the transaction through the online customer portal. This platform has received a SOC 2, Type 1 report (Security, Availability, and Processing Integrity), which the CFO explained means the platform is built to conform with and meet very high industry standards. Beneficient’s platform also received AT&T NetBond certification. It is anticipated Beneficient’s platform will achieve an SOC Type 2 and SOC 3 report by next June. If these credentials are achieved, the CFO continued, Beneficient would be the only company in the industry with such credentials.

Economic Growth Zone funding. The CFO provided an overview of this funding, noting the cash flow for the allocated of the 2.5 percent of FidFin financings through September 30, 2022: Department (\$2.92 million) and Beneficient Heartland Foundation (\$13.61 million). As of September 30, there is \$1.62 million in the Kansas TEFFI Economic Growth Trust (described as “excess funding”). The CFO explained this trust is administered exclusively for the benefit of the EGZs and the Department and it facilitates timely closing of customer financings. In terms of fund management, the trust manages the in-kind asset funding of EGZ contributions and distributes cash flow to the Beneficient Heartland Foundation and the TEFFI Development and Expansion Fund (Fund) of the Department.

The funding associated with this Fund (\$2.92 million) represents \$2.71 million of cash and nearly \$200,000 in monetizing assets. The Department announced a grant program associated with this allocation (detailed later in this report). The CFO also detailed the work of the Foundation, noting it is a Kansas nonprofit corporation and it must commit to using funds exclusively for the benefit of the EGZs (e.g., grocery store financing) or postsecondary educational institutions in

Kansas, must provide an annual report to the Department, and be focused on funding community-led initiatives. Governance of the Foundation is focused on community involvement; 9 of the 13 board of directors are community leaders and the remaining 4 are from Beneficient.

TEFFI Pilot Program milestones. The Beneficient Managing Director addressed the following audits and financial data submitted to the OSBC on October 26, 2022:

- Audited financial statement for Beneficient as of December 31, 2021, and the three months ending March 31, 2022;
- Agreed-Upon Procedure report that reconciles Beneficient’s GAAP financials to non-GAAP contractual reporting pursuant to requirements in KSA 9-2307;
- Consolidated audited financial statements for the Beneficient Company Group for the periods of 2019, 2020, 2021, and March 31, 2022; and
- Agreed-Upon Procedure report that reconciles GAAP financials to contractual reporting, adjusting for non-cash and one-time extraordinary expenses.

The Managing Director indicated Beneficient plans to deliver the consolidated audited financial statements for the Beneficient Company Group for the period ending June 30 and September 30, 2022, to the OSBC within the week of the meeting. He also commented on the timelines associated (from the OSBC data request to exam commencement and exam completion) for the two examinations completed with successful results: IT and BSA/ AML/OFAC (Anti-Money Laundering/Office of Foreign Assets Control). The Managing Director outlined the ongoing compliance examination, stating the first document request was received October 18, 2022, the exam will commence on-site in Hesston on December 19, 2022, and the tentative site visit in Dallas is scheduled for January 3, 2023. He commented that Beneficient does not have any issue with the extent of the requests for information.

Proposed legislation. The Managing Director noted that Beneficient does not have any proposed legislative changes to what he termed the TEFFI-oriented provisions of the TEFFI Act. He further noted Beneficient recommends a minor modification to expand the definition of “charitable beneficiaries” as provided under KSA 9-2301(b)(4) [TEFFI Act—definitions section] and KSA 79-32,283 [income tax credit for certain qualified charitable distributions of fiduciary financial institutions] to:

- Include one or more charitable organizations designated as beneficiaries of a fidfin trust which are either:
 - (i) charities, contributions to which are allowable as a deduction pursuant to section 170 of the federal Internal Revenue Code; or
 - (ii) one or more of a Kansas nonprofit corporation, regardless of their federal income tax treatment.

Grocery store initiative and Go Public opportunity. The CEO reviewed the progress of the initiative in Hesston, noting the Heartland Foundation Task Force is assembled and has weekly planning sessions. In addition, the site for the new grocery store has been identified and announced and a memorandum of understanding has been signed with the grocery store operator. The storefront will resemble the outline of historic buildings from Hesston’s past.

The CEO also addressed Beneficient’s Go Public opportunity with Avalon Acquisition, Inc., a publicly listed, special purpose acquisition company. The business combination agreement for the two companies was announced on September 21, 2022. Upon final closing of this combination, Beneficient will become a publicly traded company. At the time of the Committee meeting, Beneficient was finalizing the S-4 registration statement to be filed with the SEC for review and approval. Speaking to the purpose of “going public,” the CEO noted access to the public markets reduces Beneficient’s cost of capital, and publicly traded stock provides an additional form of currency customers can select in securing liquidity for their alternative assets.

One positive impact highlighted was the potential for high numbers of fidfin transactions, which could expand funding for the EGZ and the TEFFI Development and Expansion Fund.

Industry interest in TEFFI operations in Kansas. Representatives of Beneficient submitted and referenced a statement provided by a managing partner with Convergency Partners, an advisory firm in Boston. Convergency indicated it has reviewed and analyzed the TEFFI Act and considered how this act may help the industry in the short and longer term. The letter concluded stating “[o]nce the pilot program concludes and the [OSBC] expresses its willingness to accept applications from additional financial institutions, we will see a variety of industry participants explore the opportunity to establish operations in Kansas and operate under the TEFFI Act.”

Discussion

The CEO addressed an earlier questions posed to the OSBC regarding intangibles and the comparison with capital earning requirements for financial institutions. He pointed to the KYC (Know Your Customer) process and its applicability to participation in the technology-enabled platform Beneficient maintains (*i.e.*, protections against fraud, corruption, money laundering) and valuation of this platform, which is essential for operations. He noted the changes in the banking economy and reporting Beneficient provided to the OSBC to assist in extracting the “real earnings.”

The Committee and representatives of Beneficient discussed the distinction between “charitable” and “nonprofit” as it related to contributions associated with the TEFFI Act. The Committee also discussed select members participating on the Beneficient Board and the Go Public opportunity.

The representatives and Committee discussed the role of capital and its association with consumer and investor protections. Also addressed were the next steps for a TEFFI insurance company (captive); it was reported funds are in escrow at the holding company level and Beneficient decided to wait until it completed the application/pilot program process with the OSBC. The most immediate step will be discussions with

the Commissioner of Insurance to start the application process. Finally, the Committee and Beneficient representatives discussed the dialogue with the OSBC and lessons learned from examinations to date.

Kansas Department of Commerce

The Director of Legislative Affairs for the Department addressed the requirements in the TEFFI Act that established the Technology-enabled Fiduciary Financial Institutions Development and Expansion Fund (Fund). The Act requires expenditures from the Fund to be used for economic development projects in EGZs in the state and for promoting and facilitating the development and growth of fiduciary financial institutions, fidfin activities, and custodial activities in Kansas and to locate fiduciary financial institutions office space in an economic growth zone.

SEED. After receiving funding (the TEFFI Act prescribes the applicable and required distribution amounts and schedules for the Department and Fund), the Department developed a request for application for the Strategic Economic Expansion and Development (SEED) grant program. The program's purpose is to support the economic revitalization of Kansas communities under 5,000 in population (within the 78 counties designated in the Act) through investments in quality-of-life initiatives. Applications were accepted through September 30, 2022. The Department received 109 applications, with a total funding request of \$4.72 million. The Department, as of this committee meeting, had completed the eligibility review and the merit review.

The SEED grant eligibility requirements also were reviewed. Among the requirements, applicants:

- Must be a county or municipal government, economic development organization, local chamber of commerce, library system, or a 501(c)3/ 501(c)6 nonprofit organization;

- Only one application per county will be awarded funding; and

- Cannot have received a BASE (Building a Stronger Economy) or HEAL (Historic Economic Asset Lifeline) grant for the project.

The submitted projects must also fit into one of the following categories: community vibrancy, child care and senior programming, libraries, and food retail. The projects must be completed within 12 months. The eligibility requirements also address the use of funding and provide criteria for instances where funding cannot be used (e.g., to support one-time programming including speaker fees, event fees, or salaries.)

CONCLUSIONS AND RECOMMENDATIONS

Following the presentations and updates, the Committee submits the following comments and recommendations reflecting its discussion:

- **Amendments to the Technology-enabled Fiduciary Financial Institutions Act and related provisions addressing charitable organizations.** The Committee acknowledges its receipt, consideration, and recommendation of these two requested proposals for legislation. (Bills will be pre-filed for introduction to address background check requirements and certain charitable contributions.)
- **Progress Report to the Legislature, Review of the Standing Committees on Financial Institutions.** The Committee directs its report to the standing committees of the Kansas Legislature for possible oversight during the 2023 Session. These standing committees are requested to review and consider any suggested changes to the TEFFI Act and regulatory provisions to ensure ongoing oversight of fiduciary financial institutions.

Report of the Joint Committee on Information Technology to the 2023 Kansas Legislature

CHAIRPERSON: Senator Mike Petersen

VICE-CHAIRPERSON: Representative Kyle Hoffman

RANKING MINORITY MEMBER: Senator Jeff Pittman

OTHER MEMBERS: Senators Tom Holland, Kristen O’Shea, and Caryn Tyson; and Representatives Kenneth Collins, Pam Curtis, 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.

December 2022

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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 2023 Legislature:

- The Legislature should explore how to more easily enable collaboration and coordination between the State and the Kansas Air National Guard in order to prepare for and respond to cyberattacks and threats; and
- The State Department of Education should further emphasize the importance of information technology (IT) security and work to provide more IT security assistance to school districts.

Proposed legislation: Three bills:

- Legislation with contents similar to 2022 HB 2548 should be introduced and assigned to the appropriate committee during the 2023 Session;
 - The Committee notes the value of the proviso language contained in 2022 HB 2510, pertaining to the Committee's ability to advise and consult in FY 2023 on IT projects prior to the issuance of a request for proposal for an IT project;
- Legislation that would clarify an appointment of a legislative member to the Information Technology Executive Council, the duration of such individual's appointment terms, and the number of members that would constitute a quorum, and require a majority of the membership to vote in the affirmative in order for the Council to take actions should be introduced and assigned to the appropriate committee during the 2023 Session; and
- The Legislature should consider the introduction of legislation establishing a committee to evaluate state and local cybersecurity posture and IT funding, training, and talent retention, with diverse stakeholders to include, but not be limited to, legislative leaders, agency leadership, and representatives of local units of government, businesses, and federal organizations;
 - The Committee notes the structure of the established committee should be similar to the Unemployment Compensation Modernization and Improvement Council, created by 2021 Senate Sub. for Sub. for HB 2196.

(Note: For the purposes of this report, "Proposed Legislation" means items recommended for legislative action.)

BACKGROUND

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

- Study computers, telecommunications, and other information technologies used by state agencies and institutions. The state governmental entities defined by KSA 75-7201 include executive, judicial, and legislative agencies and Board of Regents institutions;
- Review proposed new acquisitions, including implementation plans, project budget estimates, and three-year strategic information technology (IT) plans of state agencies and institutions. All state governmental entities are required to comply with provisions of KSA 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 and 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 2022 Legislative Session on January 24 and April 28, 2022. In addition to these days, the Committee met during the 2022 Interim, as authorized by the LCC, on August 17 (jointly with the Joint Committee on Kansas Security), September 26, and November 16, 2022.

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

At the April 28, 2022, meeting, the Committee elected Senator Peterson as Chairperson, Representative Hoffman as Vice-chairperson, and Senator Pittman as Ranking Minority Member for the 2022 calendar year. Committee leadership elections were originally scheduled to occur at the January 24, 2022, meeting, but the elections were postponed due to time constraints.

IT-related Legislation

At the January 24, 2022, meeting, the Committee discussed legislation it requested during the 2021 Interim pertaining to oversight of state IT projects by the Committee and the Kansas Information Technology Office. An Assistant Revisor of Statutes provided the Committee with an overview of the draft legislation (22rs2422) and the changes the Committee requested at the previous meeting on December 15, 2021. The changes made to the legislation included, but were

not limited to, requiring project documentation to meet Kansas Information Technology Executive Council (ITEC) standards and defining the phrase “advise and consult.”

The Committee approved the legislation for introduction during the 2022 Legislative Session. [Note: The legislation became 2022 HB 2548 and was passed by the House on a vote of 116-3. The bill was referred to the Senate Committee on Ways and Means, where no action was taken. Proviso language was added in Section 50 of 2022 HB 2510, the 2022 Appropriations Bill, which requires notification be sent and an opportunity be given to Committee members to advise and consult on IT projects prior to a request for proposal (RFP) is released.]

Executive Branch Quarterly IT Project Reports

At the September 26, 2022, meeting, the Chief Information Technology Architect (CITA) reviewed the Quarter 2, 2022, (April-June) IT project reports. The CITA reported that in Quarter 2, 2022, there were 63 active projects [Note: Quarter 1, 2022, projects were not presented to the Committee]. At the time of the report, six projects were in “alert” status. Projects are placed in “alert” status if they exceed 20 percent variance of 1 or more project performance metrics (schedule, deliverables, tasks, resources, or financial plan).

The six projects in “alert” status during Quarter 2, 2022, include the following:

- The Department of Administration (DOA) Printing Modernization project was behind schedule, awaiting the shipment of equipment anticipated to arrive in November 2022;
- The Department for Children and Families (DCF) Support Services Re-platforming project was experiencing schedule delays due to vendor issues and anticipated changes to federal regulations that would need to be captured in the system to ensure compliance;
- The Kansas Highway Patrol Criminal Justice Information System (CJIS) Software Upgrade project was behind

schedule and awaiting a project recast to account for the new timeline;

- The Office of Information Technology Services (OITS) ServiceNow IT Business Management Software Implementation project expanded the scope of the project to ensure the software is compatible for future use by other agencies;
- The Kansas State University IT Data Center Relocation project was awaiting equipment that had been delayed due to logistical issues and was classified as recast; and
- The Department of Labor Pondera Fraud Detection project was behind schedule due to issues with data migration as well as staffing shortages.

No projects were reported as being in “caution” status. Projects are placed in “caution” status if they exceed a 10-19 percent variance of one or more project performance metrics (schedule, deliverables, tasks, resources, or financial plan).

At the November 16, 2022, meeting, the CITA reviewed the Quarter 3, 2022, (July-September) IT projects report. The CITA reported that in Quarter 3, 2022, there were 61 projects being tracked. Seven projects were in “alert” status for Quarter 3, 2022. The seven projects include the following:

- The DOA Printing Modernization project was further delayed due to equipment not being shipped to the agency; the project was expected to be completed in October 2022;
- The Kansas Department for Aging and Disability Services (KDADS) Home and Community Based Services Final Rule Portal project was behind on both schedule and deliverables;
- The DCF Child Support Services Re-platforming project was further delayed on deliverables and will be recast to establish a new schedule for deliverables;

- The Kansas Highway Patrol CJIS Software Upgrade project was further delayed and behind schedule due to data migration issues and will be recast;
- The OITS ServiceNow IT Business Management Implementation project was delayed to ensure compatibility with external agencies;
- The Kansas Bureau of Investigation (KBI) Automated Biometric Identity System (ABIS) project was behind schedule, and the project will be recast; and
- The Department of Labor Pondera Fraud Detection project was behind schedule on deliverables.
- No projects were reported as being in “caution” status.

Executive Branch IT Update

Executive Branch IT Leadership Staff Introductions and Updates

At the August 17, 2022, joint meeting with the Joint Committee on Kansas Security, the Secretary of Administration, who also serves as the Executive Branch CITO, provided the committees with an update on departmental staff. The Secretary introduced the State’s new CITA, new Chief Information Officer (CIO) for the Department of Corrections, and the new IT Procurement Manager, a new position within DOA. The Secretary also noted that the CIO position at the Department of Labor and the combined CIO position at DCF and KDADS is open.

At the November 16, 2022, meeting, the Secretary introduced the new CIOs for DCF/KDADS and the Department of Labor. She also introduced the new Interim CIO for the Kansas Highway Patrol.

Agency IT Project Reporting Process Update

At the August 17, 2022, meeting, the CITA outlined the changes being implemented for agency IT project reports in response to 2022 HB

2510, Section 50, proviso language, primarily focusing on how the Committee is included in the development of each project. He explained that after the Kansas Information Technology Office (KITO) reviews a newly submitted project plan, the Committee is given the opportunity to provide feedback to the KITO before the CITO receives the project plan. He noted the review plan will be adjusted as needed during implementation.

Agency IT Project Business Risk Assessment Model Preview

At the September 26, 2022, meeting, the CITA provided the Committee with an update on the Kansas IT Business Risk Assessment. He discussed the Business Risk Framework Workgroup that was created in 2021 and its member makeup, draft proposals from March 31, 2022, and the goals, consideration, and process for risk assessment. The CITA provided the current iteration of the risk assessment framework and a case study that was utilized to evaluate the risk assessment framework on projects that have already been approved.

Federal Infrastructure Bill and Executive Branch Cybersecurity Initiatives

At the August 17, 2022, meeting, the Chief Information Security Officer (CISO), Kansas Information Security Office (KISO), reported on aspects of the federal Infrastructure Investment and Jobs Act, Public Law 117-58 (also known as the Bipartisan Infrastructure Law), that will assist state, local, tribal, and territorial governments in addressing cybersecurity risks.

He stated that KISO was waiting for the Notice of Funding Opportunity announcement on how the \$1.0 billion in funding was to be apportioned over the next four federal fiscal years. He stated the law requires 80 percent of the funding to be allocated to local units of government and 20 percent to be allocated to the State. The State is responsible for creating a planning committee to determine priorities and develop, implement, and revise a cybersecurity plan, which is an ongoing process that includes releasing an RFP for grant administration resources.

At the September 26, 2022, meeting, the CISO stated Kansas’ allocation from the U.S.

Department of Homeland Security Cyber Security Grant Program for FY 2022 will be \$2.8 million, with a 10 percent cost-share applied for each individual project. The funds may be used to develop a holistic statewide cybersecurity plan.

At the November 16, 2022, meeting, the CISO discussed the creation of a statewide cybersecurity planning committee tasked with developing the statewide plan. The plan is due September 2023.

2022 Cybersecurity Self-assessment and other KISO initiatives

At the November 16, 2022, meeting, the CISO also provided information from the 2022 Cybersecurity Self-assessment Survey for state agencies. This is the second year the survey has been conducted, and since the last self-assessment, the KISO noted the agency has created a Director of Cyber Collaboration position, a cyber-preparedness position, and an intern program. The CISO stated the office has begun interacting with local units of government and local associations, planning a state cybersecurity conference, and conducting more incident tabletop exercises.

The priority areas determined from the 2022 survey results include cyber risk management; disaster and incident response training; privacy assessment; and system security documentation.

At the November 16, 2022, meeting, the Secretary of Administration provided an overview of the three-year IT plans that every agency was required to submit to OITS. The IT plans are created based on a short standardized form where agencies select from predetermined objectives to identify areas of importance. The 3-Year IT Plan also seeks to highlight agency success stories and discuss broad challenges faced by the State such as cybersecurity and staffing resources. The top four agency objectives were the following:

- Application and infrastructure modernization;
- Continuous improvement of customer experience;
- Cybersecurity; and
- Digitization of process improvement.

Legislative Branch IT Update

At the August 17, 2022, meeting, the Legislative Branch CITO provided an update on the Legislative Branch Cybersecurity Assessment from fall 2021 and spring 2022. The CITO stated the social engineering portion of the assessment had been pushed back until the 2023 Legislative Session due to the additional responsibilities during the 2022 Session caused by the changeover of all Legislative Branch laptops. The outcome of the assessments determined the Legislative Branch IT system was “average” regarding cybersecurity vulnerabilities. The CITO also noted that IT staff had 40 laptops left to changeover out of the 394 laptops leased by the Legislature.

At the September 26, 2022, meeting, the Legislative Branch CITO and staff provided updates on Kansas Legislative Information System and Services (KLISS) modernization, application services, technical services, and ITEC. The CITO reviewed the timeline of the KLISS Modernization Project and noted the approval of Propolon as the vendor selected by the LCC on February 23, 2022. The Project had recently concluded contract negotiations, and the LCC authorized the LCC Chairperson to review and agree to the negotiated contract. Staff reviewed recent application and technical projects work, such as testing the new biennium build for KLISS, continued support of KLISS, implementation of automation software to aid with network security, and finalizing the legislative staff computer refresh. The CITO ended the presentation by providing the Committee with an update on ITEC. He stated ITEC updated its charter in June and noted that an issue had been discovered regarding questions about legislative membership requirements to be appointed to ITEC.

At the November 16, 2022, meeting, the Legislative Branch CITO provided the Committee with an update on the KLISS Modernization Project. He stated that the contract with Propolon was signed by the LCC Chairperson on October 19, 2022. Legislative staff and the vendor are working to analyze and design the new system with the current emphasis being on bill and amendment drafting system architecture and project schedules.

The CITO noted the Procurement Negotiating Committee has been retasked as the Project

Steering Committee and is working to finalize the milestone and delivery schedule required by OITS. The project manager is the Director of Application Services with the Kansas Legislative Office of Information Services.

Judicial Branch IT Update

At the September 26, 2022, meeting, the Judicial Branch CITO provided an update on the implementation of the new case management system and other projects. He stated that, as of the second week of September, all courts except the appellate courts and Douglas, Johnson, Sedgwick, Shawnee, and Wyandotte county courts have migrated to the new case management system.

The anticipated timeline is to onboard all the remaining courts in 2023 except for the Johnson County court, which will come online in 2024 due to the complex nature of how other county agencies are integrated into the current system. The CITO noted that the complex integration issues tend to occur in the more urban counties, which has led to some of the delays in implementation. He also noted that the ransomware attack that occurred in Wyandotte County impacted the case management system timeline, and the court is still working on digitizing all the paper records from the time span when the system was forced to return to paper files during the service outage caused by the ransomware attack.

The CITO also stated the Centralized Payment Center had been activated for all the courts in the state to allow for better accounting practices. Prior to this, each court was responsible for collecting their own payments and maintaining accounting records. The Committee also received a preview of an upcoming jury system project that will allow the court to integrate new technology, such as text messaging, in jury notification and communication, while also centralizing the process for the State.

IT Audits

At the August 17, 2022, meeting, Legislative Division of Post Audit (LPA) staff provided IT security audit presentations in executive session for the Department of Agriculture; Department of Labor; Judicial Branch; Office of the Attorney General; and Parsons State Hospital.

The Committee also received an audit presentation in open session regarding the cost, availability, and quality of having centralized IT security services for the State of Kansas.

At the September 26, 2022, meeting, LPA staff provided the Committee with updates on the IT Security Audit for Calendar Year 2021 and the IT Security Audit of USD 428, Great Bend, in executive session. In open session, LPA provided an update on the KBI Fingerprint System Information Technology Project.

Other Reports and Updates

At the August 17, 2022 meeting, a representative of the KBI provided a presentation on the agency's responsibilities regarding public safety cybersecurity. The KBI provided an update on the Automated Biometric Identity System (ABIS) project that is replacing the current fingerprint system. The representative stated that the anticipated completion date is sometime in 2023, but that the vendor's contract requires continued maintenance of the current system at no charge to the State until completion of the new system. The presentation also included an overview of the Kansas Criminal Justice Information System and the main elements of cybersecurity that the agency is faced with in maintaining the system. The Committee also received testimony from the KBI in executive session due to the sensitive nature of the information.

The Committee additionally received an overview of the Capitol Complex Security Enhancement Project from the Secretary of Administration. She stated that the project includes new video surveillance and access control systems for the Capitol Complex. DOA had received five responses to the RFP. The Secretary stated the estimated completion date for the project is summer 2023.

At the September 26, 2022, meeting, various agencies made presentations on their planned, approved, and ongoing IT projects. The projects presented during the meeting included:

- Kansas Highway Patrol, In-car Camera Upgrade – Replacing 438 obsolete in-car cameras from October 2022 through May 2023;

- Kansas Public Employees Retirement Systems, Pension Administration Systems Modernization – Updating and enhancing the 2005 IT systems used to administer public employee pensions;
- KDADS, State Hospital Substance Use Disorder Employee Health Record Implementation – Digitizing and standardizing the health record systems at all four state hospitals; and
- Department of Revenue, Kansas Assessment Data Network – Adding on to the existing property valuation software to allow for additional analysis and reporting efficiencies of property valuation data received from county assessors.

At the November 16, 2022, meeting, various agencies made presentations on their IT projects. The projects presented to the Committee during the meeting included:

- DOA, State Employee Health Benefits Plan – Establishing a data warehouse dedicated to de-identified data regarding the State Employee Health Plan and workers’ compensation;
- University of Kansas, Disaster Recovery Project – Establishing a “warm” site to ensure business continuity of the university in the event of a disaster scenario;
- Department of Transportation, Kansas Crash Data System Replacement – Implementing a new system to collect crash data with improved timeliness, improved accuracy, and reduced costs;
- Department of Transportation, Scout Optical Networking Services Backbone Replacement – Updating old hardware and other technical equipment in the Kansas City metro area;
- State Department of Education, Kansas Education Data System – Replacing the Kansas Individual Data on Students

Collection System with a new system for the collection of student longitudinal data from unified school districts;

- DCF, Technical Application Project for SNAP Success – Improving communication and reducing costs around ongoing Food Assistance Work Program requirements;
- KDADS, Electronic Health Records – Replacing 15 legacy systems and manual processes with 1 new system at the 4 state hospitals;
- Kansas Department of Health and Environment, Electronic Visit Verification System – Implementing a system to verify home health services arrived and provided services being billed for; and
- Kansas Department of Health and Environment, Medicaid Eligibility Quality Control Tool – Replacing a variety of separate tools used in Medicaid audits with a single web-based tool.

During the November 16, 2022, meeting, a Lieutenant Colonel with the 184th Wing Cyber Intelligence unit with the Kansas Air National Guard provided an overview of what the 184th Wing Cyber Intelligence unit does and the factors that impact its ability to engage with and assist state and local units of government.

CONCLUSIONS AND RECOMMENDATIONS

At its November 16, 2022, meeting, Committee members discussed their conclusions and recommendations for the 2023 Legislature and agreed to the following:

- Legislation with contents similar to 2022 HB 2548 should be introduced and assigned to the appropriate committee during the 2023 Session;
 - The Committee noted the value of proviso language contained in 2022 HB 2510, pertaining to the

Committee's ability to advise and consult on IT projects prior to the issuance of a request for proposal for an IT project;

- Legislation that would clarify an appointment of a legislative member to the Information Technology Executive Council, the duration of such individuals appointment terms, the number of members that constitutes a quorum, and requires a majority of the membership to vote in the affirmative in order for the Council to take actions should be introduced and assigned to the appropriate committee during the 2023 Session;
- The Legislature should consider the introduction of legislation establishing a committee to evaluate state and local cybersecurity posture and IT funding, training, and retention, with diverse stakeholders to include, but not be limited

to, legislative leaders, agency leadership and representatives of local units of government, businesses, and federal organizations;

- The Committee noted the structure of the established committee should be similar to the Unemployment Compensation Modernization and Improvement Council, created by 2021 Senate Sub. for Sub. for HB 2196;
- The Legislature should explore how to more easily enable collaboration and coordination between the State and the Air National Guard in order to respond or prepare to cyberattacks and threats; and
- The State Department of Education should further emphasize the importance of IT security and work to provide more IT security assistance to school districts.

Report of the Joint Committee on Kansas Security to the 2023 Kansas Legislature

CHAIRPERSON: Senator Mike Petersen

VICE-CHAIRPERSON: Representative Eric Smith

OTHER MEMBERS: Senators Rick Kloos, Virgil Peck, Jeff Pittman, and Mary Ware;
Representatives Dave Baker, Michael Houser, Jarrod Ousley, and Louis Ruiz

CHARGE

KSA 2021 Supp. 46-3301 directs the Joint Committee to study, monitor, review, and make recommendations on matters related to the security of state officers or employees, state and other public buildings, and other property and infrastructure in the state and to consider measures for the improvement of security for the state.

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Joint Committee on Kansas Security

ANNUAL REPORT

Conclusions and Recommendations

The Joint Committee on Kansas Security (Committee) notes requests for school safety and security moneys have far exceeded the \$5.0 million per year appropriated for that purpose and recommends the Legislature review the overall amount and how funding to specific districts is determined. It also recommends review of the appropriation bill language authorizing school safety and security grants to ensure bill language authorizes those moneys to be used for communications systems including, but not limited to, 800-megahertz radios that communicate directly with first responders in the case of an emergency.

The Committee notes positive results from the Kansas Bureau of Investigation (KBI) Northeast Child Victim Task Force and expresses its support for replicating those efforts in other parts of the state. The Committee notes additional funding for the KBI for personnel and office space would be required.

The Committee recognizes concerns regarding the effects of the renovation of the Docking State Office Building on Kansas Highway Patrol operations. It expresses appreciation to the Department of Administration for providing appropriate temporary facilities.

Proposed Legislation: None.

BACKGROUND

The 2004 Legislature created the Joint Committee on Kansas Security (Committee) (KSA 2021 Supp. 46-3301) to study, monitor, review, and make recommendations for the following:

- Matters relating to the security of state officers and employees;
- Security of buildings and property under the ownership or control of the State;
- Matters relating to the security of a public body or agency, public building, or facility;
- Matters relating to the security of the infrastructure of Kansas, including any information system; and

- Measures for the improvement of security for the state.

The statute also directs the Committee to review and monitor federal moneys received by the State for the purposes of homeland security and other related security matters.

COMMITTEE ACTIVITIES

Granted two meeting days by the Legislative Coordinating Council, the Committee met twice in 2022. It met jointly with the Joint Committee on Information Technology (JCIT) on August 17, 2022, and it met on October 4, 2022.

Some of the presentations to the Committee were made in sessions closed under the provisions of KSA 75-4319(b)(12)(C), which details exceptions to the Kansas Open Meetings Act. Legislative staff were not present in the closed sessions.

Meeting of August 17, 2022

At this meeting, the Committee heard information on Legislative Branch cybersecurity, a federal and state cybersecurity initiative, responsibilities of the Kansas Bureau of Investigation (KBI) regarding public safety and cybersecurity, and results of an audit by the Legislative Division of Post Audit on centralized information technology (IT) security services. Information on implementing provisions of 2022 HB 2510, Section 50 proviso language regarding IT project review was presented, and new Executive Branch IT staff members were introduced.

Staff of the Legislative Division of Post Audit presented results of IT security audits of the Kansas Department of Agriculture, the Judicial Branch, Parsons State Hospital, the Office of the Attorney General, and the Kansas Department of Labor in closed sessions.

Legislative Branch Cybersecurity Assessment

The Legislative Chief Information Technology Officer (CITO) reviewed results of a third-party review of legislative network vulnerabilities conducted for the Kansas Legislative Office of Information Services. He stated a scan completed in November 2021 identified 4 high-risk vulnerabilities, 18 medium-risk vulnerabilities, and 8 low-risk vulnerabilities, and that all were being addressed appropriately through patches and upgrades to mitigate the risks.

The Legislative CITO also reported staff, with a contractor, had conducted a security tools gap analysis that identified specific areas for improvement. He stated staff had responded by automating processes with the help of new security, logging, analysis, and alert software capable of using machine learning to recognize patterns on the Statehouse network. In response to a question, he also stated no security incidents in the Capitol to date had interrupted more than one user's work flow, and video conference system guidelines were being evaluated regarding security for video conferences.

Agency IT Project Reports

The Chief Information Technology Architect, Office of Information Technology Services (OITS), outlined the changes being implemented for agency IT project reports in response to 2022

HB 2510, Section 50 proviso language, primarily focusing on how JCIT is included in the development of each project. He explained that, after the Kansas Information Technology Office (KITO) reviews a newly submitted project plan, JCIT is given the opportunity to provide feedback to the KITO before the CITO receives the project plan. He acknowledged the review plan will be adjusted as needed during implementation.

Federal Infrastructure Bill and Cybersecurity

The Chief Information Security Officer, Kansas Information Security Office (KISO), reported on aspects of the federal Infrastructure Investment and Jobs Act, Public Law 117-58 (also known as the Bipartisan Infrastructure Law) that will assist state, local, tribal, and territorial governments in addressing cybersecurity risks.

He said the KISO was waiting for the Notice of Funding Opportunity announcement on how the \$1.0 billion in funding was to be apportioned over the next four federal fiscal years. He stated the law requires 80 percent of the funding to go to local units of government and 20 percent to be allocated to the State. The State is responsible for creating a planning committee to determine priorities and develop, implement, and revise a cybersecurity plan, which is an ongoing process that includes releasing a request for proposal for grant administration resources.

He noted home rule provisions in Kansas law limit the State's involvement in local government cybersecurity, and local governments are not required to notify the State of security breaches.

The Chief Information Security Officer also provided information on the Cyber Task Force, an initiative that includes establishing a steering committee, designating a Director of Cyber Collaboration and Cyber Preparedness, creating an intern program within the KISO, interacting with local units of government and local associations, and planning a state cybersecurity conference.

He also reviewed ransomware best practices; he noted advances in programming enable network segmentation to mitigate ransomware attacks, allowing security professionals to contain malicious activity to portions of a network by creating layers of separation between assets with sensitive data.

Public Safety Cybersecurity

The KBI Chief Information Officer testified regarding the KBI's IT operations support for both the agency and the Kansas Criminal Justice Information System (KCJIS). He noted that the KBI, through KCJIS, supports a wide range of technologies, which makes cybersecurity critical for storing and sharing of information.

The primary KCJIS stakeholders are public-safety agencies: law enforcement, prosecutors, the courts, corrections, and associated entities in Kansas (connecting to at least one local agency in each county); other states; and international law enforcement agencies. He noted the Kansas Highway Patrol (KHP) and the Federal Bureau of Investigation perform audits of the system.

Responding to a question, the KBI Chief Information Officer stated the average response time to a Kansas car stop query is six seconds and that different issues require different levels of queries.

The KBI Chief Information Officer provided additional information in a closed session.

Audit of Centralized IT Security Services

A Principal Auditor with the Legislative Division of Post Audit reviewed the report of an audit of the KISO, "Availability, Cost, and Quality of Centralized IT Security Service."

The Principal Auditor reported the audit found KISO to be in compliance with the Kansas Cybersecurity Act, but some agencies do not use KISO security services. He explained KISO offers three levels of security services: basic, intermediate, and advanced; however, only a few agencies use the second and third levels of services. The audit concluded that it is not clear whether the cybersecurity of Executive Branch agencies is improving, and KISO could be more proactive in presenting its services to state agencies.

The Principal Auditor stated insufficient data were available to determine any definitive answer to the audit question on whether KISO provides cost-effective security services to state agencies, except to conclude that KISO's revenues were less than its costs in FY 2020 and FY 2021.

Responding to questions, the Secretary of Administration stated fees paid by state agencies using a security service fund the KISO, the funding structure for cybersecurity services should be revisited, and a baseline level of service should be made available to all agencies. Increasing awareness of cybersecurity was noted in discussion.

Meeting of October 4, 2022

At this meeting, the Committee heard information on KHP staffing and operations, impacts of the renovation of the Docking State Office Building on KHP operations, Capitol Complex security, protections against electromagnetic pulses, Adjutant General's Department installation resiliency, K-12 school safety, crime statistics, and KBI activities. In closed sessions, the Deputy Director of Kansas Homeland Security, Adjutant General's Department, provided information on threats associated with foreign company contracting and other threats facing Kansas.

KHP Staffing and Operations

Overall KHP Staffing

An Executive Commander with the KHP provided an update on KHP staffing. He stated the number of sworn and uniformed members of the KHP declined from 547 in 2019 to 469 in 2022, and the number of civilian (non-sworn) staff members decreased from 293 to 267 in the same time period. He described challenges attributable to decreased staffing, such as slower response times, less timely assistance to local law enforcement agencies, reduced visibility of law enforcement, risks to officer safety in some situations, and burnout related to increased demands on remaining staff members. He noted many other law enforcement agencies also have fewer officers than what is optimal and face recruiting challenges.

The Executive Commander described KHP retention and recruitment efforts. He provided information on 2022 pay increases and stated those increases seem to have slightly increased the number of applicants; however, other law enforcement agencies also are increasing pay. He stated the Deferred Retirement Option Program (DROP) had been successful in retaining KHP staff during this national labor shortage. Under the DROP, retirement payments for a KHP or KBI

officer who agrees to continue to work in that capacity for a specified time period accumulate in an account the officer does not access until full retirement.

All troopers participate in recruitment to some degree, the Executive Commander said, through career fairs, personal contacts, and community events. He highlighted various efforts underway, including efforts to attract recruits from underrepresented groups.

The Executive Commander reviewed the steps taken to screen recruits. He stated the KHP retains high standards for its recruits, a personality test recruits take has been useful, the application process takes a shorter period of time than it did a few years ago, and the KHP hopes to have at least 15 graduates from its academy in 2022.

The Executive Commander also reviewed staffing for the Capitol Police, describing the duties of the commander, lieutenants, full-time law enforcement officers, part-time law enforcement officers, Capitol Area guards, communications specialists, and clerical staff. The Capitol Police are hoping to see more applicants due to pay increases in 2022 executive directives. He noted Capitol Area guards monitor 273 cameras, 109 of them assigned to the Statehouse, plus 637 doors and 489 panic alarms. He briefly described other duties and equipment.

Regarding preparedness for protests and rallies at the Statehouse, the Executive Commander stated KHP participates in state response exercises and training. Troopers specifically trained and equipped in mobile field force tactics may be activated to be staged, deployed, or both by the KHP Superintendent for a civil disturbance or an event for which credible intelligence indicates a high probability for civil unrest.

Capitol Police Relocation and Capitol Complex Security Enhancements

The Executive Commander reported central monitoring and dispatch for the Capitol Police were being temporarily relocated to the Landon State Office Building but the space there is insufficient for all Capitol Police personnel and operations. He noted response times would be slower as a result of the move. He stated the KHP recommends Capitol Police operations be returned to the Docking State Office Building when

renovations are complete. He stated the KHP expects to need six additional Capitol Area guards to meet staffing recommendations when renovations of the Docking State Office Building are complete.

The Secretary of Administration stated the KHP move to a temporary location is scheduled for December 2022, and relocation costs have been built into the cost of the renovation project, and enhancements to Capitol Complex security are expected to be completed in summer 2023. She also stated the Capitol Complex security enhancement project will include new video surveillance and access control systems. The Secretary provided additional information on the Kansas Capitol Complex security aspects in a closed session.

EMP Shield Technologies

The founder and Chief Engineer of EMP Shield, a company in Burlington, Kansas, presented information on the effects of high-altitude electromagnetic pulses on the United States. He stated incidents caused by an intentional electromagnetic pulse (EMP) attack, such as a nuclear bomb detonated in the atmosphere, or a naturally occurring geomagnetic disturbance from solar eruptions could damage significant portions of the nation's critical infrastructure, including the electrical grid, communications equipment, water and wastewater systems, and transportation modes, as well as household and consumer electrical systems. He provided action steps and generally reviewed types of equipment to mitigate the severity of a threat, strike, or pulse. He provided additional information in a closed session.

National Guard Installation Energy and Water Plan

The Director of Public Works, Kansas National Guard, Adjutant General's Department, provided an overview of the Installation Energy and Water Plan (IEWP) and more specific information on some of its components. The IEWP is an effort to reduce water and energy vulnerabilities among Kansas Army National Guard installations, including mission critical facilities, to ensure the service members can accomplish their missions. The IEWP is regularly updated and revised. Mission-critical facilities were determined using criteria such as whether the

facility is a data or communications center supporting mission activities and whether it is a designated emergency shelter; geographic distribution is also considered, and at least one such facility is located in each Kansas Homeland Security region.

The Director explained that, using the plan, facilities are evaluated to determine whether they could sustain operations under all operating conditions for at least 14 days, to identify their deficiencies for meeting critical needs, and to determine what actions are needed to have those facilities meet standards. He reviewed the results of risk assessments for electricity, natural gas, propane, and water and wastewater, and implementation plans to reduce demand, improve infrastructure, and increase capacity. He reviewed certain projects and noted Kansas is eligible to receive federal funding for IEWP projects.

The Director provided additional information on Kansas Army National Guard resilience and conservation infrastructure; energy master plans, for Forbes Field and for the rest of the state, that include conservation and determining energy needed to meet critical functions; Energy Resilience and Conservation Investment Program projects in Salina and planned projects at Forbes Field, Fort Riley, and Fort Leavenworth, involving the installation of solar arrays; and Kansas Army National Guard energy security performance in reducing energy and water use.

K-12 School Safety

The Director of the Safe and Secure Schools Unit, Kansas State Department of Education (KSDE), provided an update on the Safe and Secure Schools program. He noted state funding specifically for the State Board of Education, through KSDE, to develop and adopt statewide safety and security standards for schools was provided in 2018 SB 106, Section 76.

He said that in consultation with school officials and other state agencies, school safety standards have been adopted for infrastructure protection, security technology systems, interoperable communications with law enforcement and first responders, communications outside of school, up-to-date crisis plans, training and exercises, in-school crisis drills, accountability for adopting plans in keeping with the standards, and firearm safety education programs.

The Director stated the Safe and Secure Schools Unit has partnerships with the Adjutant General's Department and its Division of Emergency Management, the Attorney General, KBI, Kansas Department of Health and Environment, Kansas Department of Wildlife and Parks, KHP, and the State Fire Marshal. The Director noted the numbers and types of drills required each school year. He also reviewed types of activities, such as presentations, supporting grants, and assistance to districts, that he and the school safety specialist provide.

The Director noted grant moneys of \$5.0 million a year have been provided via appropriations for the past three years, including in 2022 HB 2567, for school district acquisition and installation of systems necessary for security monitoring, securing entrances, and salaries and wages for school resource officers, at a dollar-for-dollar match with the local school district.

He stated each year KSDE has received requests from school districts for more than \$11.0 million in projects. He also noted communications equipment, such as 800-megahertz radios, and training are not among the types of items listed in the appropriations language.

Crime Statistics and KBI Activities

The KBI's Executive Officer presented crime statistics showing, by year, numbers of crimes by category and the ten-year average numbers of crimes in the categories of violent crime, murders, rape, robbery, and assault and battery.

He noted that although there were fewer violent crimes, murders, and aggravated assaults in 2021 than in 2020, the numbers of crimes in those categories in Kansas remain significantly above the ten-year averages, and the Kansas violent crime rate exceeds the rate for the United States as a whole, when comparing numbers of crimes per 100,000 people. Additionally, he noted the number of robberies has declined, with the exception of motor vehicle theft.

The Executive Officer noted 87 total agent positions are filled, and 104 are authorized. He stated the Field Division, with 38 special agents, investigates approximately 300 violent crimes per year, and the scope and number of investigative requests has increased.

Crimes Against Children

The Executive Officer reported crimes against children are a priority area for the agency. KBI special agents are assigned to investigate child sexual and physical abuse throughout the state but, because of the small number of agents as compared with the numbers of requests for assistance and reported incidents of child abuse, those agents investigate only those cases in which the victim is younger than 14 and the suspect is older than 18.

The Executive Officer stated six members of the Northeast Child Victim Task Force and a supervisor investigate cases that involve the sexual exploitation of children in the northeastern part of the state, with 42 investigations in FY 2021. More than 350 tips reported to the National Center for Missing and Exploited Children from across Kansas were waiting to be assigned for investigation as of the date of the meeting.

The Executive Officer noted calls for collaboration among executive and law enforcement agencies regarding investigation of child abuse.

Illegal Substances

The Executive Officer said marijuana, methamphetamine, heroin, and synthetic opioids continue to be the most widely available and used drugs in the region, citing data from the federal High Intensity Drug Trafficking Areas Program. The three most prevalent drugs submitted to the KBI laboratory in FY 2021 were marijuana, methamphetamine, and cocaine.

He also stated the KBI laboratory has seen a dramatic increase in fentanyl submissions, from 81 in 2020 to 463 in 2021. He noted the very small amount of fentanyl needed to cause an overdose, its use in counterfeit pharmaceuticals, and how mapping overdose cases in partnership with the Emergency Medical Services Board assists law enforcement in targeting areas for enforcement.

Cybercrime

The Executive Officer described the Internet Crime Complaint Center (IC3), a program administered by the Federal Bureau of Investigation, that has received more than 6.5 million cybercrime complaints nationally since its

inception in 2000. Five of the most common types of cybercrime are extortion, identity theft, personal data breaches, non-payment and non-delivery of services, and phishing type activity, such as attempts to obtain an individual's sensitive account login information. Kansas reported 2,693 complaints to IC3 in 2021.

The Executive Officer stated the KBI Cyber Crime Unit, established in 2019, has six special agents and one supervisor; two of the special agents serve on federal cybercrime task forces that recovered \$4.5 million for Kansas from fraudulent unemployment claims. In FY 2022, the Cyber Crime Unit reviewed 448 cases and initiated 23 criminal investigations.

He noted cybercrime cases require significant time and labor. He stated additional resources are needed to adequately address this rapidly growing and under-reported crime.

CONCLUSIONS AND RECOMMENDATIONS

After discussion on topics including communications systems for use in school safety situations, school district demand for school safety grants, resource requirements to extend KBI child victim investigative services across the state, cybersecurity costs to local governments and resources available to them in expertise as well as money, KCJIS data, concerns related to the temporary relocation of Capitol Police operations, and fentanyl test strips, Committee members agreed to the following:

- The Committee notes requests for school safety and security moneys have far exceeded the \$5.0 million per year appropriated for that purpose and recommends the Legislature review the overall amount and how funding to specific districts is determined. It also recommends review of the appropriation bill language authorizing school safety and security grants to ensure bill language authorizes those moneys to be used for communications systems including, but not limited to, 800-megahertz radios that communicate directly with first responders in the case of an emergency.

- The Committee notes positive results from the KBI Northeast Child Victim Task Force and expresses its support for replicating those efforts in other parts of the state. The Committee notes additional funding for the KBI for personnel and office space would be required.
- The Committee recognizes concerns regarding the effects of the renovation of the Docking State Office Building on KHP operations. It expresses appreciation to the Department of Administration for providing appropriate temporary facilities.

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Report of the Joint Committee on Pensions, Investments and Benefits to the 2023 Kansas Legislature

CHAIRPERSON: Senator Jeff Longbine

VICE-CHAIRPERSON: Representative Steven Johnson

OTHER MEMBERS: Senators Brenda Dietrich, Michael Fagg, Cindy Holscher, Pat Pettey, Tom Holland (substitute), and Mary Ware (substitute); and Representatives Jesse Borjon, Broderick Henderson, Jim Kelly, Cindy Neighbor, Sean Tarwater, Carl Turner, and Rui Xu

CHARGE

Monitor, Review, and Make Recommendations Regarding the Retirement System

KSA 2022 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 working after retirement exceptions (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 conclusions and recommendations.

- **Joint Select Committee.** The Committee recommends that legislative leadership establish a joint Select Committee to evaluate KPERS Tier 3. The Committee recommends the Select Committee review the performance of Tier 3, determine whether the Cash Balance plan is fulfilling its intended purpose, and consider whether any adjustments need to be made to provide the equity as intended and the overall benefit value.
- **Extraordinary KPERS payment.** The Committee recommends the appropriate standing committees of the 2023 Legislature review using some of the projected State General Fund surplus ending balance to make additional contributions toward the reduction of KPERS unfunded actuarial liability.
- **Legislative Post Audit performance audit topics.** Pursuant to KSA 46-1136, the Committee proposes the Legislative Post Audit Committee consider the same topics as recommended by KPERS in its update: working after retirement, Kansas Police and Firemen’s coverage for KPERS corrections members, and KPERS cost-of-living adjustments (COLAs). The Committee states the working-after-retirement topic is the lowest priority of the three suggested performance audit topics.
- **Alternate investment allocation cap removal (bill request).** The Committee will introduce a bill to remove the statutory cap of 15.0 percent and provide flexibility for the KPERS Board of Trustees to establish, by policy, a more relevant allocation cap on its alternate investments.
- **KPERS COLA option (bill request).** The Committee recommends reintroduction of the provisions of 2022 HB 2612 that provide a self-funded COLA option for new retirees. This option is similar to the option currently provided for Tier 3 members.

Proposed Legislation: Two bills: alternative investments (Senate); self-funded COLA (House).

BACKGROUND

The Joint Committee on Pensions, Investments and Benefits (Committee), created in 1992, is authorized by KSA 2022 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 2, 2022, to receive reports and updates from the KPERS administration on the December 31, 2021, actuarial valuation, performance of the pension obligation bonds, the KPERS Tier 3 dividend formula and experience, and membership and retirement trends, and to discuss the Board's alternative investments request and possible topics for study by the Legislative Division of Post Audit. The Committee also received updates on recent pensions law and legislative proposals, investment performance and select investment policy topics, and pension administration system modernization.

KPERS 2021 Actuarial Valuation Report

The Committee reviewed the latest actuarial valuation, which serves as a snapshot of the financial condition of the Retirement System as of December 31, 2021. 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 2021 valuation is used to set the fiscal year (FY) 2025 contribution rates for State/School employers and calendar year (CY) 2024 contribution rates for local employers, and it serves as the baseline for any cost studies performed in the 2023 Legislative Session.

Key Findings

Assets. As of December 31, 2021, the actuarial value of assets totaled \$24.8 billion. Actuarial assets are calculated by averaging, or "smoothing," investment gains and losses over a five-year period. There is a net gain of almost \$2.1 billion to be realized in the outlying years. Net investments on a calendar-year basis were 15.7 percent (market value). Due to smoothing, the return on actuarial assets was 10.9 percent.

Funded ratio and unfunded actuarial liability; "steady state" calculation. The Retirement System's overall funded ratio of assets to liabilities declined from 72.5 percent (2020 valuation) to 71.6 percent. [Note: The standards for public pension plans suggest a public 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 increased from \$8.5 billion (2020 valuation) to \$9.8 billion. The Executive Director noted the change in the investment return assumption (detailed later in this report) increased the calculated actuarial liabilities by \$2.7 billion.

He also noted that for funding to remain at a "steady state," State/School Group employer contributions in FY 2023 will need to be \$631.6 million, which includes \$149.1 million for the normal employer cost rate and \$482.5 million for the UAL.

Contribution rates. The report further indicated the actuarially required contribution (ARC) rates for KPERS State/School employers decreased from 12.47 percent in FY 2024 to 11.42 percent in FY 2025, primarily due to positive investment returns. The statutory employer contribution rate continues to be at the full ARC rate for FY 2025, the fifth 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 \$138.0 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 \$871.1 million in additional pension funding authorized by 2022 SB 421 was not included in the 2021 valuation, as the proceeds were received too late to be included but were included in the future cost projections. The Committee and the Executive Director discussed the funding projections presented and the anticipated investment returns for CY 2022.

Pension Obligation Bond Proceeds

The Executive Director also addressed 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 also serve to 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.

Total returns. The average annualized total returns for the 2004C, 2015H, and 2021K bond issues, as of October 31, 2022, were 7.09 percent, 6.80 percent, and -7.78 percent, respectively. As of October 31, 2022, the three bond series had collectively exceeded interest cost by approximately \$564.0 million (2004C, \$408.0

million; 2015H, \$216.0 million; 2021K, -\$60.0 million). 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, established by 2012 law creating a cash balance plan. Differing from KPERS 1 and 2 plan design, the Cash Balance 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 five-year average net compound rate of return above 6.0 percent, as determined by the Board for the calendar year and the four preceding years. [Note: The Tier 3 plan serves as the primary retirement plan for new KPERS members since 2015. Some employees in corrections positions continue to be enrolled in KPERS 2.]

The Planning and Research Officer noted CY 2021 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 four times. Increases occurred in CYs 2017 (1.1 percent), 2019 (0.825 percent), 2020 (2.475 percent), and 2021 (3.525 percent).

KPERS Board Actions—Change in Investment Return Assumption; Request for Alternative Investments Amendment

Investment return rate. 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 31, 2016, valuation, the Board reduced the return assumption from 8.0 percent to 7.75 percent. Then, for the December 31, 2021, valuation, the Board reduced the return assumption rate from 7.75 percent to 7.00 percent.

The Executive Director stated the average investment return assumption in a survey of 131 public retirement plans was 6.99 percent. The trend has been to lower the rate-of-return assumptions, and that trend is expected to continue.

The estimated impact on the UAL, as noted in the earlier discussion of the December 31, 2021, actuarial valuation, would be an increase of \$2.7 billion for the 0.75 percentage point reduction in the investment return assumption. The 0.75 percentage point return reduction also would reduce the funded ratio by an estimated 6.1 percent. The Executive Director stated that when the Board established the 7.0 percentage point investment rate assumption, it also made changes to the amortization method to pay for the adjustment.

Request for bill introduction, alternative investments cap. The Executive Director presented a request on behalf of the KPERS Board of Trustees relating to KPERS investments. The Board requests legislation that would permit it to set the percentage of alternative investments within the KPERS Trust Fund. Current law limits the sum of alternative investments to no more than 15 percent of the KPERS Trust Fund.

The Executive Director noted all other current limitations (*e.g.*, at least two qualified institutional buyers, any individual alternative investment cannot exceed more than 2.5 percent of the total alternative investments) would remain in place. Since the law became effective in 2012, the Board's strategic investment plan has increased the allocation to alternative investments to help increase returns while minimizing risk.

The Board is concerned that, as alternative investments approach the statutory cap, it will be limited in its ability to set future investments policies because of the cap. [*Note:* Draft language was included in the Board's request.]

KPERS Membership Trends and Retirement Experience

Deferred Retirement Option Program

The KPERS Planning and Research Officer provided information on the Deferred Retirement Option Program (DROP) for Kansas Police and Firemen's (KP&F) members in the Kansas Highway Patrol (KHP) and agents in the Kansas Bureau of Investigation (KBI).

Under the 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 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 7.00 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.

To date, the Planning and Research Officer stated, 67 members have enrolled in the DROP (61 KHP members and 6 KBI members). A total of 18 members have completed their DROP period and received their lump sum payments. In discussion with the Committee, the KPERS conferee indicated that the average DROP participant enrolled in the program was about one year younger than other members who elected to retire. The average time in DROP is 4.9 years, resulting in a KHP member in DROP staying longer on the job and retiring later. Discussion topics also included costs associated with DROP expansion.

Working after Retirement

The KPERS Planning and Research Officer reviewed recent retirement experience, noting that the average number of retirements had consistently been between 5,500 to 6,000 per fiscal year and had slowed down beginning in FY 2018 to about

5,200 in FY 2020. However, the number of retirements in FY 2021 and FY 2022 increased to nearly 6,000, which is where the rate is expected to remain over time.

The KPERS Planning and Research Officer said working-after-retirement requirements have been much easier to follow by both retirees and employers since the 2017 legislative changes, which provided a single set of rules for retirees and employers. During CY 2021, about 5,300 retirees were reported as returning to KPERS-covered work, with about 3,750 of those from schools. [Note: KPERS does not collect position-specific information, so it is not known how many of those positions are teachers.]

The requirements for KPERS-covered work positions (effective January 1, 2018) include:

- 180-day waiting period to return if younger than 62 years old and 60 days if 62 or older;
- No prearranged agreement to return;
- No earnings limitation on retirees returning to work; and
- Statutory KPERS contributions at the statutory rate for the first \$25,000 in earnings and 30 percent for all earnings above \$25,000.

KPERS Pension Administration System Modernization Project

The Executive Director outlined the purposes of the KPERS pension administration system, which provides the functionality needed to collect data and contributions from employers and to process and pay benefits. KPERS started using its present 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 multi-year 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 an “Analysis and Retool” phase completed by the existing contractor, Sagitec, KPERS decided to develop a comprehensive request for proposal for a new system.

The Executive Director said that the work completed by Sagitec was focused on the existing system, which will continue to be used for the next four years. The current budget for project expenditures in FY 2023 is \$9.2 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 approximately \$9.0 million for FY 2024.

Investment Performance and Topics

Investment performance. The KPERS Chief Investment Officer (CIO) provided an overview of the KPERS Trust fund performance for FY 2022: a negative return of 4.7 percent although the fund outperformed the policy index, or asset class benchmark, by 3.8 percent.

He also reported on the fund returns for the previous 3, 5, 10, 20, and 25 years with a low return of 7.1 percent for the 3-year average to a high of 8.5 percent for the 20-year average. The fund also outperformed the policy index or asset class benchmark by a range of 0.5 percent to 1.7 percent for each of the above time periods.

Exposure to Hong Kong and China. The CIO reported on the market value of total assets in Hong Kong and China. Publicly traded equity investments in Hong Kong represented 0.8 percent of total assets with a market value of \$187.4 million. Investments in China were 1.45 percent of total assets. Publicly traded equity investments were 1.28 percent of total assets, or \$299.2 million, with privately traded equity investments representing 0.17 percent of total assets or \$41.0 million. There is no exposure to debt issued by Hong Kong or China.

He reported the Retirement System’s China exposure in the international equity portfolio is in line with the benchmark weighting.

Environmental, social, and governance investments. The CIO stated that Environmental, Social and Governance (ESG) investments seek to advance certain investors and investment managers' social initiatives in areas such as climate change, workers' rights, diversity, and equity. These are usually in equity-related investment mandates. He indicated equity managers impact investor decisions to advance ESG goals:

- By actively buying or selling specific securities within an investor's portfolio;
- Through corporate policies outside of those expressed through an investor's portfolio; and
- Through an investor's delegation of proxy voting authority (KPERS delegated this duty to each equity manager that has fiduciary responsibilities and follows KPERS investment strategies and statutes).

He identified two items in the Statements of Investment Policy, Objective and Guidelines concerning Socially/Politically Responsible Investment Policy. The first was that the KPERS Board of Trustees' first responsibility as a fiduciary is to prudently invest the assets of the system solely for the benefit of members and beneficiaries.

The second was that the investments should provide the highest expected return commensurate with the lowest expected risk and are appropriately diversified. The third was that criteria other than these will not override the above.

He also stated that KSA 74-4921 includes language that states that no moneys in the fund shall be invested or reinvested if the sole or primary investment objective is for economic development or social purposes or objectives.

The CIO stated KPERS does not invest in any ESG-focused mandates, nor does the system impose ESG considerations on any of its managers.

Recent KPERS Law and Legislation; Performance Audit Study Topics Discussion

Recent KPERS laws and legislation. A Senior Assistant Revisor (revisor), Office of Revisor of Statutes, reviewed three bills that were enacted into law in 2022. HB 2481 authorized service credit purchase for certain in-state nonfederal government employment in the KP&F. SB 450, among other things, eliminated the requirement of 80 percent of proceeds received from sale of surplus real estate be deposited into the Kansas Public Employees Retirement Fund. SB 421 transferred a total of \$1.125 million to the KPERS Trust Fund in four installments.

The first transfer of \$553,866,022 was made in May 2022, upon publication of the bill. Of that amount, the first \$253,866,022 was to repay in full the delayed KPERS payments in FY 2017 and FY 2019. The second transfer of \$300.0 million was made in June 2022, the third transfer of \$146.1 million was made in August 2022, and the final transfer of \$125.0 million was made in December 2022. He also identified five bills that had legislative action but did not pass and six other bills introduced that had no legislative action.

Performance audit topics. The Committee considered and provided input to the Legislative Post Audit Committee on selection of KPERS-related performance audit topics pursuant to KSA 46-1136. The KPERS Executive Director suggested three performance audit topics for the Committee to consider: working after retirement, KP&F coverage for KPERS corrections members, and KPERS cost-of-living adjustments (COLAs).

During discussion, the Committee agreed to recommend these possible topics to the Legislative Post Audit Committee with the working-after-retirement topic as the lowest priority of the three.

CONCLUSIONS AND RECOMMENDATIONS

The Committee submits the following conclusions and recommendations:

- **Joint select committee.** The Committee recommends that legislative leadership establish a joint Select Committee to

evaluate KPERS Tier 3. The Committee recommends the Select Committee review the performance of Tier 3, determine whether the cash balance plan is fulfilling its intended purpose, and consider whether any adjustments need to be made to provide the equity as intended and the overall benefit value.

- **Extraordinary KPERS payment.** The Committee recommends the appropriate standing committees review using some of the projected SGF surplus ending balance to make additional contributions toward the reduction of KPERS unfunded actuarial liability.
- **Legislative Post Audit performance audit topics.** The Committee proposes the topics as recommended by KPERS in its update: working after retirement, KP&F coverage for KPERS corrections

members, and KPERS COLAs. The Committee states the working-after-retirement topic is the lowest priority of the three suggested performance audit topics.

- **Alternate investment allocation cap removal (bill request).** The Committee will introduce a bill to remove the statutory cap of 15.0 percent and provide flexibility for the KPERS Board of Trustees to establish a more relevant allocation cap on its alternate investments.
- **KPERS COLAs (bill request).** The Committee recommends reintroduction of the provisions of 2022 HB 2612 that provide a self-funded COLA option for new retirees. This option is similar to the current option provided for Tier 3 members.

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Report of the Joint Committee on State Building Construction to the 2023 Kansas Legislature

CHAIRPERSON: Senator Rick Billinger

VICE-CHAIRPERSON: Representative Marty Long

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 2022 Supp. 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 improvements plans, leases, land sales, and statutorily required reports by agencies, and to travel throughout the state to observe state-owned buildings.

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Joint Committee on State Building Construction

ANNUAL REPORT

Conclusions and Recommendations

All five-year capital improvement plans were reviewed by the Committee with the following recommendations:

- The amount appropriated to the Kansas Bureau of Investigation for annual rehabilitation and repair should be increased from \$100,000 to \$300,000;
- The on-call construction contract limit for state projects should be raised to \$1.5 million;
- The Senate Committee on Ways and Means and House Committee on Appropriations should discuss and add additional appropriations to the Correctional Institutions Building Fund from gaming revenues; and
- The minimum amount for a project to require a bid should be increased from \$5,000 to \$25,000.

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 members 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 (KSA 75-37,128).

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 four meeting dates for the Committee during the 2022 Interim. The Committee met September 7-8 and reviewed all agency five-year capital improvement plans, received the Department of Transportation's Excess Right-of-Way Annual Report, and received an update on construction of a building to house the Kansas Department of Health and Environment (KDHE) laboratory. On October 19, certain Committee members toured the Lansing Correctional Facility, and on November 10, certain Committee members toured the Hutchinson and Winfield Correctional Facilities, but no meetings occurred those two days.

Presentation of Five-Year Capital Improvement Plans

Department of Administration. A representative from the agency discussed the five-year plan and the building condition assessment component with the plan. There was discussion with the Committee on challenges regarding the availability of equipment, materials, and subcontractor labor and how that is affecting projects. Information was provided on the timeline

and specifics for the design of the new KDHE laboratory and the approach to addressing long lead times for equipment.

Kansas State Fair. An agency representative provided the five-year plan and answered questions from the Committee.

Department of Labor. A representative from the agency presented the five-year plan and explained there was a change in the legal opinion of how capital improvement projects should be funded by the agency. In the past, capital improvement projects were funded from the Workers Compensation Fund, and the new opinion is that the projects should be funded with a combination of State General Fund (SGF) and Workers Compensation Fund moneys. The split would be 60.0 percent SGF and 40.0 percent Workers Compensation Fund moneys.

Department of Wildlife and Parks. A representative from the agency provided a summary of the five-year plan and stated there is an increase in projects for FY 2024 due to additional federal funds available. The representative stated the agency is having issues with availability of contractors and equipment.

Kansas State School for the Blind. A representative provided a summary of the five-year plan, including two supplemental requests in FY 2023 for additional costs associated with heating, ventilation, and air conditioning equipment and rehabilitation and repair costs. The representative also reviewed seven enhancement projects for FY 2024.

Kansas State School for the Deaf. The agency representative provided information on the five-year plan and made one supplemental request for additional funds for rehabilitation and repair due to increased costs.

Adjutant General's Department. A representative from the agency provided information on the five-year plan and said the agency has experienced supply chain issues.

Kansas Board of Regents. An agency representative provided the five-year capital improvement plan for the Board and all universities and discussed the Educational

Building Fund. Representatives from state universities discussed the completed, current, and planned projects. Several addressed additional concerns:

- **Emporia State University.** The representative noted that some of the projects were necessary for accreditation requirements and federal Americans with Disabilities Act (ADA) accessibility.
- **Wichita State University.** The representative noted the universities are addressing maintenance issues due to the average age of mission-critical buildings, which for this university is 44 years old.
- **University of Kansas.** The representative stated the university uses a building assessment tool, a work order management system, and the input of their tradespeople in determining the projects.

All university personnel expressed gratitude for the additional funds appropriated by the Legislature during the 2022 Session for deferred maintenance and demolition.

Department for Children and Families. A representative of the agency provided information on the agency's five-year plan.

Judicial Branch. A representative from the agency discussed three capital improvement projects for the agency: the addition of compact shelving, the construction of a learning center, and the remodel of Court of Appeals office space and lounge.

Kansas Commission on Veterans Affairs Office. A representative from the agency discussed the projects at the Soldiers' Home, Veterans' Home, and cemeteries.

Kansas Highway Patrol. A representative presented the five-year plan and discussed relocating the dispatch command center in Salina. The representative also clarified information in the plan regarding the replacement of the Olathe scale.

Department of Commerce. A representative from the agency discussed the projects for the three workforce centers owned by the State.

Kansas Bureau of Investigation. A representative from the agency described the five-year plan and stated the agency would probably not extend the lease in FY 2025 for the Great Bend laboratory unless changes are made.

Department of Transportation. The representative presented the agency five-year plan and stated the agency is also seeing increases in building construction costs. The representative stated the agency supports increasing the spending limit to \$1.5 million for construction costs for on-call construction projects. The agency right-of-way disposal and acquisition report also was provided.

Department of Corrections. A representative from the agency discussed the Correctional Institutions Building Fund and noted that the transfer amount has not increased since it was set in the early 1990s. There was discussion on the statutory requirement for any project over \$5,000 to be bid. The agency asked that this statute be reviewed.

Kansas State Historical Society. An agency representative provided the five-year plan, noting changes in building material and labor costs, and answered questions from the Committee.

Kansas Department for Aging and Disability Services. An agency representative provided the five-year plan and answered questions from the Committee. There was discussion that the increased costs have delayed projects and some of the old, original buildings on the grounds of state hospitals are being razed.

Presentation of Lease Agreements

A representative of the Department of Administration presented leases for two Department of Revenue driver's license examination offices, one in Kansas City and one in Great Bend. The Committee recommended both leases.

CONCLUSIONS AND RECOMMENDATIONS

All five-year capital improvement plans were reviewed by the Committee with the following recommendations:

- The amount appropriated to the Kansas Bureau of Investigation for annual rehabilitation and repair should be increased from \$100,000 to \$300,000;
- The on-call construction contract limit for state projects should be raised to \$1.5 million;
- The Senate Committee on Ways and Means and House Committee on Appropriations should discuss and add additional appropriations to the Correctional Institutions Building Fund from gaming revenues; and
- The minimum amount for a project to require a bid should be increased from \$5,000 to \$25,000.

Report of the Capitol Preservation Committee to the 2023 Kansas Legislature

CHAIRPERSON: Patrick Zollner

LEGISLATIVE MEMBERS: Senator Elaine Bowers; and Representatives Fred Patton and Valdenia Winn

NON-LEGISLATIVE MEMBERS: Chase Blasi, Melinda Gaul, Tim Graham, Will Lawrence, Sharon Wenger, and Larry Wolgast

EX OFFICIO MEMBERS: Frank Burnam and Kate Van Steenhuyse

CHARGE

Review Various Issues Regarding the Capitol

Pursuant to KSA 75-2269, the responsibilities of the Committee are:

- Approving all proposals for renovation of all areas of the Capitol, the Capitol's Visitor Center, and the grounds surrounding the Capitol to ensure that the historical beauty of the areas are preserved;
- Preserving the proper decor of such areas;
- Assuring that any art or artistic displays are historically accurate and have historic significance;
- Overseeing the location and types of temporary and revolving displays of the Capitol, including the visitor center; and
- Overseeing the reconfiguration or redecoration of committee rooms within the Statehouse.

December 2022

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Capitol Preservation Committee

ANNUAL REPORT

Conclusions and Recommendations

The Capitol Preservation Committee:

- Recognizes the passing of Dr. Jennie Chinn, Executive Director of the Kansas State Historical Society, and past Chairperson of the Committee. Dr. Chinn was passionate about the Committee's work and the update and decor of the Statehouse, often volunteering herself for subcommittee work and finding out information to assist the Committee in its efforts. The Committee thanks Dr. Chinn for her devotion to the restoration and conservation of the Statehouse and her love of and passion for Kansas history, with the belief that all Kansans should be proud of their state's history;
- Acknowledges the passage of SB 330 and SB 479 by the 2022 Legislature, which authorizes the Committee to approve plans to place permanent memorials honoring Kansas Gold Star families (SB 330) and Kansas suffragists (SB 479) on the Statehouse grounds;
- Recommends moving forward on the completion of *Ad Astra* Plaza, and asks a legislator to request legislation be drafted that will clarify the process for receiving donations and oversight of the project;
- Recommends the League of Women Voters of Kansas select a site for the Suffragist Memorial and move forward with the request for proposal process. Once completed, the League of Women Voters of Kansas will present the proposed memorial to Suffragist Memorial Subcommittee for approval; and
- Recommends that a legislator introduce legislation to authorize the installation of a mural honoring the 1st Kansas Colored Voluntary Infantry Regiment. The Committee has also approved the creation of a subcommittee for the mural project.

Proposed Legislation: None.

BACKGROUND

The Capitol Preservation Committee was created by the Legislature in 2010 to approve renovation proposals in all areas of the Capitol, the Capitol Visitor Center, and the Capitol grounds to ensure the historical beauty of those areas are preserved, preserve the proper decor of those areas, assure any art or artistic displays are historically accurate and have historic significance, approve the location and types of

temporary displays, and oversee the reconfiguration of committee rooms within the Capitol. As provided by KSA 75-2269, the Division of Legislative Administrative Services is responsible for implementing the recommendations of the Committee.

The Committee is composed of 12 members, with the Governor appointing 3, the President of the Senate and the Speaker of the House each

appointing 2, and the Minority Leaders of the House and Senate each appointing 1.

The Committee's three ex officio members are the Statehouse Architect, the Director of the Kansas Creative Arts Industries Commission, and the Executive Director of the Kansas State Historical Society. The Governor has the authority to appoint the chairperson from the Committee's membership.

COMMITTEE ACTIVITIES

The Committee met on October 25, 2022, at the Capitol. During the meeting, the Committee received updates on Statehouse and Statehouse grounds projects, the Liberty Bell Replica, *Ad Astra* Subcommittee and Suffragist Subcommittee reports, the history of the 1st Kansas Colored Voluntary Infantry Regiment Mural, and information about committee room artwork planning.

Statehouse Update

The Director of the Office of Facilities and Property Management, Department of Administration, stated the Overmyer murals in the first floor of the Statehouse began flaking in 2019. Due to the COVID-19 pandemic, conservation work on the murals was delayed; however, the Director reported that conservation work has been completed. The Director also detailed various maintenance projects that will commence in 2023 and stated that signage for the Statehouse Parking Garage and ground-level entrances directing visitors to the Visitor Center have been updated.

Liberty Bell Replica

The Director, along with a Committee member, provided information about a Liberty Bell replica that was once on display in the Statehouse, but was removed for the Statehouse renovation and has since been in storage in the Statehouse Parking Garage. The full-size replica Liberty Bell was one of 57 replicas that was created as a result of a 1950 bond drive. Every state and territory and the Truman Library received a replica to display. Kansas is one of three states that does not have the replica on display—the testimony indicated this can be a disappointment to visitors who travel the country

to see all 50 replicas. The replica is too large to be placed back inside the Statehouse. The Director stated there is a proposal to place the replica on the grounds of the Docking State Office Building, as part of the Docking Building renovation project. The costs for installation would be included in the contractor's bid.

Ad Astra Subcommittee

The Chairperson of the *Ad Astra* Subcommittee provided an overview of the Subcommittee's report on the completion of *Ad Astra* Plaza, which is located on the southwest quadrant of the Statehouse grounds. When the *Ad Astra* statue was placed on the Statehouse Dome, the artist created a smaller replica version of the statue that was intended to be placed in *Ad Astra* Plaza. A granite base for the replica was created and placed on the plaza, along with several bronze plaques; however, there are engraved bricks for the plaza along with more bronze plaques and brick pavers that have been created but have not been installed. The family of the artist that created *Ad Astra* has possession of the replica statue and the remaining uninstalled bronze plaques and brick pavers.

The Chairperson of the Subcommittee stated a fund had been established at a local Topeka foundation approximately six months prior to the Committee meeting, and \$10,000 has already been raised to complete the plaza project. No state money would be appropriated for the project; however, legislation will be needed to allow for funds to be donated to an account within the State Treasury.

Suffragist Memorial Subcommittee

The Chairperson of the Suffragist Memorial Subcommittee provided an overview of the Subcommittee's report on the construction of the Suffragist Memorial in the Statehouse. The Chairperson also discussed a new RFP (request for proposal) provided by the League of Women Voters of Kansas.

The Committee discussed with representatives of the League of Women Voters of Kansas regarding selection of a site in the Statehouse for the memorial, the RFP process, and the form of the memorial.

[Note: Subcommittee reports are published with the October 25, 2022, meeting minutes and are available at:

http://kslegislature.org/li/b2021_22/committee/s/ctte_2011_capitol_preservation_committee_1/documents/]

1st Kansas Colored Voluntary Infantry Regiment Mural

The Assistant Director for Research, Kansas Legislative Research Department, provided background information on the 1st Kansas Colored Voluntary Infantry Regiment. The regiment, often reference as “first to serve,” holds a distinctive place in Kansas and the Nation’s Civil War experience. Kansas was the first Northern state to recruit, train, and send Black soldiers into combat during the war between the states.

The Legislature first passed legislation in 2000 authorizing two state agencies to develop plans to place a mural in the Statehouse that honors the regiment and submit those plans to the Joint Committee on Arts and Cultural Resources (SB 660; codified at KSA 75-2264). In the Joint Committee’s report to the 2002 Legislature, it recommended the completion of the mural be delayed until after Capitol Restoration. Later legislation in 2013 eliminated that committee and did not establish a successor committee to oversee or receive such plans.

In the 2018, 2019, and 2021 interims, this Committee supported legislation regarding the mural including its financing and installation; legislation was introduced during the 2022 Legislative Session (SB 468, HB 2660), but those measures died in committee.

The Committee discussed the logistics of legislation and the process of approving and installing a mural in the Statehouse, using the *Brown v. Board of Education* mural process as an example.

Committee Room Artwork

The Director of Legislative Administrative Services (LAS) stated that committee room artwork was removed during the Statehouse renovation and has never been replaced. For the

most part, the artwork was owned by the chairpersons whose committee met in the room.

The Director indicated LAS has received a donation of \$28,000 from an anonymous donor to provide artwork for the committee rooms. The Director stated that he worked with the Kansas State Historical Society staff to look through the historical collection owned by the State, and there are not very many suitable pieces for the Statehouse.

The Director stated he has been looking primarily for artwork to purchase, as university museums are unwilling to loan artwork due to lack of security in the committee rooms. He said he reached out to the donor to determine whether the donor has a preference on the kind of artwork displayed in the committee rooms.

CONCLUSIONS AND RECOMMENDATIONS

The Committee recognizes the passing of Dr. Jennie Chinn, Executive Director of the Kansas State Historical Society, and past Chairperson of the Committee. Dr. Chinn was passionate about the Committee’s work and the update and decor of the Statehouse, often volunteering herself for subcommittee work and finding out information to assist the Committee in its efforts. The Committee thanks Dr. Chinn for her devotion to the restoration and conservation of the Statehouse and her love of and passion for Kansas history, with the belief that all Kansans should be proud of their state’s history.

The Committee acknowledges the passage of SB 330 and SB 479 by the 2022 Legislature, which authorizes the Committee to approve plans to place permanent memorials honoring Kansas Gold Star families (SB 330) and Kansas suffragists (SB 479) on the Statehouse grounds.

The Committee recommends moving forward on the completion of *Ad Astra* Plaza, and asks that a legislator request legislation be drafted that will clarify the process for receiving donations and oversight of the project.

The Committee recommends the League of Women Voters of Kansas select a site for the Suffragist Memorial and move forward with the

RFP process. Once completed, the League of Women Voters of Kansas will present the proposed memorial to Suffragist Memorial Subcommittee for approval.

The Committee recommends that a legislator introduce legislation to authorize the installation of a mural honoring the 1st Kansas Colored Voluntary Infantry Regiment. The Committee has also approved the creation of a subcommittee for the mural.

Report of the Health Care Stabilization Fund Oversight Committee to the 2023 Kansas Legislature

CHAIRPERSON: Marvin Kleeb

OTHER MEMBERS: Senators Cindy Holscher and Gene Suellentrop; and Representatives Henry Helgerson and Richard Proehl

NON-LEGISLATIVE MEMBERS: Craig Concannon, MD; Darrell Conrade; Dennis George; Douglas Gleason, MD; James Rider, DO; and Jerry Slaughter

CHARGE

Review Status of the Health Care Stabilization Fund

This Committee annually reviews the operation of the Health Care Stabilization Fund, reports, and makes recommendations regarding the financial status of the Fund.

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Health Care Stabilization Fund Oversight Committee

ANNUAL REPORT

Conclusions and Recommendations

The Health Care Stabilization Fund Oversight Committee considered two items central to its statutory charge: whether the Committee should continue its work and whether a second, independent analysis of the Health Care Stabilization Fund (HCSF or Fund) is necessary. This oversight committee continues in its belief the Committee serves a vital role as a link among the HCSF Board of Governors, the health care providers, and the Legislature and should be continued. Additionally, the Committee recognizes the important role and function of the HCSF in providing stability in the professional liability insurance marketplace, which allows for more affordable coverage to health care providers in Kansas. The Committee is satisfied with the actuarial analysis presented and does not request a second independent review.

The Committee considered information presented by the Board of Governors' representatives, including its required statutory report; the Board's actuary; and health care provider and insurance company representatives. The Committee acknowledges its role to provide oversight and monitoring of the HCSF, including legislative actions and other contemporary issues affecting the soundness of the HCSF, and makes the following recommendations and comments:

- **Actuarial report and status of the HCSF; income and rate level indications.** The Committee notes the analysis provided by the Board of Governors' actuary characterized Calendar Year 2022 as a "generally favorable year," with the Fund's position as of June 30, 2022, slightly better than previously forecasted. Loss experience for both active and inactive claims was better than anticipated and assets as of December 31, 2021, were \$14.0 million more than assets reported at year-end 2020. However, other indications noted investment income flattening out at 2.70 percent and a high surcharge rate inadequacy for the hospital and nurse midwife provider classes. The Committee notes the Board of Governors' election to make no change in rates for calendar year 2023.
- **Implementation and impact of 2021 House Sub. for SB 78.** The Committee recognizes the rebalance of claims and liability achieved by increasing the basic coverage limits for both individual and annual aggregate of claims. This shift to the primary insurance carrier, as acknowledged in the Committee's previous report, lowers surcharge revenue to the HCSF and reduces the number of claims and level of exposure of the HCSF. The Committee appreciates the update from an insurance carrier acknowledging the continued availability of adequate insurance carriers and coverage in the marketplace.

The Committee separately acknowledges the impact of the increased coverage requirements on the self-insurance programs for the University of Kansas (KU) Faculty and Foundations and the residents-in-training program. For the residency programs, the HCSF is reimbursed for its administrative costs (namely attorney fees and expenses and settlements). For the KU Faculty and Foundations, the first \$500,000 for reimbursable expenses is paid from the Private Practice Reserve Fund. Any costs exceeding this amount must be paid from the State General Fund. With the coverage amounts increasing, first seen in FY 2024, pursuant to this 2021 law, the Committee notes the likely corresponding increase in settlements and attorney fees and expenses.

- **Marketplace conditions and headwinds.** The Committee acknowledges the concerns presented by a health care insurer, health care provider representatives, and the Board of Governors' Chief Counsel. (It submits a related comment regarding the COVID-19 pandemic effects.) Among the ongoing and emerging items contributing to the overall hardening of market conditions nationwide, the Committee cites medical malpractice *claims severity* with increased costs for damages (e.g., past and future medical costs), including the *frequency of large verdicts*, concerns within reinsurance programs with the *withdrawal of reinsurance capacity* coupled with tightening terms and increasing rates, and *rate inadequacy* for primary insurer rates due to continuing consolidation in the health care market. On the state level, the Committee notes the open question following the 2019 *Hilburn* decision, regarding whether the cap on non-economic damages is constitutional as it applies to medical malpractice actions and a related consideration of the cap on wrongful death damages. It also notes changes to the *scope of practice* for advanced practice registered nurses and expanded prescribing authority, as well as law relating to the corporate practice of medicine.

- **COVID-19 impacts; adult care homes' liability concerns; medical care facilities.** The Committee notes the testimony presented regarding COVID-19-related claims, with some 40 to 50 pending cases, most of them filed against nursing facilities. While no case has made it to trial, the Committee acknowledges the resources (expense and time) needed for discovery and, ultimately, for defense of such claims. The Committee especially recognizes the impact of market conditions exacerbated by the COVID-19 pandemic on adult care homes and notes the corresponding increase in nursing facilities participating in the Health Care Provider Insurance Availability Plan, with only 8 facilities seeking insurance in the Plan in 2019 (meaning they were unable to secure insurance coverage in the commercial marketplace) and 58 facilities seeking such coverage in 2022. The Committee will continue to monitor health care facility providers, both nursing facilities and, more broadly, medical care facilities, and these above-stated concerns and the issues of affordability and availability of liability coverage and challenges including staffing and supply chain. The Committee requests additional analysis regarding any trends in lawsuits and loss experience.

- **Fund to be held in trust.** The Committee recommends the following language to the Legislative Coordinating Council, Legislature, and the Governor regarding the HCSF:
 - The Health Care Stabilization Fund Oversight Committee continues to be concerned about and is opposed to any transfer of money from the HCSF to the State General Fund (SGF). The HCSF provides Kansas doctors, hospitals, and the defined health care providers with individual professional liability coverage. The HCSF is funded by payments made by or on behalf of each individual healthcare provider. Those payments made to the HCSF by health care providers are not a fee. The State shares no responsibility for the liabilities of the HCSF (excepting University of Kansas faculty and resident self-insurance programs reimbursement). Furthermore, as set forth in the Health Care Provider Insurance Availability Act, the HCSF is required to be “held in trust in the state treasury and accounted for separately from other state funds”; and

 - Further, this Committee believes the following to be true: all surcharge payments, reimbursements, and other receipts made payable to the HCSF shall be credited to the HCSF. At the end of any fiscal year, all unexpended and unencumbered moneys in such HCSF shall remain therein and not be credited to or transferred to the SGF or to any other fund.

The Committee requests its report be directed to the standing committees on health, insurance, and judiciary, as well as to the appropriate subcommittees of the standing committees on appropriations.

Proposed Legislation: None.

BACKGROUND

The Health Care Stabilization Fund Oversight Committee (Committee) was created by the 1989 Legislature and is described in KSA 40-3403b. The 11-member Committee consists of 4 legislators; 4 health care providers; 1 insurance industry representative; 1 person from the general public with no affiliation with health care providers or the insurance industry; and the Chairperson of the Health Care Stabilization Fund (HCSF) Board of Governors or another member of the Board designated by the Chairperson.

The law charges the Committee to report its activities to the Legislative Coordinating Council and to make recommendations to the Legislature regarding the HCSF.

The Committee met November 15, 2022.

COMMITTEE ACTIVITIES

Report of Willis Towers Watson

Fund Position and Forecasts

The Willis Towers Watson actuarial report serves as an addendum to the report provided to the HCSF Board of Governors on September 13, 2022. The actuary addressed forecasts of the HCSF's position at June 30, 2022, based on the company's annual review, along with the prior estimate for June 2022. In the 2021 review, the estimate of the HCSF-held assets as of June 30, 2021, was \$303.34 million, with liabilities of \$264.71 million, and with \$38.62 million in unassigned reserves.

The actuary presented the following estimates for the company's 2022 study:

- June 30, 2022: \$311.27 million in *assets*; \$270.30 million in *liabilities*; and \$40.98 million in *unassigned reserves*.

- June 30, 2023: \$299.54 million in *assets*; \$269.07 million in *liabilities*; and \$30.46 million in *unassigned reserves*.

The actuary noted, based on the analysis presented to the Board of Governors, the HCSF needs to raise its surcharge rates by 2.0 percent in calendar year (CY) 2023 in order to maintain its unassigned reserves at the level projected based on the rate actions taken in 2021 for CY 2022. [Note: The forecast for unassigned reserves assumes \$19.1 million in surcharge revenue in the July 1, 2022 – June 30, 2023 (FY 2023) period. The Committee's report to the 2022 Legislature outlines changes in surcharge revenues adopted by the Board to reflect the impact of and savings associated with 2021 House Sub. for SB 78.]

Rate Level (Surcharge) Indications

The actuary also reviewed the HCSF's rate level (surcharge) indications for CY 2023, noting the indications include a break-even target between revenues and expenses. He detailed various CY 2023 items, including *payments*, with settlement and defense costs of \$36.21 million; *change in liabilities* of \$2.33 million (positive); *administrative expenses* of \$2.08 million; *transfers* to the Kansas Department of Health and Environment assumed to be \$200,000 (assuming no transfers to or from the Health Care Provider Availability Plan [Availability Plan]); and *planned investment*, based on CY 2022 surcharge decisions, of \$8.40 million. The actuary detailed the two revenue sources for the HCSF: its investment income (assumed to be \$8.13 million based on 2.70 percent yield) and surcharge payment from health care providers (\$19.62 million needed to break even). In a later review of overall indications, the actuary stated there is a slight positive rate indication for CY 2023 (2.0 percent).

The actuary, however, did not believe that the Board needed to take a significant rate increase for CY 2023.

Investment Yield

The actuary reviewed the HCSF's investment income over the previous ten years, noting the Fund's investment yield has flattened out, after several years of decline. The company chose to keep the assumed future yield rate at 2.70 percent, which is unchanged from the rate used in its 2021 study. [Note: Testimony also indicated a 10-basis-point change in the assumed rate would cause a 1.5 percent change in the CY 2023 surcharge rate indication.]

Indications by Provider Class; Loss Experience

The actuary provided an overview of indications by provider class (review of classes 1-30, the number of providers in each class, and the CY 2022 rate). The actuary noted, based on the company's analysis of experience by provider class, differences continue to be seen in relative loss experience among the classes. Classes with decreases or increases greater than 10 percent (meaning a rate decrease or increase is indicated by relative loss experience for the class) include:

- Decreases greater than 10 percent [greatest to least decrease]: Class 24 (nursing facilities); Class 13 (registered nurse anesthetists); Class 6 (surgery – ER [no major], ENT); Class 12 (chiropractors); Class 11 (surgery – neurosurgery); and Class 23 (assisted living, residential health care facilities); and
- Increases greater than 10 percent [least to greatest increase]: Class 5 (surgery – urology, colon/rectal, GP with major); Class 22 (nurse midwives); and Class 17 (medical care facilities).

The actuary and committee discussed two provider classes cited for rate increase indications: nurse midwives and hospitals (medical care facilities). The actuary also provided a history of surcharge rate changes since 2011, noting the more recent changes, which included raising the relativities for years of compliance.

The actuary addressed the three options for CY 2023 surcharge rates that were provided to the Board of Governors. The actuary highlighted the Board of Governors' decision to implement Option 1, no changes in rates. Two other options had been presented to the Board of Governors: Option 2 would have provided for a base rate increase on classes 1-14, and Option 3 would have provided for selective rate changes by class. The actuary indicated the three options did not include the potential Fund revenue increase due to the higher basic coverage rates, other than for the impact of 2021 House Sub. for SB 78, for classes 15-24 (*i.e.*, Availability Plan insured, certain facilities, residency training programs, and specified mid-level practitioners).

Discussion

The actuary characterized the CY 2021 experience for the HCSF as a "generally favorable year." He noted that loss experience was better than expected on both active and inactive claims. Further, assets at December 31, 2021, were \$14.0 million higher than assets reported at December 31, 2020. Other indications he noted included investment income flattening out and a high rate inadequacy for the hospital and nurse midwives classes. The actuary concluded, given these indications, the HCSF's financial position at June 30, 2022, was "slightly better" than what the company had forecasted and presented to the Committee in November 2021.

Committee members and the actuary discussed relative loss experience among provider classes, including trends seen in other states for hospitals and other facilities. The actuary noted the escalation in verdict and settlement amounts for hospitals, citing cases in Cook County (Illinois), Detroit, Philadelphia, and southeast Florida; he also pointed to a recent \$90.0 million civil verdict in Iowa. In evaluating the trends for the higher amounts, the actuary and a Committee member serving on the Board noted that for these facilities, this is a severity issue, not a frequency issue, and the Board and actuary have discussed pricing, adequacy of rates and reserves, and appropriate coverage levels.

Comments

In addition to the report from the Board of Governors' actuary, the Committee received

information from Committee staff detailing resource materials provided for its consideration, including the Kansas Legislative Research Department's *FY 2023 Appropriations Report* outlining the actual and approved Board of Governors' expenditures, the Committee's conclusions and recommendations from its most recent annual report, and the Omnibus Appropriations bill (2022 HB 2510) proviso language specific to certain maternity care centers and HCSF coverage for defined health care providers effective for FY 2023.

Committee staff also provided an update on legislation of interest to the Committee that was considered or passed during the 2022 Session. The Revisor reviewed SB 399, which would have amended KSA 40-3401 to add maternity centers to the definition of "healthcare provider" in the Health Care Provider Insurance Availability Act (HCPIAA). The bill passed out of the Senate but was not considered by the House Committee of the Whole. She indicated the proviso language in HB 2510 deems a maternity center a "healthcare provider" for the purposes of the HCPIAA if such center is accredited by a recognized national organization or falls within the definition in KSA 65-503. Also highlighted was 2022 SB 502, which would have established a separate licensure and regulatory process for maternity centers.

The Revisor reviewed three additional bills enacted in 2022. Senate Sub. for HB 2279 amends the Kansas Nurse Practice Act to permit advanced practice registered nurses (APRNs) to prescribe drugs without a written protocol with an authorized physician. The Revisor noted the bill did not amend the defined health care provider language in the HCPIAA to include APRNs working in this expanded role. SB 440 authorizes occupational therapists to provide limited services to patients without referral from certain health care providers. HB 2477 temporarily amends certain provisions related to health care providers and adult care homes in response to the COVID-19 pandemic; these provisions expire on January 20, 2023.

Chief Counsel's Update

The Deputy Director and Chief Counsel for the Board of Governors addressed the FY 2022 medical professional liability experience (based on

all claims resolved in FY 2022, including judgments and settlements). She characterized FY 2022 as "getting back to normal" in terms of the number of claims and filed cases and the courts being open for business.

Jury Verdicts and Settlements

Using HCSF data, the Chief Counsel stated 16 medical malpractice cases involving 17 Kansas health care providers went to trial during FY 2022. The trials were held in the following jurisdictions: Sedgwick County (5); Johnson County (3); Cowley County (1); Pottawatomie County (1); Republic County (1); Shawnee County (1); Clay County, Missouri (2); and Jackson County, Missouri (2). Nine of the cases resulted in defense verdicts, in six cases the jury found for the plaintiff, and one case ended in mistrial. Four of the plaintiff verdicts resulted in awards greater than the primary coverage limits. HCSF obligations as a result of these verdicts totaled \$2,782,229. The presentation also included a chart illustrating numbers of trials and verdicts over the past 20 fiscal years.

The Chief Counsel highlighted the claims settled by the HCSF, noting in FY 2022, 75 claims in 64 cases were settled involving HCSF moneys. Settlement amounts incurred by the HCSF totaled \$28,612,434, not including settlement contributions by primary or excess insurance carriers. She compared the FY 2022 experience to that of FY 2018 and FY 2019. She also reported on the severity of claims, providing a comparison of settlement amounts from FY 2015 to FY 2022, which illustrated increasing severity, meaning an increasing number of settlements for individual claims in the ranges of \$250,000 – \$600,000 and \$600,001 – \$1,000,000.

The Chief Counsel reported, for the 75 claims, the HCSF provided primary coverage for inactive health care providers in 9 claims. In addition, she continued, the Fund "dropped down" to provide coverage for two claims in which aggregate primary policy limits had been reached. Primary insurance carriers tendered their policy limits to the HCSF in 66 claims; 6 of those claims involved contribution from an insurer whose coverage was in excess of HCSF coverage. The Chief Counsel reported in addition to the settlements involving HCSF contributions, the HCSF was notified that primary insurance carriers settled an additional

101 claims in 91 cases. The total amount for these reported cases was \$11,475,868.

The Chief Counsel also reported on the number of total HCSF settlements and verdict amounts by fiscal year. She noted this is the first time since FY 2018 that the HCSF was involved in the payment of a verdict. She also provided historical data (FY 1977 – present) for new cases by fiscal year, indicating that the HCSF was notified of 274 new cases during FY 2022. She confirmed the number of cases for FY 2022 was down by 44 from the prior year and pointed to a 7-year decrease in new claims for the period of FY 2009 through FY 2015. With changes to law in 2014, which added five new categories of health care providers, the annual increases seen in FY 2016 – FY 2019 were expected. The FY 2022 decrease, she continued, does not appear to be trend-setting, as there have been 91 new claims in the first 3 months of FY 2023.

Self-insurance Programs

The Chief Counsel also addressed the self-insurance programs and reimbursement for the University of Kansas (KU) Foundations and Faculty and residents. She reported the FY 2022 KU Foundations and Faculty program incurred \$2,380,709.02 in attorney fees, expenses, and settlements; \$500,000 came from the Private Practice Reserve Fund and \$1,880,709.02 from the State General Fund (SGF). She indicated this amount was an increase of \$617,105.84 above FY 2021; the ten settlements in FY 2022 compared to six in FY 2021 largely account for the difference. The Chief Counsel indicated she anticipates the program costs will be similar in FY 2023, and she hopes to report fewer settlements at a level similar to those in FY 2021.

In regard to self-insurance for the KU/ Wichita Center for Graduate Medical Education residents programs, including the Smoky Hill residents in Salina, the total amount for FY 2022 was \$865,070.17. There were no claim settlements during this time frame, so the total reported reflects only attorney fees and expenses. The Chief Counsel attributed rising attorney fees and other costs to the number of claims (*e.g.*, 14 pending claims from FY 2020; and 36 from FY 2022). [Note: All expenses—settlement amounts and attorney fees and expenses—are reimbursed from the SGF.]

The Chief Counsel provided a list of historical expenditures by fiscal year for the KU Foundations and Faculty program and the residents in training since the inception of these two self-insurance programs. She reported the ten-year average for the residents-in-training program is about \$980,000 per year and noted FY 2022 would qualify as “slightly below average” in reimbursable costs. In comparison, the ten-year average for the KU Foundations and Faculty program is about \$1,900,000, with FY 2022 “above average” in costs. The Chief Counsel noted the growth in faculty meeting criteria for participation in the self-insurance program (506 in FY 2012; 1,004 in FY 2022). The Private Practice Reserve Fund reimbursement amount has not been increased since its creation in 1989 (this fund reimburses the first \$500,000 of this program’s expenses). The remaining costs for this program are reimbursed by the SGF. The Chief Counsel noted the upcoming impact of 2021 House Sub. for SB 78; it is anticipated that the required level of primary insurance coverage increase from \$200,000 to \$500,000 will begin to be reflected in claims filed during FY 2024. This increase, coupled with no change in the Private Practice Reserve Fund reimbursement limitation, could require additional reimbursement from the SGF for program expenses incurred by the HCSF.

The Chief Counsel also provided information about moneys paid by the HCSF as an excess carrier. She noted no such claims were paid for the residents in FY 2022. There were ten claims involving KU Foundations and Faculty members in FY 2022; four of those claims involved an amount greater than \$200,000, and the total amount for those settlements was \$1,482,500.

Discussion

The Committee and the Chief Counsel discussed topics as outlined below.

Adult Care Homes and Claims; COVID-19

The Committee and Chief Counsel discussed emerging trends in cases filed. She indicated there were no new types of claims, but in the prior two fiscal years, the Board of Governors saw a significant number of cases filed related to COVID-19. These cases involved adult care homes (nursing facilities) and some 40 to 50 cases are pending, with the first cases filed at the end of

April 2020. At the time of the meeting, filed cases were pending that involved six nursing facilities in Kansas. Nearly 40 of those claims had been filed against 2 of these facilities, 1 in Wyandotte County and 1 in Johnson County. The Chief Counsel indicated the primary allegation in this type of claim is that the long-term care facility did not following the rules and regulations regarding COVID-19.

The Committee and Chief Counsel discussed defense of these type of claims; the Chief Counsel indicated the primary insurance carrier for the facilities in Johnson and Wyandotte counties was engaged vigorously in the defense. Committee members discussed immunity protections provided by the Legislature in 2020 (for physicians and hospitals) and the more broad protections provided in 2021 (if the facility was in substantial compliance). The Chief Counsel indicated these claims will take a substantial period of time and claims expenses for defense, noting the discovery stage has been lengthy and is generally focused on whether the nursing facility met the standard of care. The Chief Counsel was not aware of any pending legislative proposals to further address COVID-related cases for nursing facilities.

Self-insurance Programs

The Chief Counsel addressed questions regarding the growth in and criteria for participation in the KU Faculty and Foundations program. She stated, pursuant to statute [KSA 40-3414(h)], a qualifying faculty member must be a member of the foundation and have a full-time faculty appointment. She noted that not all of the 1,004 faculty members in the program supervise residents; in this instance, they qualify because they have full-time faculty appointments. The Chief Counsel confirmed no faculty member physicians are employed at the University of Kansas Health Systems (KUHS) hospital in Great Bend; three faculty members are employed at the KUHS St. Francis campus in Topeka. She did not have information regarding the potential faculty member participants associated with the recently announced KUHS merger with OlatheHealth.

Severity of Claims

The Chief Counsel responded to questions regarding the increase in severity of claims, as reported in the HCSF settlements' data. The Chief

Counsel detailed the filing of a suit for a medical malpractice action, explaining the components of damages for a claimant include both past medical expenses and future medical expenses. As medical expenses rise, the claim will be made to increase the request for damages.

Medical Malpractice Insurance Marketplace; Availability Plan Update

The Vice President for the Claims division, Kansas Medical Mutual Insurance Company (KAMMCO), appeared to present testimony on behalf of KAMMCO's President and Chief Executive Officer addressing the current status of the medical malpractice marketplace in Kansas and the Availability Plan.

Health Care Provider Insurance Availability Plan

The KAMMCO conferee addressed participation in the Availability Plan, noting the correlation between the number of Plan participants and the cyclical nature of the medical malpractice market. As the market hardens or becomes more restrictive, health care providers use the Plan to find insurance. Identifying a hard market cycle's impact on health care providers (2002 – 2010), the conferee noted that the period beginning in 2021 may signal the start of a tightening cycle.

Adult care homes. The KAMMCO conferee pointed to nursing facility Plan participants as notably impacted by market conditions brought on by the COVID-19 pandemic, and provided data regarding recent Plan participation:

- Plan Year 2019: **8** insured facilities;
- 2020: **20** insured facilities;
- 2021: **49** insured facilities; and
- 2022: **58** insured facilities.

The KAMMCO conferee noted the mitigating effects of recent immunity provisions addressing health care providers passed by the Kansas Legislature and confirmed earlier testimony noting, to date, no claims payments have been made on COVID-related claims.

Claims Environment; Industry Headwinds

The KAMMCO conferee addressed the broader impact of the COVID-19 pandemic, noting its affect on health care delivery nationwide, resulting in the acceleration of concerning trends already underway in health care and the professional liability insurance market. After a decade of profitable underwriting results, for example, this line of insurance has produced underwriting losses for the past five years. The factors contribution to these losses include *claims severity*, an increase in the *frequency of large verdicts* (“mega” verdicts), *withdrawal of resinsurance capacity* with tightening terms and increasing rates for reinsurance programs, *rate inadequacy* for primary insurer rates due to consolidation in the health care market, and state-specific issues. These challenges, paired with the broader economic conditions resulting from inflation and rising interest rates, have direct bearing on rate increases affecting Kansas health care providers across all lines of insurance.

The KAMMCO conferee highlighted those Kansas-specific issues, noting the uncertainty surrounding the State’s cap on non-economic damages resulting from the *Hilburn v. Enerpipe Ltd.* decision, which creates a question for insurance companies about the applicability of the cap in professional liability cases. This uncertainty, he further stated, could hinder the efficient resolution of malpractice claims in a fair and reasonable manner. The Committee and the KAMMCO conferee discussed the applicability of *Miller v. Johnson* and which case would be considered controlling in medical malpractice claims.

2021 House Sub. for SB 78. The KAMMCO conferee testimony stated the law with its increase in basic coverage from \$200,000 to \$500,000 per claim appears to be working, without any shocks to the insurance marketplace or loss of any insurers offering coverage.

Comments from Health Care Providers

A representative of the Kansas Medical Society (KMS) provided joint remarks on behalf of KMS and the Kansas Hospital Association and referenced written testimony submitted by the KMS Executive Director. The two organizations commented on both the continuation of this

Committee’s oversight and the actuarial reporting provided by the Board of Governor’s actuary, stating the HCSF has performed exactly as it was intended, achieving a balance in the market that protects patients and providers. The KMS conferee stated the Committee plays a vital role in protecting the public by ensuring that the Fund remains solvent and independent. The conferee cited new challenges and aspects affecting the HCSF: the *Hilburn* decision, the inclusion of corporations employing physicians, and complications around reinsurance exacerbated by the COVID-19 pandemic, and each of these topics underscore the need for the continued oversight of the Committee and reporting to the Legislature. The KMS conferee indicated the two organizations do not believe an additional outside actuarial analysis is necessary.

Board of Governors’ Statutory Report

The Executive Director of the HCSF Board provided a brief history of the HCPIAA, noting that when this law was enacted in 1976, it had three main functions: a requirement that all health care providers, as defined in KSA 40-3401, maintain professional liability insurance coverage; creation of a joint underwriting association, the Availability Plan, to provide professional liability coverage for those health care providers who cannot purchase coverage in the commercial insurance market; and creation of the HCSF to provide excess coverage above the primary coverage purchased by health care providers and to serve as a reinsurer of the Availability Plan.

The Executive Director provided the Board of Governors’ statutory report [as required by KSA 40-3403(b)(1)(C)] and issued October 1, 2022]. The FY 2022 report indicated:

- Net premium surcharge revenue collections amounted to \$24,452,941. The highest surcharge rate for a health care professional was \$10,006 for coverage of \$500,000 per claim/ \$1.5 million annual aggregate limit (2021 House Sub. for SB 78 coverage option, effective January 1, 2022). Application of the 30.0 percent Missouri modification factor for a Kansas resident neurosurgeon licensed to practice in Missouri would result in a total premium surcharge of \$13,008 for this provider; the lowest surcharge rate for a

health care provider was \$200. This minimum rate is primarily used by non-resident providers who provide minimal health care services in Kansas;

- The average HCSF compensation per settlement was \$381,499; 64 cases involving 75 claims were settled. These amounts are in addition to compensation paid by primary insurance carriers (typically \$200,000 per claim). Total claims expenditures for FY 2021 amounted to \$29,899,438;
- The balance sheet, as of June 30, 2022, indicated total assets of \$310,120,249 and total liabilities of \$278,776,996.

Availability Plan

The Executive Director's presentation also included an update on the Availability Plan. He reported that as of October 24, 2022, there were 362 plan participants. The Executive Director noted, for comparison, in 2004, more than 600 health care providers were insured by the Availability Plan. More providers end up participating in this plan during hard markets where insurers typically become more selective and less likely to accept new risks. Individual health care providers insured by the Plan pay about 33 percent more premium for basic coverage than if insured by a commercial insurance company; these individuals also pay a higher HCSF surcharge.

Contemporary Issues; 2021 Law Update

The Executive Director commented on the implementation of 2021 House Sub. for SB 78, which provided, effective January 1, 2022, the required basic coverage that defined health care providers must obtain from an insurer be increased from \$200,000 to \$500,000 per claim. The 2021 law also requires defined health care providers to obtain \$500,000 per claim coverage from the HCSF. The Executive Director further noted the Board of Governors maintained the FY 2023 surcharge rates at the FY 2022 level. He concluded his testimony by stating the HCPIAA has been a very successful public-private partnership and creates a favorable environment for responsible professional liability insurance companies.

Discussion

The Committee and Executive Director discussed the relative loss experience of Class 17 (medical care facilities) and efforts to provide balanced and reasonable rate surcharges. The Executive Director noted the Board will continue its review and make appropriate adjustments as it deems necessary. Members of the Committee inquired about possible legislation regarding nursing facilities and the topic of nurse midwives and participation by certain entities in the HCSF. The Executive Director indicated he is unaware of any legislation to address either topic. In response to a question regarding the excess coverage (\$1.0 million) option provided to the Board in 2021 House Sub. for SB 78, the Executive Director indicated the Board has reviewed this provision and decided it did not have sufficient experience to offer coverage at that level. The Board could choose to review this option if and when it is determined to be an appropriate option.

CONCLUSIONS AND RECOMMENDATIONS

The Committee considered two items central to its statutory charge: whether the Committee should continue its work and whether a second, independent analysis of the HCSF is necessary. This oversight committee continues in its belief the Committee serves a vital role as a link among the HCSF Board of Governors, the health care providers, and the Legislature and should be continued. Additionally, the Committee recognizes the important role and function of the HCSF in providing stability in the professional liability insurance marketplace, which allows for more affordable coverage to health care providers in Kansas. The Committee is satisfied with the actuarial analysis presented and does not request the independent review.

The Committee considered information presented by the Board of Governors' representatives, including its required statutory report; the Board's actuary; and health care provider and insurance company representatives.

The Committee acknowledges its role to provide oversight and monitoring of the HCSF, including legislative actions and other contemporary issues affecting the soundness of the

HCSF, and agreed on recommendations and comments on the following topics:

- Actuarial report and status of the HCSF, and income and rate level indications;
- Implementation and impact of 2021 law (House Sub. for SB 78);
- Marketplace conditions and headwinds;

- COVID-19 and adult care home liability concerns, medical care facilities; and
- The Fund is to be held in trust.

The Committee requested its report be directed to the standing committees on health, insurance, and judiciary, as well as to the appropriate subcommittees of the standing committees on appropriations.

Final Report of the Kansas Senior Care Task Force to the 2023 Kansas Legislature

CHAIRPERSON: Representative Susan Concannon [2021], Senator Richard Hilderbrand [2022]

VICE-CHAIRPERSON: Senator Richard Hilderbrand [2021], Representative Susan Concannon [2022]

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 [2021], Margaret Farley [2021], Kiley Floyd [2022], Jamie Gideon, Annette Graham, Lacey Hunter [2022], Jan Kimbrell, Ernest Kutzley, Deborah Merrill [2022], Linda MowBray, Mindy Nicholson [2021], Haely Ordoyne, Bill Persinger, Rachael Pirner, Camille Russell, Sarah Schlitter, and Debra Zehr

CHARGE

Study and Report on the Care Provided for Kansas Seniors

HB 2114 (2021) [KSA 2022 Supp. 39-7,163] 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

FINAL REPORT

Conclusions and Recommendations

The Kansas Senior Care Task Force (Task Force) makes the following recommendations, which are the Tier 1 Recommendations made by the Senior Care Task Force Working Groups, for action during the 2023 Legislative Session:

- The State of Kansas should create a statewide conference or reinstate the Governor's Conference on Aging to create networking opportunities and foster relationships among professionals to create opportunities to share evidence-based practices, lessons learned, and national themes;
- The Kansas Department for Aging and Disability Services (KDADS), providers, the Promoting Excellent Alternatives in Kansas (PEAK) program, and managed care organizations (MCOs) should support provider training and frameworks for person-centered planning, especially for those with dementia, in which an individual's own wishes, strengths, and relationships are respected;
- KDADS, provider associations, and the Legislature should create a Rural Health Care Coalition for Aging Services;
- The Kansas Department of Health and Environment and the Legislature should better ensure geriatric psychiatric prescribers are accessible for consultation to complete medication evaluations for seniors receiving health services in all settings, utilizing telemedicine when applicable and available. Furthermore, the Legislature should ensure billing codes can cover a range of psychiatric services such as medication management, consultation, care coordination, and telemedicine for older adults when applicable and available;
- KDADS, the Kansas Department for Children and Families (DCF), the Kansas Bureau of Investigation (KBI), and the Legislature should establish a workforce clearinghouse, including direct care worker registries, and a position to coordinate among DCF, KDADS, and KBI to increase accessibility and enhance safeguards and oversight of guardians, conservators, and caregivers that the facilities and individuals can refer to as a resource when questions about appropriate hiring arise;
- The State of Kansas should add non-nursing professionals to the survey teams for adult care homes and consider models of mixed professionals for regional teams;
- KDADS should reactivate the State Aging Advisory Council, which includes representatives of supportive services and provider organizations. The Task Force strongly recommends the Council mirror the composition of the federal Area Agencies on Aging (AAA) Advisory Council defined in the Older Americans Act, with membership composed of more than 50 percent older adults with populations of focus who are participants or who are eligible to participate in programs under this section of the Act; representatives of AAAs; representatives of health care provider organizations, including

- providers of veterans' health care; representatives of supportive services provider organizations; persons with leadership experience in the private and voluntary sectors; elected officials; a representative from the Alzheimer's Association; and the public;
- KDADS should establish a permanent, full-time dementia and Alzheimer's disease coordinator position within its organization;
 - The Legislature and the Kansas Housing Resources Corporation should encourage collaboration to invest in housing options to increase the availability of accessible, affordable housing options for older adults;
 - The State of Kansas should promote increasing access to the Program of All-Inclusive Care for the Elderly (PACE) in underserved areas of Kansas to serve as a hub to administer social models of adult day services that focus on person-centered care for the needs of older adults and increase the eligibility criteria for the program area. The State should expand the reach of the current PACE program, and other providers, to transport services and workers to those being served in-home, utilizing general transportation systems already in the area to get those skilled people and their equipment out to the homes, when necessary, to minimize costs and expand accessibility;
 - The State of Kansas with the Kansas Association of Area Agencies on Aging and Disabilities should expand flexibility to incentivize providers via raising reimbursement rates to use the Senior Care Act program for services that promote choice, increase independence, and assist with overcoming unique challenges in rural, frontier, and urban areas;
 - The Legislature and KDADS should increase the caps for one-time-only services with an annual review that ties the rate to the Consumer Price Index and create an exemption process, to allow adequate funding for items such as durable medical equipment and technology to address social isolation and home modification;
 - KDADS and the Legislature should seek funding and develop partnerships for the development and distribution of a new, publicly available Kansas Elder Count Book that provides the same demographic and detailed types of data as the original Elder Count Book. This information would provide detailed and robust data to help consumers, local and state policymakers, and other decision-makers plan for current and future needs of older Kansans;
 - The State of Kansas should provide appropriations to increase rates of service providers to increase worker pay, support safe staffing standards, and ensure a stable workforce, minimizing waitlists; and
 - The Legislature should provide ongoing government incentives with additional funding to increase the number of health care worker faculty and trainers.

Proposed Legislation: None.

BACKGROUND

The Kansas Senior Care Task Force (Task Force) was created by 2021 HB 2114, with a sunset date of June 30, 2023. KSA 39-7,163 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 (SCA); senior day care resources in the state; and rebalancing of home and community-based services (HCBS).

Organization

The Task Force is composed of 22 members, whose first members 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 (AAAs), 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 the 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 first chairperson of the Task Force was the chairperson of the House Committee on Children and Seniors, and the first vice-chairperson was the chairperson of the Senate Committee on Public Health and Welfare. The positions of chairperson and vice-chairperson annually alternated on the first meeting of the Task Force each calendar year.

During the 2021 Interim, the Legislative Coordinating Council (LCC) approved four meeting days for the Task Force, which met September 9, November 11, December 6, and December 7, 2021.

In accordance with statute, the 2021 Senior Care Task Force submitted a preliminary progress report of the Task Force’s study to the 2022 Legislature. The contents of that report may be found in the Committee Reports to the 2022 Kansas Legislature supplement.

Working Groups

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 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 groups 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 were 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 and make recommendations that cross several topic areas.

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

- **Quality of Care and Protective Services.** Administration of antipsychotic medications to adult care home residents; safeguards to prevent abuse, neglect, and exploitation of seniors in the state; and adult care home surveys and fines;
- **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 SCA, KSA 75-5926 through KSA 75-5936; senior day care resources in the state; and rebalancing of HCBS; and
- **Workforce Subgroup.** Issues that crosscut topics studied by the two working groups, including the needs of the informal and formal workforce serving seniors in the state of Kansas.

The working groups and subgroup consisted 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.

KHI began facilitating working group and subgroup meetings on and after December 14, 2021. Working group meetings continued virtually

through the 2022 Legislative Session, twice per month (once per month for the subgroup), for 90 minutes per meeting. The working groups and the subgroup met until July 2022. The working groups and subgroup finalized and ratified their report in July 2022 and presented the report to the Task Force during its August 24, 2022, meeting.

The complete working groups report, with updates adopted by the Task Force during its October 25, 2022, meeting, is attached following this report to the 2023 Legislature.

TASK FORCE MEETINGS

On June 16, 2022, the LCC approved two meeting days for the Task Force, which were held on August 24 and 25, 2022. After the August 25 meeting, a request for an additional meeting day was made, and the LCC approved the October 25, 2022, meeting of the Task Force pursuant to LCC Policy 20.

August 24, 2022, Meeting

Follow-up to December 2021 Meetings

Kansas Legislative Research Department (KLRD) staff provided the Task Force with follow-up information requested during the December 2021 meetings, including a KLRD memorandum on funding for broadband internet development in Kansas and the *Senior Report 2022* from the United Health Foundation. The KLRD research analyst provided an overview of the December 2021 meetings, including the recommendations made that guided the working groups and subgroup. Topics included mapping of senior services across Kansas, use of temporary aides in long-term care, analysis of broadband funding, and development of a new Kansas Elder Count Book.

Working Groups

A representative of KHI introduced the Working Groups Report and explained the processes for group organization, creation of the vision statement, prioritization of recommendations, and the working group meetings. Working groups adopted the recommendation characterization rubric to prioritize recommendations into three tiers, with

Tier 1 being of the most urgent importance. The working groups also scored each recommendation on a scale of 1 to 10 on ease of implementation (with 10 being very easy) and potential for high impact (with 10 being highly impactful).

Review of Workforce Subgroup Recommendations

Members of the Workforce Subgroup introduced and explained the recommendations developed by their group, including:

- Recommendation 9.1: Raising reimbursement rates for service providers to increase worker pay, support safe staffing standards, and ensure a stable workforce;
- Recommendation 9.2: Contracting with ADvancing States, an organization representing state and territorial agencies on aging and disabilities, to implement the ConnectToCareJobs platform, a worker matching and placement tool;
- Recommendation 9.3: Developing incentives or additional benefits for direct care workers, such as respite services and child care assistance;
- Recommendation 9.4: Creating a workforce tax credit for the aging services direct care workforce;
- Recommendation 9.5: Creating a caregiver tax credit to help persons caring for their loved ones;
- Recommendation 9.6: Exploring cross-sector partnerships or models to align systems and share staffing resources;
- Recommendation 9.7: Providing ongoing government incentives with additional funding to increase the number of health care worker faculty and trainers;
- Recommendation 9.8: Establishing a five-year plan of state funding for direct career-path training of potential health professionals, such as certified nurse aides (CNAs) and home care aides;

- Recommendation 9.9: Developing models for volunteer programs for aging services to identify future workforce; and
- Recommendation 9.10: Eliminating barriers for entering the field of aging services and mitigating challenges for those already in the field.

Review of Cross-cutting Recommendations

Each working group had cross-cutting recommendations that went beyond the boundaries of its stated task and were thought to be of importance to improve senior care generally. Working group members reviewed these recommendations, including:

- Recommendation 1.1: Reinstating the Governor’s Conference on Aging;
- Recommendation 1.2: Instituting provider training and a framework for person-centered care planning;
- Recommendation 1.3: Providing additional educational training credits on dementia care and geriatric mental health for aging services staff;
- Recommendation 1.4: Supporting family caregiver services that can delay or decrease the likelihood of requiring care in a nursing facility; and
- Recommendation 1.5: Instituting a Rural Health Care Coalition for Aging Services with statewide leadership to support senior care in rural and frontier areas of Kansas.

Quality of Care and Protective Services Working Group Recommendations

The Quality of Care and Protective Services Working Group focused primarily on the topics of administration of antipsychotic medication; Adult Abuse, Neglect, and Exploitation (ANE); and adult care home surveys and fines. Working group members discussed each of the group’s recommendations with the Task Force, including:

- Recommendation 2.1: Ensuring geriatric psychiatric medication prescribers are accessible for consultation in all settings, including telemedicine;
- Recommendation 2.2: Improving existing standard training and implementing targeted education for surveyors, direct care workers, providers, prescribers, long-term care providers, and caregivers on the use of psychotropic medications for older adults with dementia or mental health conditions;
- Recommendation 3.1: Establishing a workforce clearinghouse, including direct care worker registries, and a coordinator to create a more accessible process for background checks of guardians, conservators, and caregivers that is available to individuals and facilities;
- Recommendation 3.2: Increasing funding to the Kansas Bureau of Investigation (KBI) to perform and provide background checks that go beyond criminal convictions and final judgment or adjudications for employers in a more timely manner;
- Recommendation 3.3: Further developing and promoting ANE training for person-centered practices to the public and groups such as law enforcement officers and first responders;
- Recommendation 3.4: Initiating a targeted prevention campaign about financial crime for older adults, ages 60 and older;
- Recommendation 3.5: Ensuring the rights of residents and their representatives to appeal involuntary transfers, discharges, or evictions from assisted living facilities with the use of research conducted by the Kansas Judicial Council to ensure a process is put in place;
- Recommendation 3.6: Providing a statutory framework for adults who want decision-making assistance;

- Recommendation 3.7: Amending KSA 39-1431 to add CNAs, certified medication aides, and home health aides as mandated reporters to align with the federal mandate;
- Recommendation 3.8: Increasing funding for community mental health centers for expansion across the state in urban, rural, and frontier areas for in-home (non-facility) services;
- Recommendation 4.1: Adding non-nursing professionals to survey teams for adult care homes and considering models of mixed professionals for regional teams;
- Recommendation 4.2: Creating and funding a technical assistance department or position, renewing a historical position that assists adult care homes with regulatory compliance, quality improvement, and plans of correction, among other things;
- Recommendation 4.3: Using directed plans of correction and education as a remedy for infractions to allow system-level implementation to help adult care homes achieve compliance;
- Recommendation 4.4: Developing a publicly accessible state website of adult care home survey results, updated semi-annually, providing information on survey frequency, levels of harm, and quality measures, among other things; and
- Recommendation 3.9: Conducting a statewide ANE needs assessment of older adults in Kansas.

*Access to Services Working Group
Recommendations*

The Access to Services Working Group focused on issues of Alzheimer’s disease, dementia, and age-related mental health conditions; HCBS; senior day care resources; and implementation of the SCA. Members of the

working group presented each of the group’s recommendations to the Task Force, including:

- Recommendation 5.1: Reinstating the State Aging Advisory Council;
- Recommendation 5.2: Establishing a permanent full-time Dementia and Alzheimer’s Disease Coordinator position at KDADS;
- Recommendation 5.3: Acting upon the work of both the Alzheimer’s Association State Plan and the Alzheimer’s Disease Task Force recommendations;
- Recommendation 6.1: Ensuring services such as home-delivered meals, case management, increased access to technology, and training on how to use technology as an managed care organization (MCO) member benefit are available to individuals aged 65 and older on all Medicaid HCBS waivers;
- Recommendation 6.2: Promoting awareness of HCBS options available for older Kansans by educating staff of private and public services of such programs;
- Recommendation 6.3: Developing options to optimize transitions for elders, including the federally funded Money Follows the Person (MFP) program and adding case management through the Aging and Disability Resource Center;
- Recommendation 6.4: Increasing the availability of accessible, affordable housing options for older persons;
- Recommendation 6.5: Utilizing the Functional Assessment Instrument to create tiered levels of services for those in assisted living and Home Plus facilities;
- Recommendation 7.1: Increasing funding and reimbursement rates from the State of Kansas to providers of adult day care

services and intellectual and developmental disability day services;

- Recommendation 7.2: Expanding the Program of All-Inclusive Care for the Elderly (PACE) to underserved areas of Kansas as a hub to administer social models of adult day services;
- Recommendation 7.3: Providing grants for senior centers, housing providers, and assisted living providers to retrofit or establish space appropriate for adult day centers;
- Recommendation 7.4: Creating a pilot program to encourage senior centers to collaborate with community partners;
- Recommendation 7.5: Encouraging collaboration among organizations and senior centers to access resources, training, and technical assistance for adult day service training and volunteer engagement;
- Recommendation 8.1: Raising reimbursement rates to use the SCA program for services that promote choice, increase independence, and assist with overcoming challenges in all areas of the state;
- Recommendation 8.2: Increasing one-time-service caps with an annual review that ties the rate to the Consumer Price Index (CPI), creating an exemption process, and allowing adequate funding for items such as durable medical equipment and technology to address isolation and increase mobility;
- Recommendation 8.3: Securing funding and partnerships for the development and distribution of a new, publicly available Kansas Elder Count Book;
- Recommendation 8.4: Increasing SCA funding to be used for start-up costs for AAAs to invest in technology and adding it as an allowable service under the SCA;

- Recommendation 8.5: Ensuring the SCA program is evaluated every three to five years by an objective, independent evaluator; and
- Recommendation 8.6: Improving KDADS data systems for multi-directional use under the SCA and providing regular reports on service utilization and client needs.

August 25, 2022, Meeting

Presentations on the Senior Workforce

Two representatives of ADvancing States gave a presentation on the topic of the senior workforce. ADvancing States networks nationally to introduce improvements in services for older adults.

One ADvancing States presenter noted a turnover rate of up to 50.0 percent for senior care direct service workers, with an increase in the past two years of up to 80.0 percent. The representative said this staffing crisis directly impacts the ability to provide care and will only continue as the need for senior care continues to increase, and low pay for direct care workers is a key factor. Other states have attempted to address this workforce shortage through training, certification programs, career ladders, bonuses, salary increases, and grant programs to support employee-owned co-operatives.

A representative of ADvancing States discussed Indiana's Direct Services Worker Advisory Board, made up of members actively working in senior care. The Board has provided advice to the state regarding recruitment and retainment efforts such as a public awareness campaign, peer recruitment and mentoring, increased wages, increased support from supervisors, and transportation or mileage reimbursement for home health care workers.

Presentation on iLink Technologies

A representative of GoodLife Innovations provided a presentation on iLink Technologies, a form of in-home, remote support that is being used to deliver care to disabled and senior individuals in their homes. The presenter explained that iLink,

which is typically deployed in a common neighborhood setting, can connect seniors with support staff and resources and can create attractive work schedules for its full-time, tenured employees. The presenter demonstrated the technology for the Task Force and explained how iLink can help provide the least intrusive approach with the highest possible support for its clients.

There was discussion among Task Force members and the presenter regarding how iLink might work in smaller communities and rural areas, how the billing works, and how the “neighborhoods” are implemented. GoodLife Innovations is currently working with MCOs to determine how they can approach waivers and billing appropriately and differently than other assisted living options.

Review and Revision of Working Group Recommendations

A representative of KLRD and a representative of KHI facilitated a discussion of the individual recommendations in the Senior Care Task Force Working Group Report presented in detail during the August 24 meeting.

A detailed account of all changes made to the recommendations can be found in the minutes for the August 24-25 meeting. Key changes made by the Task Force include:

- Adding the Legislature as an action lead or moving the Legislature from key collaborator to action lead on Recommendations 1.1, 1.3, 1.4, 1.5, 2.1, 3.1, 3.2, 3.4, 3.5, 3.6, 3.8, 4.3, 4.4, 6.1, 6.3, 7.3, 8.2, 9.2, 9.3, and 9.8;
- For Recommendation 2.1, changing the Ease of Implementation score from a 6 to a 3 to reflect the Task Force’s belief that the recommendation would be more difficult to implement;
- Removing the Legislature as a key collaborator for Recommendation 4.1 because it would be the responsibility of KDADS to request additional full-time-equivalent employees;

- Adding KDHE as an action lead for Recommendations 6.5 and 9.3;
- Moving Recommendation 7.2 from Tier 3 to Tier 1 to reflect its higher importance; and
- Adding KDADS as an action lead for Recommendations 7.4 and 9.6.

October 25, 2022, Meeting

Updated Working Groups Report

A KLRD analyst provided an overview of the updates made to the Working Groups Report during the August 2022 meetings. The Report was provided to the Task Force with changes presented in red.

Discussion of Recommendations and Tier Levels

The Task Force considered and made additional changes to the recommendations in the Working Groups Report. A detailed account of all changes made to the recommendations can be found in the minutes for the October 25, 2022, meeting. Key changes included:

- Combining Recommendations 7.5 and 9.9 under 9.9, with a new title: “Identify Future Workforce of Direct Care Workers and Volunteers”;
- Moving Recommendation 6.4 from Tier 2 to Tier 1 (increasing importance);
- Adding Habitat for Humanity and similar organizations, AARP, Kansas Real Estate Commission, and Kansas Association of Realtors to the list of key collaborators for Recommendation 6.4;
- Adding the Legislature to the list of action leads for Recommendation 6.4;
- Adding a note to the Working Groups Report specifying key collaborators are not limited to those included in each recommendation’s list;

- Moving Recommendation 9.7 from Tier 2 to Tier 1 (increasing importance); and
- Including a note in the report specifying Recommendation 9.1, regarding increasing reimbursement rates to service providers, must be implemented before Recommendation 9.7, regarding instructor pay and benefits.

Final Consideration of Working Group Recommendations

Before acting on the Working Groups Report approval and inclusion with the Task Force's Report to the 2023 Legislature, the Acting Chairperson asked for any additional feedback.

Members discussed awareness and marketing of the Aging and Disability Resource Center toll free number (1-855-200-2372), which provides statewide information about aging and long-term-care issues and local resources; this resource is included in Recommendation 6.2. The Task Force agreed to add the Legislature to the recommendation as an action lead.

The Task Force agreed to remove from the Working Groups Report Recommendation 3.5, regarding appeals of involuntary removal from adult residential care facilities. The Acting Chairperson stated a report summarizing the study done by the Kansas Judicial Council was pending, so action on the issue should hold until the report was available. The Task Force agreed to retain the recommendation in Appendix D.

The Task Force adopted the Working Groups Report as revised for inclusion in the Kansas Senior Care Task Force Report to the 2023 Legislature.

CONCLUSIONS AND RECOMMENDATIONS

The Task Force adopted the Tier 1 recommendations from the Working Groups Report to the Senior Care Task Force for action during the 2023 Legislative Session, as revised:

- The State of Kansas should create a statewide conference or reinstate the Governor's Conference on Aging to

provide networking opportunities and foster relationships among professionals to create opportunities to share evidence-based practices, lessons learned, and national themes;

- KDADS, providers, the Promoting Excellent Alternatives in Kansas (PEAK) program, and MCOs should support provider training and frameworks for person-centered planning, especially for those with dementia, in which an individual's own wishes, strengths, and relationships are respected;
- KDADS, provider associations, and the Legislature should create a Rural Health Health Care Coalition for Aging Services;
- KDHE and the Legislature should ensure geriatric prescribers are accessible for consultation to complete medication evaluations for seniors receiving health services in all settings, utilizing telemedicine when applicable and available. The Legislature should ensure billing codes can cover a range of psychiatric services such as medication management consultation, care coordination, and telemedicine for older adults when applicable and available;
- KDADS, Kansas Department for Children and Families (DCF), KBI, and the Legislature should establish a workforce clearinghouse, including direct care worker registries, and a position to coordinate among DCF, KDADS, and KBI to increase accessibility and enhance safeguards and oversight of guardians, conservators, and caregivers that the facilities and individuals can refer to as a resource when questions about appropriate hiring may be in question;
- The State of Kansas should add non-nursing professionals to the survey teams for adult care homes and consider models of mixed professionals for regional teams;

- KDADS should reinstate the State Aging Advisory Council, which includes representatives of supportive services and provider organizations. The Task Force strongly recommends this mirror the composition of the federal AAA Advisory Council defined in the Older Americans Act, with membership composed of more than 50 percent older adults, including populations of focus who are participants or who are eligible to participate in programs under this section of the Act; representatives of AAAs; representatives of supportive service provider organizations; persons with leadership experience in the private and voluntary sectors; elected officials; a representative from the Alzheimer's Association; and the public;
- KDADS should establish a permanent, full-time Dementia and Alzheimer's Disease Coordinator position within its organization;
- The Legislature and the Kansas Housing Resources Corporation should encourage collaboration to invest in housing options to increase the availability of accessible, affordable housing options for older adults;
- The State of Kansas should promote the expansion of the PACE Program in underserved areas of Kansas to serve as a hub to administer social models of adult day services that focus on person-centered care for the needs of older adults and increase eligibility criteria for the program area. The State should expand reach of the current PACE Program, and other providers, to transport services and workers to those being served in-home, utilizing general transportation systems already in the area to get those skilled people and their equipment out to the homes, when necessary, to minimize costs and expand accessibility;
- The State of Kansas with the Kansas Association of Area Agencies on Aging and Disabilities should expand flexibility to incentivize providers via raising reimbursement rates to use the SCA program for services that promote choice, increase independence, and assist with overcoming unique challenges in rural, frontier, and urban areas;
- The Legislature and KDADS should increase the caps for one-time-only services with an annual review that ties the rate to the CPI and create an exemption process, to allow adequate funding for items such as durable medical equipment and technology to address social isolation and home modifications;
- The Legislature and KDADS should seek funding and develop partnerships for the development and distribution of a new Elder Count Book that provides the same demographic and detailed types of data as the original Elder Count Book. This information would provide detailed and robust data to help consumers, local and state policymakers, and other decision-makers plan for current and future needs of older Kansans;
- The State of Kansas should provide appropriations to increase rates for service providers to increase worker pay, support safe staffing standards, and ensure a stable workforce, minimizing waitlists; and
- The Legislature should provide ongoing government incentives with additional funding to increase the number of health care worker faculty and trainers.

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Senior Care Task Force

Working Groups Report to the Senior Care Task Force

August 1, 2022

Updated November 2022

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Lastly, the working groups extend special thanks to the staff of the Kansas Health Institute: Hina Shah, Emma Uridge, and Michele Sumpter for providing process facilitation, research support and report preparation under the direction of the working groups and the Senior Care Task Force.

Report Overview

The Senior Care Task Force (SCTF; “Task Force”) was formed under 2021 House Bill (HB) 2114 to make recommendations on steps needed to address barriers and create solutions to protect and provide services to seniors residing in the state.

To achieve this directive, the SCTF convened two working groups and one subgroup to utilize a roundtable format and engage professionals to identify and address core issues affecting seniors and senior care delivery systems in Kansas. The groups established by the Task Force included the Working Group on Quality of Care and Protective Services (WGA), the Working Group on Access to Services (WGB) and a subgroup on the cross-cutting issue of Workforce. The three groups reviewed recommendations proposed by the Task Force (*Appendix A*, page A-1) and developed new recommendations **around the seven topic areas specified in the statute (KSA 39-7,163)**.

The senior care service capacity is expected to not be able to meet the needs of the growing population of older adults by 2030.¹ In preparation, Kansas will need to (1) ensure payment and insurance systems for long-term care are efficient and tailored for complex care needs, (2) monitor and prevent negative behavioral health outcomes (e.g. social isolation) to keep older adults happy, and in their communities, (3) change the way community services are available so more in-home care is accessible, and (4) ensure a stable workforce with a focus on retaining current workforce and recruiting future generations of direct care workers.

This report summarizes the efforts of the three groups to put forward recommendations to the Task Force. It is expected that this report will provide strategic direction to improve the well-being of seniors in the state of Kansas. This final product also has to support the implementation of recommendations.

Topics around which the three groups were asked to study and make recommendations included the provision of care for seniors in the state of Kansas who suffer from Alzheimer's disease, dementia or age-related mental health conditions; the administration of antipsychotic

medications to adult care home residents; the safeguards to prevent abuse, neglect and exploitation of seniors in Kansas; adult care home surveys and fines; the funding and implementation of the Kansas Senior Care Act, K.S.A. 75-5926 through 75-5936, and amendments thereto; senior daycare resources in the state of Kansas; rebalancing of home and community based services; and making recommendations to strengthen the senior care service workforce to make Kansas a nationwide leader on senior care service delivery.

Recommendations in this report collectively form a strategic framework that can be considered a living document to support ongoing collaboration between the many contributing partners in the senior care system, government agencies and state Legislature.

Navigating this Report: Recommendations may have multiple action steps to guide recommendation planning and implementation. The recommendation, and at least one or more action steps, may be designated as either:

- **Immediate Action** are those that the working groups believe can be completed in the next two years. Those recommendations also could leverage or build upon existing infrastructure.
- **Strategic Importance** are those that should be initiated in the near term but will be completed in the longer term. Those recommendations could have significant downstream effects on other recommendations.

Recommendations also were prioritized into tiers, or level of priority: **Tier 1** is high; **Tier 2** is moderate; **Tier 3** is low.

Throughout this report, please see the following definition utilized under Key Collaborators:

- “Providers” means any physician, hospital or other person which is licensed or otherwise authorized in this state to furnish healthcare and social services.

Note: Key collaborators listed in this report are not intended to be exhaustive and represent a starting point for implementing each recommendation successfully.

Vision Statements by Working Groups

Between September and December 2021, the Task Force and working group chairpersons discussed each of the assigned working group topics to articulate vision statements for each working group. At the first working group meetings, members finalized their vision statements. The following statements were developed to ensure that the working group's vision was reflected in each recommendation:

- **Quality of Care and Protective Services (WGA).** Older Kansans will have access and the ability to choose and receive high-quality, person-centered services² wherever they reside.
- **Access to Services (WGB).** Establish and expand a clear path with public policy recommendations for Kansas older adults and caregivers to access services.
- **Workforce Subgroup.** To utilize a systematic approach to understand the needs of the formal and informal workforce serving seniors in the state of Kansas; while discovering these needs, creating a long-term approach with public policy recommendations to entice a workforce to return to and be retained in the senior services industry, to enable seniors and their families to have supports to make choices for their best lives, in their preferred environment.

Working Group Recommendations

The two working groups and subgroup prioritized recommendations by tier for the SCTF to consider (Figure 1). The full text for each recommendation, including action steps and rationale, is available in the body of the report (beginning page 5).

Figure 1. **Recommendations for Task Force Consideration by Tier**

TIER 1
<p><u>Recommendation 1.1 Statewide Aging Conference.</u> The State of Kansas will create a statewide conference or reinstate the Governor’s Conference on Aging to create networking opportunities and foster relationships among professionals to create opportunities to share evidence-based practices, lessons learned and national themes. (WGA, Immediate Action)</p>
<p><u>Recommendation 1.2 Person-Centered Practices.</u> Support provider training and framework for person-centered planning, especially for those with dementia, in which an individual’s own wishes, strengths and relationships are respected. (WGA, Immediate Action)</p>
<p><u>Recommendation 1.5 Rural Healthcare Coalition.</u> Create a Rural Healthcare Coalition for Aging Services. (Workforce, Immediate Action)</p>
<p><u>Recommendation 2.1 Geriatric Psychiatric Prescribers.</u> Better ensure geriatric psychiatric prescribers are accessible for consultation to complete medication evaluations for seniors receiving health services in all settings, utilizing telemedicine when applicable and available. Ensure billing codes can cover a range of psychiatric services such as medication management, consultation, care coordination and telemedicine for older adults when applicable and available. (WGA, Immediate Action)</p>
<p><u>Recommendation 3.1 Workforce Clearinghouse.</u> Establish a workforce clearinghouse, including direct care worker registries, and a Coordinator position between Kansas Department for Children and Families (DCF), Kansas Department for Aging and Disability Services (KDADS), and Kansas Bureau of Investigation (KBI) to increase accessibility and enhance safeguards and oversight of guardians, conservators, and caregivers that the facilities and individuals can refer to as a resource when questions about appropriate hire may be in question. (WGA, Strategic Importance)</p>
<p><u>Recommendation 4.1 Multidisciplinary Surveyors.</u> Kansas will add non-nursing professionals to the survey teams for adult care homes and consider models of mixed professionals for regional teams. (WGA, Immediate Action)</p>
<p><u>Recommendation 5.1 State Advisory Council.</u> Reinstate Reactivate the State Aging Advisory Council, which includes representatives of supportive services and provider organizations. Strongly recommend it mirror the federal composition of the Area Agencies on Aging (AAA) advisory council defined in the Older Americans Act, with membership composed of more than 50 percent older adults, including populations of focus who are participants or who are eligible to participate in programs under this section of the Act; representatives of AAAs, representatives of healthcare provider organizations, including providers of veterans’ healthcare; representatives of supportive services provider</p>

<p>organizations; persons with leadership experience in the private and voluntary sectors; elected officials; representative from Alzheimer’s Association; and the public. (WGB, Immediate Action)</p>
<p><u>Recommendation 5.2 Dementia and Alzheimer’s Disease Coordinator.</u> Establish a permanent, full-time Dementia and Alzheimer’s Disease Coordinator position at Kansas Department for Aging and Disability Services (KDADS). (WGB, Immediate Action)</p>
<p><u>Recommendation 6.4 Affordable Housing.</u> Encourage collaboration to invest in housing options to increase the availability of accessible, affordable housing options for older adults. (WGB, Immediate Action) <i>(Note: Recommendation moved to Tier 1 from Tier 2.)</i></p>
<p><u>Recommendation 7.2 Promote PACE Program.</u> Promote the expansion of Expand the Program of All-Inclusive Care for the Elderly (PACE) Program in underserved areas of Kansas to serve as a hub to administer social models of adult day services that focus on person-centered care for the needs of older adults and increase the eligibility criteria for the program area. Expand reach of the current PACE program, and other providers, to transport services and workers to those being served in-home, utilizing general transportation systems already in the area to get those skilled people and their equipment out to the homes, when necessary, to minimize costs and expand accessibility. (WGB, Strategic Importance) <i>(Note: Recommendation moved to Tier 1 from Tier 3.)</i></p>
<p><u>Recommendation 8.1 Incentivize Providers.</u> The State of Kansas with the Kansas Association of Area Agencies on Aging (k4ad) will expand flexibility to incentivize providers via raising reimbursement rates to use the Senior Care Act program for services that promote choice, increased independence, and assist with overcoming unique challenges in rural, frontier, and urban areas. (WGB, Immediate Action)</p>
<p><u>Recommendation 8.2 One-Time-Only Service Caps.</u> Increase the one-time-only service caps with an annual review that ties the rate to the Consumer Price Index (CPI) and create an exemption process, to allow adequate funding for items such as durable medical equipment and technology to address social isolation and home modifications. (WGB, Immediate Action)</p>
<p><u>Recommendation 8.3 Elder Count Book.</u> Seek funding and develop partnerships for the development and distribution of a new, publicly available Kansas Elder Count book that provides the same demographic and detailed data as the original Elder Count book. This information would provide detailed and robust data to help consumers, local and state policymakers and other decision makers plan for current and future needs of older Kansans. (WGB, Strategic Importance)</p>
<p><u>Recommendation 9.1 Reimbursement Rates.</u> The State of Kansas should provide appropriations to increase rates for service providers to increase worker pay, support safe staffing standards, and ensure a stable workforce, minimizing wait lists. (Workforce, Strategic Importance) <i>(Note: The Task Force indicates that Recommendation 9.1 must be implemented before Recommendation 9.7 in order to ensure success. Both Recommendations are listed in Tier 1 due to their importance to the support and improvement of senior care in Kansas.)</i></p>
<p><u>Recommendation 9.7 Instructor Pay and Benefits.</u> Provide ongoing government incentives with additional funding to increase the number of healthcare worker faculty and</p>

trainers. **(Workforce, Immediate Action)** *(Note: Recommendation moved to Tier 1 from Tier 2.)*

TIER 2

Recommendation 1.3 Education Training Credits. Require Provide standardized training for aging services as follows: dementia training, geriatric mental health training, up to three hours of continuing education about Medicaid Home and Community-Based Services (HCBS) and other community-based options, and training for community mental health centers (CMHCs) and community-based service providers. **(WGB, Immediate Action)**

Recommendation 1.4. Caregiver Services. The State of Kansas should support family caregiver services that can delay or decrease the likelihood of needing to enter a nursing facility. These can include, but should not be limited to, education and training, counseling, legal consultations and respite care. Efforts should be made to provide these caregivers with at least paid or unpaid leave. **(WGB, Strategic Importance)**

Recommendation 2.2 Psychotropic Medication Education. Improve upon existing standard training and education by providing targeted education for surveyors, direct care workers, providers, prescribers, long-term care providers and caregivers on the use of prescribed psychotropic medications for older adults with dementia or geriatric behavioral health conditions, the potential appropriate indications for, and potential risks of, psychotropic use, as well as effective intervention and use of non-pharmacological approaches. **(WGA, Strategic Importance)**

Recommendation 3.2 Background Checks. The State of Kansas shall increase funding to the Kansas Bureau of Investigation (KBI) to perform and provide background checks that go beyond criminal convictions and final judgment or adjudications for employers in a more timely manner. **(WGA, Immediate Action)**

Recommendation 3.3 Abuse, Neglect, and Exploitation Training. The State of Kansas should further develop and promote abuse, neglect, and exploitation (ANE) training for person-centered practices. **(WGA, Immediate Action)**

Recommendation 3.4 Financial Crime Campaign. Initiate a targeted prevention campaign about financial crime for older adults age 60+. **(WGA, Immediate Action)**

Recommendation 3.5 Appeals of Involuntary Removal. Ensure the rights of residents and their representatives to appeal involuntary transfers and discharges or evictions from assisted living facilities and review research conducted by the Judicial Council to ensure a process is put in place. **(WGA, Strategic Importance)**

Recommendation 3.6 Decision-Making Assistance. Pass legislation based on 2021 House Bill (HB) 2122, enacting the supported decision-making agreements act to provide a

statutory framework for adults who want decision-making assistance. **(WGA, Immediate Action)**

Recommendation 3.7 Mandated Reporters. Amend K.S.A. 39-1431 to add Certified Nurse Aides (CNAs), Certified Medication Aides (CMAs) and Home Health Aides as mandated reporters to align with federal mandate. **(WGA, Immediate Action)**

Recommendation 4.2 Technical Assistance. Kansas Department for Aging and Disability Services (KDADS) will create and fund a technical assistance department or technical assistance position that adult care homes can access to help with regulatory compliance, develop quality improvement, implement person-centered care practices, and write sustainable plans of correction. **(WGA, Immediate Action)**

Recommendation 4.3 Corrective Plans. Kansas Department for Aging and Disability Services (KDADS) will use directed plans of correction and education as remedy for infractions to allow system-level implementation that is meaningful and sustainable. **(WGA, Strategic Importance)**

Recommendation 4.4 Adult Care Home Survey Website. Develop a publicly accessible state website with adult care home survey results, providing information including, but not limited to, survey frequency, levels of harm, role of staffing and staff competence, quality measures, and Managed Care Organization (MCO) health plans accepted at ~~federally licensed facilities~~ **adult care homes**. The website shall be updated semi-annually. **(WGA, Strategic Importance)**

Recommendation 6.1 Modify Medicaid Waivers. The Legislature should explore the modification of all Medicaid waivers as applicable to those age 60 and older to provide more aging services such as home-delivered meals, case management, and access to technology and training. In addition, ensure those on the I/DD waiver age 65 and older are also offered services available to those on the Frail Elderly (FE) waiver. **(WGB, Strategic Importance)**

Recommendation 6.2 Promote Home and Community-Based Services. Promote awareness of home and community-based services available now for older Kansans. **(WGB, Immediate Action)**

Recommendation 6.3 Transition Services. Develop an array of options to provide transition-related aging services. **(WGB, Strategic Importance)**

Recommendation 7.1 Adult Daycare Reimbursement Rates. The State of Kansas should increase funding and reimbursement rates to adult day care services and Intellectual/Developmental Disabilities (I/DD) day services providers to increase staffing and provide more opportunities to serve people aged 60 and older in their homes during the day in lieu of going to a facility. **(WGB, Immediate Action)**

Recommendation 8.4 Technology Investment. Kansas Department for Aging and Disability Services (KDADS) in collaboration with the Legislature will allow for and increase

Senior Care Act (SCA) funding to be used for start-up costs to allow Area Agencies on Aging (AAAs) to invest in technology and add as an allowable service under the SCA. **(WGB, Strategic Importance)**

Recommendation 8.5 SCA Program Evaluation. Kansas Department for Aging and Disability Services (KDADS) in collaboration with the Kansas Association of Area Agencies on Aging (k4ad) will ensure that the SCA program is evaluated every 3-5 years by an objective, independent evaluator using research methodologies that ensure comprehensive input from caregivers, Area Agencies on Aging (AAAs), participants, service providers, and other stakeholders. **(WGB, Strategic Importance)**

Recommendation 8.6 SCA Data Systems. Kansas Department for Aging and Disability Services (KDADS) will improve the data systems for multi-directional use under the Senior Care Act program and provide regular reports on service utilization and client needs. **(WGB, Strategic Importance)**

Recommendation 9.2 ConnectToCareJobs Platform. Kansas Department for Aging and Disability Services (KDADS) will lead the effort to enlist the State of Kansas to contract with ADvancing States and implement its worker matching and placement tool, “ConnectToCareJobs.com”. **(Workforce, Immediate Action)**

Recommendation 9.3 Workforce Incentives and Benefits. The State of Kansas, in collaboration with Department for Children and Families (DCF), Kansas Department for Aging and Disability Services (KDADS), and Kansas Department of Health and Environment (KDHE), shall develop incentives or additional benefits for the direct care workforce, such as respite services and childcare assistance. **(Workforce, Immediate Action)**

Recommendation 9.4 Workforce Tax Credit. The State of Kansas will create a workforce tax credit for the aging services direct care workforce. **(Workforce, Immediate Action)**

Recommendation 9.5 Caregiver Tax Credit. The State of Kansas will create a caregiver tax credit to help care for loved ones. **(Workforce, Immediate Action)**

Recommendation 9.6 Cross-sector Partnerships. Explore cross-sector partnerships or models to align systems and share staffing resources, specifically those that are difficult to recruit for/retain, where appropriate. **(Workforce, Strategic Importance)**

TIER 3

Recommendation 3.8 Funding CMHCs. The Kansas Legislature, in collaboration with the Kansas Department for Aging and Disability Services (KDADS), should increase funding for Community Mental Health Centers (CMHCs) for expansion across the state in urban, rural, and frontier areas for in home (non-facility) services. **(WGA, Strategic Importance)**

Recommendation 3.9 Statewide Needs. Conduct a statewide abuse, neglect and exploitation (ANE) needs assessment of older adults in the state of Kansas using data from multiple systems from Department for Children and Families (DCF), Kansas Department for Aging and Disability Services (KDADS), hospitals, and the Ombudsman's Office. **(WGA, Strategic Importance)**

Recommendation 5.3 Alzheimer's-State Plan and Task Force. Implement the Alzheimer's Association State Plan and Alzheimer's Disease Task Force recommendations and join in support of other organizations and agencies also concerned with increasing demands for services to conduct data analysis on the service system for capacity, staffing, and funding to meet the increasing demands for services as the population ages. The Alzheimer's Association shall present to the Legislature once each legislative session. **(WGB, Immediate Action)**

Recommendation 6.5 Tiered Levels of Services. Utilize the Functional Assessment Instrument (FAI) to create tiered level of services for clients in assisted living and Home Plus. **(WGB, Strategic Importance)**

Recommendation 7.3 Adult Daycare Locations. The State of Kansas will provide grants for senior centers, housing providers and assisted living providers to retrofit or establish space appropriate for adult day centers. **(WGB, Strategic Importance)**

Recommendation 7.4 Community Partners Pilot. Senior Centers will collaborate with community partners who also provide day services (e.g., childcare) and involve non-traditional stakeholders such as business leaders to develop pilot programs for service recipients that address health, oral health, technology use, and other topics. A planned timeline from development shall be five years from onset of fact-finding studies to full implementation of the improvements offered. Official reports will be made to the state every two years to measure progress. **(WGB, Strategic Importance)**

Recommendation 9.8 Five-Year Career-Path Plan. Establish a five-year plan of state funding for direct career-path training of potential health professionals, including Certified Nurse Aides (CNAs), Certified Medical Aides (CMAs), Rehabilitation Aides, and Home Care Aides, as well as potential Licensed Practical Nurses (LPNs) and Registered Nurses (RNs), in cooperation with facilities and agencies providing direct care services, with renewal options of funding after the first five years of the plan. **(Workforce, Strategic Importance)**

Recommendation 9.9 Identify Future Workforce of Direct Care Workers and Volunteers. The State of Kansas will develop models of programs for **both direct care workers and volunteers** for aging services to identify future workforce. **(Workforce, Immediate Action)** **(Note: Recommendation 7.5: Adult Daycare Volunteers was combined with this recommendation.)**

Recommendation 9.10 Eliminate Barriers to Workforce Entry. The State of Kansas will compile, utilize, and act upon research on how to eliminate barriers for entering the field of aging services and obstacles once in the field. (***Workforce, Immediate Action***)

Introduction

2021 House Bill (HB) 2114 directs the Senior Care Task Force (SCTF) to establish two working groups and one subgroup related to the cross-cutting topic of workforce focused on retention, recruitment, and training. The Quality of Care and Protective Services Working Group (WGA) was assigned to focus on the administration of antipsychotic medications to adult care home residents; the safeguards to prevent abuse, neglect, and exploitation of seniors in Kansas; and adult care home surveys and fines. The Access to Services Working Group (WGB) was assigned the provision of care for seniors in the state of Kansas who suffer from Alzheimer's disease, dementia, and/or age-related mental health conditions; rebalancing home and community-based services; senior daycare resources in Kansas; and the funding and implementation of the Kansas Senior Care Act, K.S.A. 75-5926 through 75-5936, and amendments thereto. Each group heard from experts, discussed issues and solutions for each topic area and developed recommendations for the Task Force to consider.

To achieve this directive, the Task Force allocated experts and senior care and aging service professionals to serve as working group members to study topics related to Workforce, Quality of Care and Protective Services, and Access to Services in the state of Kansas. The working groups utilized a roundtable format to engage a wide range of professionals and individuals with expertise in their respective fields in each discussion meeting (see working group process meeting schedule, *Figure 2*, page 4). The Kansas Health Institute (KHI) provided administrative and process facilitation services. Six members from the Task Force volunteered to be chair or vice chair of each group to assist in logistics, development of recommendations, and additional consultation with KHI in between meetings when needed. This report summarizes the work of the Senior Care Task Force working groups.

Throughout this report, recommendations have been prioritized into three tiers. Collectively these recommendations form a strategic framework that should be considered a living document to support ongoing collaboration between the many contributing partners in the delivery of senior care services, government agencies and the state Legislature.

Working Group Process

Each working group began its effort by developing a vision statement to ensure that the group's vision was reflected in each recommendation (see page v). The working groups each conducted a Strengths, Weaknesses, Opportunities, and Threats (SWOT) Analysis to systematically capture the senior care experience and continuum of care and to identify common themes. Utilizing the results from a SWOT Analysis, the working groups developed strategies to begin the process of developing recommendations. Once strategies were developed, the working groups provided initial sets of recommendations around the seven topic areas under 2021 HB 2114 as well as workforce, and those recommendations were further grouped by themes. Throughout the process, individuals with supplemental expertise were invited to attend the working group meetings to provide information on specific topics that were requested.

To guide discussions and ensure consistency across working groups, each of the three working groups adopted the Recommendation Characterization Rubric (*Appendix B*, page B-1) as a tool to assist in prioritizing those recommendations and actions steps when provided. Using the rubric, working groups were able to assign numeric values to recommendations using a 10-point Likert scale for both ease of implementation and potential for high impact. Recommendations that were not scored during working group meetings were scored by a Qualtrics survey. Average scores and discussion items were reviewed at the next meeting to reach consensus.

Working groups utilized those scores and other metrics to further prioritize the final list of recommendations into three tiers. Each working group was guided by its vision statement and potential to address core issues for its topic areas.

- **The Quality of Care and Protective Services Working Group** prioritized recommendations by reviewing their potential to ensure older adults have positive control over their own lives – ensuring safety, autonomy and quality care – in all settings as well as focusing on what can be done now, even as initial steps.
- **Access to Services Working Group** prioritized recommendations by reviewing their potential to empower older adults who prefer to remain in their homes and communities.
- **The Workforce Subgroup** prioritized recommendations by reviewing their potential to address retention of current workforce, recruitment of direct-care workers and course instructors, and training the current and future workforce.

Figure 2, page 4 illustrates the structure of the working group process, including a list of meetings held by each group, as well as the topics addressed. The working groups met virtually with varying times depending on progress and topic area from December 2021 to July 2022 from 9:00 a.m. to 10:30 a.m., unless noted. All the working groups' decisions were reached based on group consensus gathered during meetings or via survey. The working groups 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 recommendation, decisions were made based on proposals offered by the members and adopted by verbal agreement or absence of objections.

Figure 2. Working Group Process

Senior Care Task Force		
Working Group A Quality of Care and Protective Services	Working Group B Access to Services	Workforce Subgroup
<ul style="list-style-type: none"> • Meeting #1, Dec. 14, 2021 Introductory Meeting • Meeting #2, Jan. 11, 2022 Topic Discussion on administration of antipsychotic medications to adult care home residents • Meeting #3, Jan. 25, 2022 Recommendations on administration of antipsychotic medications to adult care home residents • Meeting #4, Feb. 8, 2022 Topic Discussion on safeguards to prevent abuse, neglect and exploitation of seniors in the state of Kansas • Meeting #5, Feb. 22, 2022 Recommendations on safeguards to prevent abuse, neglect and exploitation of seniors in the state of Kansas • Meeting #6, March 8, 2022 Topic Discussion on adult care home surveys and fines • Meeting #7, March 22, 2022 Recommendations on adult care home surveys and fines • Meeting #8, April 12, 2022 Refine and characterize recommendations • Meeting #9, April 26, 2022 Refine and characterize recommendations • Meeting #10, May 10, 2022 Finalize recommendation language • Meeting #11, May 24, 2022 Finalize recommendation language • Meeting #12, June 14, 2022, 9-11:30a.m. Finalize recommendation list • Meeting #13, June 20, 2022 Tier recommendations • Meeting #14, July 26, 2022 Ratify report 	<ul style="list-style-type: none"> • Meeting #1, Dec. 17, 2021 Introductory Meeting • Meeting #2, Jan. 21, 2022 Topic Discussion on the provision of care for seniors in the state of Kansas who suffer from Alzheimer's disease, dementia or age-related mental health conditions • Meeting #3, Jan. 28, 2022 Recommendations on the provision of care for seniors in the state of Kansas who suffer from Alzheimer's disease, dementia or age-related mental health conditions • Meeting #4, Feb. 11, 2022 Topic Discussion on rebalancing of home and community-based services • Meeting #5, Feb. 25, 2022 Recommendations on home and community based services • Meeting #6, March 11, 2022 Topic Discussion on senior daycare resources • Meeting #7, March 25, 2022 Recommendations on senior daycare resources • Meeting #8, April 15, 2022 Recommendations on funding and implementation of the Kansas Senior Care Act • Meeting #9, April 29, 2022 Refine and characterize recommendations (2 topics) • Meeting #10, May 6, 2022 Refine and characterize recommendations (2 topics) • Meeting #11, May 20, 2022 Finalize recommendation language • Meeting #12, June 3, 2022, 9-11:30a.m. Finalize recommendation list • Meeting #13, June 17, 2022 Tier recommendations • Meeting #14, July 15, 2022 Ratify report 	<ul style="list-style-type: none"> • Meeting #1, Dec. 16, 2021 Introductory Meeting • Meeting #2, Jan. 20, 2022 Topic Discussion and Review of recommendations from task force and other groups • Meeting #3, Feb. 17, 2022 Refine recommendations • Meeting #4, March 17, 2022 Characterize recommendations • Meeting #5, April 21, 2022 Characterize recommendations • Meeting #6, May 5, 2022 Finalize recommendation language • Meeting #7 May 12, 2022 Finalize recommendation list • Meeting #8 June 9, 2022, 9-11:30a.m. Tier recommendations • Meeting #9 July 14, 2022 Ratify report

Cross-Cutting Recommendations

Each working group had one or more recommendations that crossed several topic areas as well as spanned across both working groups and the workforce subgroup. There are five cross-cutting recommendations for consideration.

Cross-Cutting Recommendation 1.1: Statewide Aging Conference. [Immediate Action, Tier I]

WGA Recommendation: The State of Kansas will create a statewide conference or reinstate the Governor’s Conference on Aging to create networking opportunities and foster relationships among professionals to create opportunities to share evidence-based practices, lessons learned and national themes.	
Rationale: The Quality of Care and Protective Services Working Group discussed the importance of reinstating a statewide conference for aging that would facilitate networking, education, and action planning opportunities, which may lead to work groups and legislative involvement to ensure the well-being of older adults in Kansas. A conference also may bring new opportunities and more innovative approaches to barriers affecting all stakeholders and facilitate collaborative efforts.	
Ease of Implementation (Score 1-10): 7	Potential for High Impact (Score 1-10): 8
<ul style="list-style-type: none"> • Re-instating the concept and adding the latest advances in videoconferencing should make this a viable and low-cost way to bring people together and work for solutions to common problems between agencies and seniors. • Broadband connectivity issues may prevent stakeholders in rural and frontier areas from attending. 	<ul style="list-style-type: none"> • Conference will allow stakeholders and professionals across the state to gather and exchange ideas, lessons learned, and bring awareness to arising issues in the aging field. • Event must facilitate information gathering to analyze and act upon to highly impact aging services.
Action Lead: KDADS and the Kansas Executive Branch; Legislature	Key Collaborators: Stakeholders in the aging and senior care community across Kansas; DCF; Office of the Attorney General; state and local policymakers; Legislature
Key Performance Indicators:	
<ul style="list-style-type: none"> • Conference is held annually • Attendance (in-person and virtual) • Membership 	

Return to [Figure 1](#) or [Appendix C](#).

Cross-Cutting Recommendation 1.2: Person-Centered Practices. [Immediate Action, Tier I]

<p>WGA Recommendation: Support provider training and framework for person-centered planning, especially for those with dementia, in which an individual’s own wishes, strengths and relationships are respected.</p> <ul style="list-style-type: none"> • Recognize each person’s strengths, abilities and choices related to using technology or accessing community-based and other formal or informal support. • Ensure trauma-informed, person-centered care policies for older adults who have experienced abuse, neglect and exploitation are being followed. • See related recommendation around Money Follows the Person program, Recommendation 6.3: Transition Services 	
<p>Rationale: The Quality of Care and Protective Services Working Group indicated this recommendation is a regulatory requirement. The National Center on Advancing Person Centered Practices and Systems (NCAPPS) outlines an individual’s rights are not just the creation of the care plan, but everything within their choice and control.^{3,4} For nearly 20 years, KDADS has been recognizing adult care homes for successfully implementing person-centered care, commonly known as Promoting Excellent Alternatives in Kansas (PEAK).⁵ The working group suggests leveraging this existing infrastructure to lead this effort and also promote benefits to providers and community members.</p>	
<p>Ease of Implementation (Score 1-10): 8</p>	<p>Potential for High Impact (Score 1-10): 10</p>
<ul style="list-style-type: none"> • Workforce shortage is a barrier to training due to lack of time. • Historically, Money Follows the Person (MFP) has provided training support. 	<ul style="list-style-type: none"> • Aligns with vision statement. • Recognizes the complexity of trauma which needs to be considered for person-centered care planning and practices.
<p>Action Lead: PEAK; KDADS and providers; MCOs</p>	<p>Key Collaborators: Associations; survey agencies; providers; LTC Ombudsman; residents; individuals; families; caregivers; DCF; Office of the Attorney General; AAAs; MCOs</p>
<p>Key Performance Indicators:</p> <ul style="list-style-type: none"> • Stakeholder satisfaction • Increase participation in PEAK program • Specialized geriatric behavioral health supports 	

Return to [Figure 1](#) or [Appendix C](#).

Cross-Cutting Recommendation 1.3: Education Training Credits. [Immediate Action, Tier II]

WGB Recommendation: Provide standardized training for aging services as follows.

- Provide standardized training for dementia training annually for all long-term care employees and those from staffing agencies with a minimum of four (4) hours of training within first 90 days of employment and two (2) hours continuing education (CE) annually after that. Two (2) hours of continuing education (CE) for physicians, nurses, social workers, and licensed mental health professionals through respective boards.
- Provide standardized training for geriatric mental health training annually for all long-term care employees and those from staffing agencies with a minimum of three (3) initial hours each year. Three (3) hours of continuing education (CE) for social workers, and licensed mental health professionals through respective boards.
- Provide standardized training, up to three (3) hours of continuing education annually for healthcare professionals and providers about Medicaid Home and Community-Based Services (HCBS) and other community-based options, including wellness monitoring, for older adults.
- Provide standardized training for community mental health centers (CMHCs) and community-based service providers including senior centers, home health agencies and AAAs. Collaborate with older adult mental health and dementia experts to provide training for caregivers and other designated locations (i.e., senior centers; area agencies on aging) and collaborate with those with expertise on geriatric mental health and administer dementia training targeted at caregivers.

Rationale: The Access to Services Working Group recommends requiring training credits to enhance service provision, quality of care and overall knowledge of staff and professionals who work with older adults. A well-trained workforce may lead to reduction in the number of low acuity – those with less severe illnesses – nursing facility residents by increasing awareness of community-based service options, having a greater impact on care, and improving the quality of life for people receiving services.

Ease of Implementation (Score 1-10): 6	Potential for High Impact (Score 1-10): 8
<ul style="list-style-type: none"> • CE requirement may be a barrier. • Funding may be a barrier. 	<ul style="list-style-type: none"> • Will benefit all seniors living in Kansas. • May provide cost savings in other areas.

Action Lead: KDADS; Legislature	Key Collaborators: –Legislature; Kansas Board of Nursing (KSNB); Kansas Board of Healing Arts (BOHA); Kansas Behavioral Sciences Regulatory Board (BSRB); KDHE; Kansas Hospital Association (KHA); Kansas Health Care Association (KHCA); LeadingAge Kansas; Kansas Advocates for Better Care (KABC); Kansas Adult Care Executives (KACE); Kansas Health Care Association (KHCA)/Kansas Center for Assisted Living (KCAL); Kansas Alzheimer’s Association; AAAs
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Key Performance Indicators:

- Number of healthcare professionals that receive training

- Number of those who can access HCBS waiver services
- Adult care home utilization
- Number of diversions
- Reduction in abuse, neglect, and exploitation (ANE) cases and related injuries

Return to [Figure 1](#) or [Appendix C](#).

Cross-Cutting Recommendation 1.4. Caregiver Services. [Strategic Importance, Tier II]

WGB Recommendation: The State of Kansas should support family caregiver services that can delay or decrease the likelihood of needing to enter a nursing facility. These can include, but should not be limited to, education and training, counseling, legal consultations and respite care. Efforts should be made to provide these caregivers with at least paid or unpaid leave.

- Promote awareness of organizations such as the Alzheimer’s Association, Area Agencies on Aging (AAAs) and other entities that identify family caregivers in need of assistance to address burnout to enable them to continue to provide in home care.
- Provide information on community resources such as CMHC resources, in-home services and respite care options.

Rationale: This is a task force recommendation adopted by the Access to Services Working Group to address the ever-changing landscape in which family members serving as older adult caregivers is becoming increasingly common. The financial and emotional toll that full-time caregiving inflicts on both paid and unpaid caregivers may require caregivers to place older adults into higher acuity care facilities. This recommendation includes both Medicaid HCBS waiver services and general home and community-based services.

Ease of Implementation (Score 1-10): 4	Potential for High Impact (Score 1-10): 8
<ul style="list-style-type: none"> • Will be costly to establish, market and maintain services. • Will require multidisciplinary staff to provide full breadth of services. 	<ul style="list-style-type: none"> • Assisting family caregivers with burnout and providing resources will allow older adults to remain in their homes and communities longer.
Action Lead: KDADS: Legislature	Key Collaborators: Alzheimer’s Association; AAAs

Key Performance Indicators:

- Service utilization
- Number of older adults in home and community-based services
- Number of older adults who utilize a family caregiver

Return to [Figure 1](#) or [Appendix C](#).

Cross-Cutting Recommendation 1.5. Rural Healthcare Coalition. [Immediate Action, Tier I]

Workforce Recommendation: Create a Rural Healthcare Coalition for Aging Services.	
Rationale: The Workforce Subgroup recommends formation of a coalition at the regional level with statewide leadership. This would require one or two dedicated full-time employees (FTEs) for rural health services to develop a framework for senior service providers. There are existing federal grants for rural hospital technical support and community program accessibility through the Health Resources and Services Administration (HRSA). ⁶	
Ease of Implementation (Score 1-10): 7	Potential for High Impact (Score 1-10): 10
<ul style="list-style-type: none"> Funding from Legislature or federal HRSA grant to form coalition and 1-2 FTEs to facilitate coalition activities. Rural providers are interested but require support because of workforce shortage. Broadband connectivity issues may prevent effective communication for providers in rural and frontier areas. 	<ul style="list-style-type: none"> Recruitment, Retention and Training Will represent providers operating in rural and frontier areas of the state that have previously not been given resources to make a coalition feasible.
Action Lead: KDADS and provider associations, Legislature (legislation and appropriations)	Key Collaborators: Providers; critical access hospitals; KHA; AAAs; PEAK
Key Performance Indicators:	
<ul style="list-style-type: none"> Providers involved in coalition Ongoing staffing to establish and maintain coalition activities and membership 	

Return to [Figure 1](#) or [Appendix C](#).

Quality of Care and Protective Services Working Group (WGA)

Ensuring quality care and prioritizing the safety of older Kansans in care facilities, community-based services, and their homes requires adequate staffing, resources, and well-trained staff to provide person-centered care. The group met to discuss and collaborate on recommendations regarding the topics of administration of antipsychotic medication, safeguards to protect from abuse, neglect, and exploitation (ANE), and adult care home surveys and fines.

An underlying theme for developing the Working Group's vision statement and developing recommendation was the concept and application of scalability of services. It was emphasized that services must be scaled and tailored for the unique needs of rural, frontier, and urban areas of Kansas while also remaining person-centered.

The group discussed and made recommendations recognizing the need to expand upon and provide timely criminal background checks for direct-care workers, employers, and families; educate and train on abuse, neglect, and exploitation; increase funding and expand scope and capacity of Community Mental Health Centers (CMHCs); and improve upon state-licensed care home surveys by providing technical assistance for sustainable solutions.

The recommendations are prioritized into three tiers under each topic area. The Quality of Care and Protective Services working group prioritized recommendations by reviewing their potential to keep older adults safe in all settings. There are 13 recommendations for consideration.

Administration of Antipsychotics

Note that the working group uses the term psychotropic medications to include the following types of medications: antipsychotics, antidepressants, anti-anxiety medications, stimulants and mood stabilizers. Studies have shown the administration of psychotropic medications to treat a wide range of behavioral health conditions causing emotional and mental distress has adverse effects on older adults, leading to serious and sometimes fatal consequences.⁷ The working group discussed methods and strategies to address inappropriate use, such as leveraging technology to consult with providers and prescribers who are equipped and qualified to treat conditions with psychotropic medications as well as education improvements. There are two recommendations for consideration.

Quality of Care and Protective Services Recommendation 2.1: Geriatric Psychiatric Prescribers. [Immediate Action, Tier I]

Recommendation: Better ensure geriatric psychiatric prescribers are accessible for consultation to complete medication evaluations for seniors receiving health services in all settings, utilizing telemedicine when applicable and available. Ensure billing codes can cover a range of psychiatric services such as medication management, consultation, care coordination and telemedicine for older adults when applicable and available.

- Develop an awareness campaign for older adults about the benefits of telehealth.
- Require appropriate reimbursement codes that allow for complex care scenarios.

Rationale: Medication evaluations are completed in adult care home settings. However, as more older adults opt to remain at home, there is a need for community-based medication management, which can be reimbursed under Medicare. The working group recommends leveraging technology to connect highly specialized geriatric psychiatric prescribers across the state for consultation. However, the state and providers will need to address uncertainties around telemedicine use among older adults while also addressing inequities for those who cannot access those services due to broadband issues. The state also will need to explore the availability of reimbursement codes under both Medicaid and Medicare to ensure accessibility for those consultation services.

Ease of Implementation (Score 1-10): 3 **Potential for High Impact (Score 1-10): 8**

- Changing reimbursement is a multilayered process involving many entities.
- May not require new reimbursement codes, rather modifying existing codes.
- Broadband access is a barrier.

- Telemedicine for older adults is cost effective and attainable.

Action Lead: KDHE; **Legislature (appropriation)**

Key Collaborators: KDADS; DCF; Office of the Attorney General; community and mental health advocates; MCOs; Kansas Medical Society; BOHA; BSRB; **KSBN; Board of Pharmacy;** Kansas Insurance Commissioner; Association of CMHCs of Kansas; Physician-Focused Payment Model Technical Advisory Committee; Medicare Payment Advisory Commission; Relative Value Update Committee; Area Agencies on Aging; senior resource centers; consumers; American Association for Geriatric Psychiatry; Council on Geriatric Psychiatry; **Pharmacists**

Key Performance Indicators:

- Number of medication evaluations

- Increase in reimbursement rates
- Number of providers using billing codes
- Reduction in inappropriate psychotropic medication use (regulation)

Return to [Figure 1](#) or [Appendix C](#).

Quality of Care and Protective Services Recommendation 2.2: Psychotropic Medication Education. [Strategic Importance, Tier II]

Recommendation: Improve upon existing standard training and education by providing targeted education for surveyors, direct care workers, providers, prescribers, long-term care providers and caregivers on the use of prescribed psychotropic medications for older adults with dementia or geriatric behavioral health conditions, the potential appropriate indications for, and potential risks of psychotropic use, as well as effective intervention and use of non-pharmacological approaches.

- Facilities that implement training will be referred to dementia certificate programs and resources for long-term care providers and prescribers.
- Offer in-home training to caregivers in dementia care.
- Ensure effective education outreach services to Kansas veterans and their caregivers.

Rationale: Awareness, education and communication are impactful and affect not only the one receiving the care but the others around them, builds confidence and trust, and supports the entire “team” of caregivers whether professionally paid or not. The working group aims to expand opportunities for targeted education for those listed and getting entities to commit to provide this type of education. The working group also recommends leveraging existing training programs such as the TeamSTEPPS® Teamwork and Communication Skills for Antipsychotic Reduction, which trained 154 Kansas long-term care workers as TeamSTEPPS® Master Trainers, and those individuals reached an additional 1,695 long-term care workers under a two-year grant. The program was developed by AHRQ and has proven effective across healthcare settings. It is a research-based program to enhance performance and resident safety using clear, consistent communication, teamwork and leadership tools and strategies.

Ease of Implementation (Score 1-10): 5	Potential for High Impact (Score 1-10): 7
<ul style="list-style-type: none"> • CMHCs could have a role in facilitating and referring providers and caregivers to training and education. • Consult regulatory authority on the use of technology to administer training. 	<ul style="list-style-type: none"> • Effective training will address misuse of psychotropic medications and reduce adverse events among older adults.
Action Lead: KDADS	Key Collaborators: Office of the Attorney General; Office of Judicial Administration (OJA); Kansas Supreme Court; BSRB; KSBN; BOHA; university partners; providers; LeadingAge Kansas; KABC; KACE; KHCA/KCAL

Key Performance Indicators:

- Trends in number of emergency department (ED) visits related to use of psychotropic medication
- Trends in referrals to geriatric psychiatric units
- Trends in care and treatment legal proceedings for older adults
- Trends in requests for guardianship

Baseline Data Needed:

Number of geriatric psychiatric beds remaining across the state

Return to [Figure 1](#) or [Appendix C](#).

Safeguards to Prevent Abuse, Neglect, and Exploitation (ANE)

Protecting older adults in Kansas starts with emphasizing the importance and goal of keeping older adults safe while under the care of themselves and for those caring for them. The working group discussed several mechanisms to prevent ANE including expanding upon a basic criminal background check; tailoring and administering ANE training to stakeholders outside of direct care; and preventing financial crimes from occurring while also addressing the potential for shame and embarrassment experienced by older adults when experiencing financial exploitation. Per K.S.A. 39-1401, please see the following statutory definitions for abuse, neglect and exploitation.

- “Abuse” means any act or failure to act performed intentionally or recklessly that causes or is likely to cause harm to a resident, including: (1) infliction of physical or mental injury; (2) any sexual act with a resident when the resident does not consent or when the other person knows or should know that the resident is incapable of resisting or declining consent to the sexual act due to mental deficiency or disease or due to fear of retribution or hardship; (3) unreasonable use of a physical restraint, isolation or medication that harms or is likely to harm a resident; (4) unreasonable use of a physical or chemical restraint, medication or isolation as punishment, for convenience, in conflict with a physician’s orders or as a substitute for treatment, except where such conduct or physical restraint is in furtherance of the health and safety of the resident or another resident; (5) a threat or menacing conduct directed toward a resident that results or might reasonably be expected to result in fear or emotional or mental distress to a resident; (6) fiduciary abuse; or (7) omission or deprivation by a caretaker or another person of goods or services which are necessary to avoid physical or mental harm or illness.
- Neglect” “means the failure or omission by one’s self, caretaker or another person with a duty to provide goods or services which are reasonably necessary to ensure safety and well-being and to avoid physical or mental harm or illness.
- “Exploitation” means misappropriation of resident property or intentionally taking unfair advantage of an adult’s physical or financial resources for another individual’s personal or financial advantage by the use of undue influence, coercion, harassment, duress, deception, false representation or false pretense by a caretaker or another person.

There are nine recommendations for consideration.

*Quality of Care and Protective Services Recommendation 3.1: **Workforce Clearinghouse.***
[Strategic Importance, Tier I]

<p>Recommendation: Establish a workforce clearinghouse, including direct care worker registries, and a Coordinator position between Kansas Department for Children and Families (DCF), Kansas Department for Aging and Disability Services (KDADS), and Kansas Bureau of Investigation (KBI) to increase accessibility and enhance safeguards and oversight of guardians, conservators, and caregivers that the facilities and individuals can refer to as a resource when questions about appropriate hire may be in question.</p> <ul style="list-style-type: none"> Utilize the alert system at KDADS for when infractions occur during survey and update the clearinghouse in a timely manner. 	
<p>Rationale: Access to critical information in a timely manner around hiring direct care workers has the potential to reduce exposure to ANE risk. The working group recommends establishing a workforce clearinghouse to increase accessibility and enhance safeguards and oversight of guardians, conservators, and caregivers that the facilities and individuals can refer to as a resource when questions about appropriate hire may be in question. The recommendation would be an overhaul of current systems to consolidate data into one central location for state agencies, employers, and consumers to access. Interoperability has historically been an issue.</p> <p>Recently, Alabama passed House Bill 105, known as “Shirley’s Law,” during their 2022 legislative session, which created the state’s first adult abuse registry.⁸</p>	
<p>Ease of Implementation (Score 1-10): 3</p> <ul style="list-style-type: none"> Cost to develop an integrated and centralized system may be a barrier. Requires a legislative change to open database to the public. 	<p>Potential for High Impact (Score 1-10): 9</p> <ul style="list-style-type: none"> Older adults who need a qualified certified or licensed caregiver will be impacted by this recommendation. High potential to reduce exposure to ANE risk.
<p>Action Lead: KDADS, DCF, and KBI, and Legislature</p>	<p>Key Collaborators: Legislature; Office of the Attorney General; city/county/district attorneys; Office of Judicial Administration (OJA); BSRB; KSBN; BOHA</p>
<p>Key Performance Indicators:</p> <ul style="list-style-type: none"> Continuous and timely updates for inputting and exporting data Number of checks on the centralized registry Reduction in repeat offenders Trends of criminal prosecutions for exploitation of older adults in Kansas Reduction in need of prosecution Diversity of users (e.g., adult care home, citizens, caregivers) 	

Return to [Figure 1](#) or [Appendix C](#).

Quality of Care and Protective Services Recommendation 3.2: **Background Checks.**
[Immediate Action, Tier II]

<p>Recommendation: The State of Kansas shall increase funding to the Kansas Bureau of Investigation (KBI) to perform and provide background checks that go beyond criminal convictions and final judgment or adjudications for employers in a more timely manner while prohibiting direct resident care until background check results are available.</p>	
<p>Rationale: The working group recommends setting a baseline for quality and timely background checks to protect older adults from ANE. In response to the workforce shortage, the group reached consensus that until the background check is complete, employees with pending background checks could work in other areas besides direct care. The group also recommends the State assume the cost of the background check. In addition, background check results would be uploaded to Recommendation 3.1 Workforce Clearinghouse for employer and public access.</p>	
<p>Ease of Implementation (Score 1-10): 5</p> <ul style="list-style-type: none"> • Cost could be barrier because background checks would become more comprehensive. • Need to increase collaboration and allocate staff and funds for this effort. 	<p>Potential for High Impact (Score 1-10): 8</p> <ul style="list-style-type: none"> • Low-income workforce populations who cannot afford to pay the cost of a background check.
<p>Action Lead: KBI and Legislature</p>	<p>Key Collaborators: Legislature; BOHA; KSBN; KDADS; DCF; city/county/district attorneys; Office of the Attorney General</p>
<p>Key Performance Indicators:</p> <ul style="list-style-type: none"> • Fewer adverse events (risk management) 	

Return to [Figure 1](#) or [Appendix C](#).

Quality of Care and Protective Services Recommendation 3.3 Abuse, Neglect, and Exploitation Training. [Immediate Action, Tier II]

<p>Recommendation: The State of Kansas should further develop and promote abuse, neglect, and exploitation (ANE) training for person-centered practices:</p> <ul style="list-style-type: none"> • Provide ANE education for the public, first responders (such as law enforcement and fire personnel), and mandatory reporters. Education also will cover person-centered practices to prevent and identify ANE and ensure human rights. • Communicate the dementia certificate programs and resources to long-term care providers and prescribers. • Provide standardized training on ANE for direct care staff. utilizing technology and other innovative approaches to administer CE training when applicable. 	
<p>Rationale: The working group discussed expansion of training to first responders and the public to build awareness and reporting of ANE as more older adults choose to remain in community settings. The recommendation also increases the total hours of required training to underscore the importance of ANE training in preventing and identifying elder abuse. Members also discussed administration of curriculum and trainings via interactive delivery with dialogue and discussion to increase retention and to make training person-centered to the trainee’s needs. Also leveraging existing training frameworks by associations such as LeadingAge Kansas and Kansas Health Care Association (KHCA).</p>	
<p>Ease of Implementation (Score 1-10): 5</p> <ul style="list-style-type: none"> • Training time may be limited due to workforce shortages. • Cost of developing curriculum and testing. • Streamline personnel at KDADS and DCF to have training teams to train staff. • Will require modification to the regulatory process to require education to facilities. 	<p>Potential for High Impact (Score 1-10): 9</p> <ul style="list-style-type: none"> • Individuals with Alzheimer’s and dementia; rural, urban, and frontier communities; and low-income individuals will be significantly impacted. • Further educate and promote person-centered practices.
<p>Action Lead: KDADS, DCF, and KDHE</p>	<p>Key Collaborators: Mandated reporters; financial institutions; first responders; providers; Office of the Attorney General; DCF; Adult Protective Services (APS); long-term care providers and prescribers; LTC Ombudsman; KHA; KHCA; LeadingAge Kansas; KABC; KACE; KHCA/KCAL; VA Hospitals and Veterans Affairs Centers; Kansas Insurance Commission and Securities Commission; KSBN; BOHA; BSRB; city/county/district attorneys; AAAs; MCOs; Kansas Bar Association</p>

Key Performance Indicators:

- Increase in intakes
- Timeliness of reports (e.g., staff in adult care homes mandated to report within 24 hours)

Return to [Figure 1](#) or [Appendix C](#).

Quality of Care and Protective Services Recommendation 3.4: Financial Crime Campaign. [Immediate Action, Tier II]

Recommendation: Initiate a targeted prevention campaign about financial crime for older adults age 60+.

Rationale: Knowing the signs of financial exploitation is important for caregivers, older adults and those who interact with older adults to understand and recognize signs of ANE. Being a victim of ANE, particularly financial exploitation, increases the likelihood for loneliness and isolation that stem from feelings of shame and embarrassment.

Ease of Implementation (Score 1-10): 8

- Builds upon current program at KDADS and DCF.

Potential for High Impact (Score 1-10): 8

- The impact will come from the knowledge being shared between seniors, families, caregivers, and care professionals.

Action Lead: DCF and KDADS, **Legislature (appropriations)**

Key Collaborators: Kansas Bankers Association (KBA); Kansas Securities Commissioner; Kansas Attorney General's Office; Kansas County District Attorney Association (KCDAA); Kansas Bar Association Trust and Probate section; AARP; private practices, brokers, and trustees; first responders; senior centers/AAAs; KHA; faith-based organizations; community-based organizations; KS Legal Services; other financial institutions; LeadingAge Kansas; **KABC; KACE; KHCA/KCAL**

Key Performance Indicators:

- Trends in intakes
- Number and types of media campaigns and numbers reached
- Reduction in stigma

Return to [Figure 1](#) or [Appendix C](#).

Quality of Care and Protective Services Recommendation 3.6: Decision-Making Assistance. [Immediate Action, Tier II]

<p>Recommendation: Pass legislation enacting the supported decision-making agreements act to provide a statutory framework for adults who want decision-making assistance and to accomplish the following:</p> <ul style="list-style-type: none"> • Provide definitions for key terms; • Provide requirements, guidelines, and prohibitions for supporters; • Define the requirements and characteristics of valid supported decision-making agreements; • Establish processes for terminating agreements; and • Clarify the effect of agreements and the rights of those acting in good faith who comply or decline to comply with a supported decision-making agreement. 	
<p>Rationale: HB 2122 (2021) provides a legal option supporting the rights of older adults to make decisions based on input from trusted advisers and caregivers. The bill also provides support and direction for caregivers as they help older adults make decisions. Working group members also discussed the need for dependable resource and guidance to navigate the decision-making process.</p>	
<p>Ease of Implementation (Score 1-10): 5</p> <ul style="list-style-type: none"> • Asking for assistance is a major hurdle many must overcome. • Slow start at first that might catch momentum. 	<p>Potential for High Impact (Score 1-10): 8</p> <ul style="list-style-type: none"> • Understand usefulness of decision-making assistance and empower older adults to make decisions.
<p>Action Lead: Legislature (legislation) and KDADS</p>	<p>Key Collaborators: DCF; KCDD; Kansas Bar Association; Kansas Grantmakers in Health; Kansas Guardianship Program; Office of Judicial Administration (OJA); Kansas Supreme Court; Disability Rights Center of Kansas</p>
<p>Key Performance Indicators:</p> <ul style="list-style-type: none"> • Number of older adults who opt for decision-making assistance • Utilization of program 	

Return to [Figure 1](#) or [Appendix C](#).

Quality of Care and Protective Services Recommendation 3.7: Mandated Reporters. [Immediate Action, Tier II]

<p>Mandated Reporters. Amend K.S.A. 39-1431 to add Certified Nurse Aides (CNAs), Certified Medication Aides (CMAs) and Home Health Aides as mandated reporters to align with federal mandate.</p>
<p>Rationale: Under the Elder Justice Act, which passed in 2010 as part of the larger Patient Protection and Affordable Care Act, any “covered individual” in a long-term care facility that received at least \$10,000 in federal funds during the preceding year is required to report any reasonable suspicion of a crime against a resident or person receiving care in a federally funded long-term care facility. For the purposes of this law, “covered individuals” refers to the</p>

following: owners, operators, employees, managers, agents, and contractors of a long-term care facility. Recommendation would align with the federal mandate.	
Ease of Implementation (Score 1-10): 5	Potential for High Impact (Score 1-10): 5
<ul style="list-style-type: none"> Will require a legislative action. 	<ul style="list-style-type: none"> Recommendation will encourage reporting of ANE. Provide legal protection and requirement for CNAs to safely report abuse, neglect, and exploitation (ANE) as mandated reporters.
Action Lead: Legislature	Key Collaborators: KDADS; facility administrators and operators; DCF
Key Performance Indicators: <ul style="list-style-type: none"> Number of incidents reported Timeliness of incidents reported (i.e., serious bodily injury within 2 hours and all other crimes within 24 hours) 	

Return to [Figure 1](#) or [Appendix C](#).

Quality of Care and Protective Services Recommendation 3.8: Funding CMHCs. [Strategic Importance, Tier III]

<p>Recommendation: The Kansas Legislature, in collaboration with the Kansas Department for Aging and Disability Services (KDADS), should increase funding for Community Mental Health Centers (CMHCs) for expansion across the state in urban, rural, and frontier areas for in-home (non-facility) services.</p> <ul style="list-style-type: none"> CMHCs should ensure an adequate number of reimbursed community mental health workers and therapists skilled in geriatric behavioral healthcare are available to meet the needs of the population and offer community psychiatric supportive treatment (CPST) and other wraparound services, and assist with accessing community support services (CSS) in all settings outlined under KSA 39-923. CMHCs should establish a senior care navigator position at each CMHC across the state who will assist or refer to mental health services, education and resources for family and caregivers to provide services, such as for veteran services. CMHCs should integrate with long-term care (LTC) partners to increase access to services in urban, rural and frontier areas. CMHCs should provide direct consultation services for older adults using telemedicine when applicable and available. Enhance capacity of CMHCs to deliver services for older adults in all settings. Promote and utilize Medicare/Medicaid billing codes at CMHCs.
<p>Rationale: Under K.S.A. 19-4001 et. Seq., and K.S.A. 65-211 et. Seq., there are 26 licensed CMHCs operating in the state. CMHCs are the local mental health authorities. With the increasing and more costly long-term treatment and care needed for older adults, working group members discussed the need to build capacity at CMHCs to address those needs. Working group members outlined the different in-home services that could be provided such</p>

<p>as counseling, crisis intervention and more care coordination. However, reimbursement is currently a barrier to implementation and the state would have to offset with additional funding.</p>	
<p>Ease of Implementation (Score 1-10): 2</p> <ul style="list-style-type: none"> • Legislature needs to establish funding for full-time employee (FTE) for navigator position at CMHCs, which will need to be able to gather baseline data and retrieve ongoing data. Senior Care Navigator would be responsible for follow-up, and ensuring services are being provided and utilized. Navigators will need adequate training on the communities they will serve to administer training effectively to ensure continuity. • Grant funds may need to be utilized for travel and mileage cost to deliver services in rural and frontier areas within a territory. • The utilization of a tele-network consultation for people in rural and frontier Kansas is sometimes the only way to talk to mental health professionals and it may not be convenient. • The regulatory process will have to be updated to regulate in-home services. 	<p>Potential for High Impact (Score 1-10): 9</p> <ul style="list-style-type: none"> • Senior veterans, informal caregivers, professional caregivers, seniors who choose to receive care in their own home, and seniors living in areas historically underserved or lacking a CMHC will be most impacted. • Long-term cost savings by keeping seniors in their homes and out of higher acuity care settings. • Kansas may have over 340,000 unpaid caregivers at one time for seniors and loved ones that could be affected. • Campaign will be needed to reach out to caregivers for mental health services and education on these services and ANE.
<p>Action Lead: DCF, and KDADS, and Legislature</p>	<p>Key Collaborators: Legislature; CMHCs; LTC associations; Office of the Attorney General Multidisciplinary Teams (MDTs) at the Office of the Attorney General; Kansas universities; Association of Community Mental Health Centers of Kansas; First responders; city/county/district attorneys; AAAs; VA hospitals</p>
<p>Key Performance Indicators</p> <ul style="list-style-type: none"> • Number of CMHCs with navigators/staffing • Funding being allocated for senior navigators • Number of people served/utilization of services • Readmission to EDs • Recurrent maltreatment • Geographic distribution of the number of seniors served 	

- Reduction in hospitalizations
- Reduction in ANE
- Reduction in self neglect

Return to [Figure 1](#) or [Appendix C](#).

Quality of Care and Protective Services Recommendation 3.9: Statewide Needs Assessment. [Strategic Importance, Tier III]

Recommendation: Conduct a statewide abuse, neglect and exploitation (ANE) needs assessment of older adults in the state of Kansas using data from multiple systems from Department for Children and Families (DCF), Kansas Department for Aging and Disability Services (KDADS), hospitals, and the Ombudsman’s Office.	
Rationale: The working group discussed the need to identify the scope of the problems among older adults, where services are needed, how to address challenges and service gaps, and potential next steps.	
Ease of Implementation (Score 1-10): 3	Potential for High Impact (Score 1-10): 8
<ul style="list-style-type: none"> • Assessment will require additional funding. • Data silos at agencies could be a barrier. 	<ul style="list-style-type: none"> • Provides a framework and consensus on how the state should move forward and assist with action planning. • Will identify subpopulations of seniors. • Will provide data on where services are needed and current service utilization.
Action Lead: KDADS, DCF, Office of the Attorney General	Key Collaborators: DCF; KHA ; LTC Ombudsman; Office of the Attorney General Multidisciplinary Teams; KDHE; MCOs; city/county/district attorneys; AAAs
Key Performance Indicators:	
<ul style="list-style-type: none"> • Complete needs assessment 	

Return to [Figure 1](#) or [Appendix C](#).

Adult Care Home Surveys and Fines

Adult care home surveys ensure the safety and well-being of older Kansans in both state and federal licensed homes throughout the state. The working group discussed improving upon current survey processes by creating a collaborative process where facility operators are aware and able to apply for facility improvements from Civil Monetary Funds (CMPs) that are paid for certain levels of deficiencies, establishing more technical assistance components into the survey process to assist smaller or privately owned homes, and reducing monetary penalties.

Working group members kept scalability front of mind for all sized facilities and recognized that staffing levels and limited resources need to be addressed to provide an adequate level of care. The working group also hopes to improve the culture of the industry to make it less adversarial and establish a feedback loop with surveyors.

There are four recommendations for consideration.

Quality of Care and Protective Services Recommendation 4.1: Multidisciplinary Surveyors. [Immediate Action, Tier I]

Recommendation: Kansas will add non-nursing professionals to the survey teams for adult care homes and consider models of mixed professionals for regional teams.	
Rationale: The Centers for Medicare & Medicaid Services (CMS) recommends having a survey team with diverse experience, which can result in more in-depth and quality surveys. KDADS currently mostly staffs RNs to conduct surveys as it is a federal regulatory requirement to have an RN on the team. The working group recommends adding social workers and other professionals to the teams as a less expensive resource that could potentially enhance quality of life focus for residents and address complaints of abuse, neglect, and exploitation.	
Ease of Implementation (Score 1-10): 8	Potential for High Impact (Score 1-10): 8
<ul style="list-style-type: none"> Will require KDADS to individualize training based on background of surveyor during onboarding. 	<ul style="list-style-type: none"> Multidisciplinary Positions may include workers with experience in working in a LTC setting; social workers; environmental public health specialists; community health workers; and adult care home administrators and operators Indirectly, ANE and care quality issues have the potential to be improved when annual and complaint surveys can be conducted in a timely manner, adequate staffing is needed to accomplish this.

	<ul style="list-style-type: none"> • Employees are leaving the public sector in droves; costs are coming in higher to the state as private sector agencies take over supply and training for services needed and hold the state up to their fees and their numbers. • Having more staffing for surveyors will help with backlog. It will expand the profile of the teams and expand the number of possible surveyors.
Action Lead: KDADS	Key Collaborators: Legislature; Provider Representative Associations; LTC Ombudsman; Kansas Association of Social Workers (KASW); BSRB; Health Occupations Credentialing (HOC); KDADS
Key Performance Indicators: <ul style="list-style-type: none"> • Data analysis on the utilization of the resource, nature of the assistance requested, compliance survey changes of deficiencies, and increased consistency in surveyor determinations of compliance/noncompliance. • Client satisfaction, employee retention, client health outcomes. • Number of providers that engage with the new program. • Future follow-up summary reports on the cited facilities who participate. 	

Return to [Figure 1](#) or [Appendix C](#).

Quality of Care and Protective Services Recommendation 4.2: Technical Assistance. [Immediate Action, Tier II]

Recommendation: Kansas Department for Aging and Disability Services (KDADS) will create and fund a technical assistance department or technical assistance position that adult care homes can access to help with regulatory compliance, develop quality improvement, implement person-centered care practices, and write sustainable plans of correction.	
Rationale: The working group discussed the intent for the recommendation was to reinstate the historical technical assistance position that providers could call for assistance. The staff would not be part of the survey and certification team. This position would provide education/training focused assistance outside of survey practices to encourage the implementation of person-centered care practices and create an open dialogue with direct care workers and providers.	
Ease of Implementation (Score 1-10): 5	Potential for High Impact (Score 1-10): 8
<ul style="list-style-type: none"> • Reinstate historical position at KDADS. • KDADS representative indicated 	<ul style="list-style-type: none"> • Smaller nursing facilities will benefit from enhanced technical assistance to make meaningful plans of

<p>that technical assistance cannot be given for federally licensed facilities due to conflict of interest since surveyors determine compliance.</p> <ul style="list-style-type: none"> • KDADS would need to establish an FTE, which may be costly. 	<p>correction.</p> <ul style="list-style-type: none"> • This would be a significant help on many levels, including addressing the related recommendations (use of psychotropics, increasing pay for surveyors). If adult care homes have fewer deficient practices, care improves, surveys will take less time, and fewer resurveys will be needed. • Better facilities, better services provided, happier environments for residents, staffs and corporate officers
<p>Action Lead: KDADS (historical position exists)</p>	<p>Key Collaborators: Nursing facility administrators; MCO's; KHCA/KCAL; LeadingAge Kansas; LTC Ombudsman; Nursing Home Administration Association; KFMC; KACE; KABC</p>
<p>Key Performance Indicators:</p> <ul style="list-style-type: none"> • Homes that receive assistance • Process (number of phone calls, emails, and trends; evaluation of improved surveys among those who have utilized this new resource) • Education around availability of resource for use by adult care homes • Hiring and sustaining position at KDADS • Improved surveys 	

Return to [Figure 1](#) or [Appendix C](#).

Quality of Care and Protective Services Recommendation 4.3: Corrective Plans. [Strategic Importance, Tier II]

<p>Recommendation: Kansas Department for Aging and Disability Services (KDADS) will use directed plans of correction and education as remedy for infractions to allow system-level implementation that is meaningful and sustainable.</p>
<p>Rationale: The duration for how long a facility can submit a plan of correction for nursing facilities is set federally at 10 days to submit the plan and 30 days to implement the plan. A directed plan of correction is an enforcement remedy that identifies actions facilities must take in response to a deficiency. Directed plans of correction could harness a full spectrum of tools to assist adults care homes in achieving compliance. The working group members recommend KDADS expand their use of directed plans of correction, which are currently required for infection survey control violations. Members also discussed the potential for surveyors to administer the SMART (Specific, Measurable, Achievable, Relevant, Time Bound) framework for corrective plans and consider education in place of citations.</p>

Ease of Implementation (Score 1-10): 8	Potential for High Impact (Score 1-10): 8
<ul style="list-style-type: none"> • The mechanisms that may affect the achievability of the recommendation include administrative changes and agency budget development. • Implement an FTE for each region 	<ul style="list-style-type: none"> • Meaningful and sustainable plans of correction will be more likely to foster intended improvements in care and survey compliance. • Giving the adult care home administrations reliable support could improve attitudes around the survey process and will work on making positive changes.
Action Lead: KDADS and Legislature (statute change)	Key Collaborators: Adult care home Administrators; CMS
Key Performance Indicators: <ul style="list-style-type: none"> • How often plan of correction implemented • Time between deficiency and compliance • Which regulations require use of directed plans of correction 	

Return to [Figure 1](#) or [Appendix C](#).

Quality of Care and Protective Services Recommendation 4.4: Adult Care Home Survey Website. [Strategic Importance, Tier II]

<p>Recommendation: Develop a publicly accessible state website with adult care home survey results, providing information including, but not limited to, survey frequency, levels of harm, role of staffing and staff competence, quality measures, and MCO health plans accepted at adult care homes. The website shall be updated semi-annually.</p> <ul style="list-style-type: none"> • KDADS will re-implement the Exemplary Care Program to identify exemplary care systems in specific areas of quality of life and care and acknowledge excellence of facilities' care and management, develop incentives or recognition for well-performing facilities, and issue a publication recognizing high-performing facilities. • KDADS shall include poor performing homes and homes experiencing financial hardship on the state website. • KDADS will indicate any facility in state receivership and under the operation of the Secretary for Aging and Disability Services. • KDADS will indicate ownership or recent changes in ownership. • KDADS will link to current CMS Nursing Home Care Compare Public Website.
<p>Rationale: Individuals and families need accurate and reliable information when searching for an adult care home that best fits their needs. The working group recommends linking to existing information while also enhancing information on the state-based site such as exemplary facilities, accepted health plans, financial health and so forth. Members also</p>

discussed lags in the CMS website and the feasibility of more timely updates on a state-based site.	
Ease of Implementation (Score 1-10): 5	Potential for High Impact (Score 1-10): 7
<ul style="list-style-type: none"> • May require regulatory changes. • Costs associated with staffing, collection of data, maintenance. • CMS already has a publicly accessible website (Care Compare) with the information noted in the recommendation, and framework could be used for state website. • Modernizing the program previously in place should save considerable set-up time and adding the technologic advances in reporting should help as well. 	<ul style="list-style-type: none"> • It is important that up-to-date information is provided for families making placements amidst a crisis-placement scenario. • Health safety citations quickly add up to bring down ratings, and rating results are not updated in a timely manner for consumers to make informed decisions online. • Reliable, one stop website to find the best fit for families and individuals.
Action Lead: KDADS and Legislature (appropriations)	Key Collaborators: MCOs (for state plan data that each facility accepts); LTC administrators; LTC associations
Key Performance Indicators: <ul style="list-style-type: none"> • Number of clicks • Number of unique users • Timeliness of information 	

Return to [Figure 1](#) or [Appendix C](#).

Access to Services Working Group (WGB)

A robust network of direct-care and aging services is one where older Kansans, their families, and caregivers can access an array of services statewide. Establishing and promoting this network of services will involve collaboration between state and local entities, timely and consistent updating of current services and increased funding to provide the option for older adults to remain in their homes and community.

The working group discussed and made recommendations recognizing the ongoing importance of continuously improving service navigation and addressing gaps in services based on health coverage and Medicaid waiver eligibility, geographic location, and provider availability. Steps to develop, coordinate, and continuously improve the state's direct-care and aging services system include increasing reimbursement rates to providers, enacting plans and previous recommendations proposed by earlier groups, expanding the PACE program model to all areas of the state, and increasing funding for the Senior Care Act.

Recommendations

The recommendations are prioritized into three tiers under each assigned area of focus. Items highlighted for immediate action are recommendations that should be completed within the first two years of the strategic plan. Items of strategic importance are recommendations for which work should begin in the near-term but will take longer to implement. The group prioritized recommendations by reviewing their potential to assist seniors to remain in their homes and communities. The working group has a total of 19 recommendations for consideration.

Provision of Care for Seniors in Kansas Who Suffer From Alzheimer's Disease, Dementia, or Age-Related Mental Health Conditions

The access to services working group identified existing recommendations related to this topic area from the Alzheimer's Disease Task Force and State Plan. The working group emphasized the importance of preventing negative behavioral health outcomes that may result from Alzheimer's and dementia and other age-related mental health conditions which are not grouped with either disease and often result from existing conditions or acute conditions. Optimizing care for older adults with dementia across the state will result from equipping providers and direct-care staff with the tools they need to care for older adults in their community.

There are three recommendations for consideration for this topic.

Access to Services Recommendation 5.1: State Advisory Council. [Immediate Action, Tier I]

<p>Recommendation: Reactivate the State Aging Advisory Council, which includes representatives of supportive services and provider organizations. Strongly recommend it mirror the federal composition of the Area Agencies on Aging (AAA) advisory council defined in the Older Americans Act, with membership composed of more than 50 percent older adults, including populations of focus who are participants or who are eligible to participate in programs under this section of the Act; representatives of older adults; representatives of AAAs, representatives of healthcare provider organizations, including providers of veterans' healthcare; representatives of supportive services provider organizations; persons with leadership experience in the private and voluntary sectors; elected officials; representative from Alzheimer's Association; and the public.</p>	
<p>Rationale: The Older Americans Act was enacted by Congress in 1965 and requires the role of an Advisory Council. The role of the council is to advise and assist KDADS on all matters related to the special needs of older adults residing in Kansas while advising and advocating for the development and provision of effective programs and services to promote and maintain optimal independence. Kansas historically had a council, which has lapsed in recent years.</p>	
<p>Ease of Implementation (Score 1-10): 10</p>	<p>Potential for High Impact (Score 1-10): 9</p>
<ul style="list-style-type: none"> Ongoing meetings with the council will ensure issues are being recognized and addressed in a timely manner. 	<ul style="list-style-type: none"> Anytime the industry listens to those being served, it creates a high impact.
<p>Action Lead: KDADS</p>	<p>Key Collaborators: AAAs; providers</p>
<p>Key Performance Indicators:</p> <ul style="list-style-type: none"> Establish council membership Holding regular meetings, and meeting attendance Annual or bi-annual report to Governor 	

Note: "Populations of Focus" are populations that are at a higher risk for poor health as a result of the barriers they experience to social, economic, political and environmental resources, as well as limitations due to illness or disability. Populations may include racial and ethnic groups, including persons of Black, American Indian or Alaska Native, Asian, and Native Hawaiian or Other Pacific Islander races and persons of Hispanic ethnicity; rural/urban residents; children; pregnant women; persons who are LGBTQIA+; older adults; persons with chronic illnesses; persons with housing instability or who are homeless; immigrant populations; displaced persons; persons with limited English proficiency; persons with low literacy; persons with low income; persons with disabilities; and others.⁹
 Return to [Figure 1](#) or [Appendix C](#).

Access to Services Recommendation 5.2: Dementia and Alzheimer’s Disease Coordinator. [Immediate Action, Tier I]

<p>Recommendation: Establish a permanent, full-time Dementia and Alzheimer’s Disease Coordinator position at Kansas Department for Aging and Disability Services (KDADS) with the following roles and responsibilities:</p> <ul style="list-style-type: none"> • Serve as federal and state liaison and training administrator at KDADS. • Use Civil Monetary Penalty (CMP) funds to provide advanced dementia care training for all full-time and temporary staff in all facilities, including those not participating in the Title 18 and Title 19 program, and oversee the implementation and updating of the State Alzheimer’s Disease Plan. • Coordinate Alzheimer’s and dementia work groups and task forces to establish and maintain relationships with all relevant state agencies and community organizations to meet community needs and prevent duplication of services; evaluate existing Alzheimer’s and dementia programs and services; and identify service gaps within the state government. • Collaborate with Alzheimer’s Association. 	
<p>Rationale: Establishing an FTE to serve as the state Dementia and Alzheimer’s Disease Coordinator was a recommendation put forth by the Alzheimer’s Association State Plan and Alzheimer’s Disease Task Force.</p>	
<p>Ease of Implementation (Score 1-10): 2</p>	<p>Potential for High Impact (Score 1-10): 10</p>
<ul style="list-style-type: none"> • New position will be more difficult to establish. • Funding to implement position may be challenging and will require funds allocated from the KDADS budget. • Recruiting and onboarding an FTE will be difficult due to current workforce challenges. 	<ul style="list-style-type: none"> • Will benefit all seniors living in Kansas, especially those with Alzheimer’s and their caregivers.
<p>Action Lead: KDADS</p>	<p>Key Collaborators: Alzheimer’s Association; caregivers; community members</p>
<p>Key Performance Indicators:</p> <ul style="list-style-type: none"> • Full implementation of programs under the coordinator’s responsibility • Establishment of the position, and ongoing staffing of the position 	

Return to [Figure 1](#) or [Appendix C](#).

Access to Services Recommendation 5.3: Alzheimer’s State Plan and Task Force. [Immediate Action, Tier III]

<p>Recommendation: Implement the Alzheimer’s Association State Plan and Alzheimer’s Disease Task Force recommendations and join in support of other organizations and</p>
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<p>agencies also concerned with increasing demands for services to conduct data analysis on the service system for capacity, staffing, and funding to meet the increasing demands for services as the population ages. The Alzheimer’s Association shall present to the Legislature once each legislative session.</p>	
<p>Rationale: The working group discussed the Kansas Alzheimer’s State Plan and Task Force recommendations, which would be used as a framework to implement an action plan. In January, the Task Force outlined key facts on the prevalence and expected incidences of Alzheimer’s in Kansas. As of January 2020, there are 54,000 Kansans aged 65 years and older living with the disease, and 62,000 by the year 2025. According to the state plan, Kansas spent \$441 million in Medicaid on individuals with this disease in 2019 and these costs are expected to increase 21.7 percent from 2019 to 2025. See recommendations from the 2020 Kansas Alzheimer’s Disease Plan.¹⁰</p>	
<p>Ease of Implementation (Score 1-10): 4</p>	<p>Potential for High Impact (Score 1-10): 7</p>
<ul style="list-style-type: none"> • Hosting ongoing meetings will ensure continuity of the recommendation. 	<ul style="list-style-type: none"> • If implemented, older Kansans with Alzheimer’s will be better served and able to remain in community longer.
<p>Action Lead: KDADS</p>	<p>Key Collaborators: Alzheimer’s Association; state associations; caregivers; community members</p>
<p>Key Performance Indicators:</p> <ul style="list-style-type: none"> • Number of recommendations implemented • Assessment of older adults who need more intensive supports • Ongoing data presented to Legislature 	

Return to [Figure 1](#) or [Appendix C](#).

Rebalancing of Home and Community-Based Services

Allowing older adults to age in place, meaning to remain in their homes and communities longer, is crucial for improved quality of life and will provide additional cost savings to the state. Older adults may be able to remain in their homes by utilizing home and community-based services through private pay or Medicaid waiver home and community based services (HCBS). Both options are designed to allow older adults to remain in their home or in communities to receive care instead of in an adult care home. (The Senior Care Act also provides support for in-home services; see page 47 or related recommendations.) Families of older adults also may prefer their loved ones to age in environments in which they are familiar and comfortable.

There are five recommendations for consideration.

Access to Services Recommendation 6.1: Modify Medicaid Waivers. [Strategic Importance, Tier II]

Recommendation: The Legislature should explore the modification of all Medicaid waivers as applicable to those age 60 and older to provide more aging services such as home-delivered meals, case management, access to technology and training. In addition, ensure those on the I/DD waiver age 65 and older also are offered services available to those on the Frail Elderly (FE) waiver.

- ~~Add home-delivered meals to the Frail Elderly (FE) Home and Community Based Services (HCBS) waiver for Kansans aged 65 and older and the Intellectual/Developmental Disabilities (I/DD) waiver for those age 60 and older.~~
- ~~Ensure services under the Frail Elderly (FE) waiver are structured to meet the needs of Kansans aged 65 and older who also are on the Intellectual/Developmental Disabilities (I/DD) waiver.~~
- ~~Add case management services to the HCBS Frail Elderly (FE) waiver for Kansans aged 65 and older, and the Physical Disability (PD) and Brain Injury (BI) waiver for those age 60 and older.~~
- ~~Include access to technology and training on how to use technology as an MCO member benefit for those receiving HCBS services.~~

Rationale: The aim of the recommendation is to add more Kansans who are KanCare eligible, but not currently utilizing services, and if waiver services are expanded, to improve system capacity. While this recommendation would require an amendment proposed by KDHE's Medicaid program to the Legislature, it would not be contingent on Medicaid expansion. Working group members also discussed and recommend expanding use of SMART home technology would be a large benefit to seniors who wish to remain in their homes and communities. Currently, there is no stipulation in waivers to pay for evaluation and technology assistance training for people to not be reliant on staff and to be more

independent. This effort would need to be conducted by MCOs who wish to implement this benefit for Medicaid waiver recipients.	
Ease of Implementation (Score 1-10): 2	Potential for High Impact (Score 1-10): 10
<ul style="list-style-type: none"> • Will require amendment to KanCare program. • Will require increased funding to the KanCare program. 	<ul style="list-style-type: none"> • Expanding these services and waivers have a high impact for quality and availability for services for those 60 and older. • Waiver services may allow for seniors to remain in their homes and communities longer and out of facilities.
Action Lead: KDHE and KDADS; Legislature (statute change; state plan amendment)	Key Collaborators: k4ad; AARP; Kansas Hospital Association; Kansas Healthcare Association; MCOs; KABC; LeadingAge Kansas; KACE; KHCA/KCAL; InterHab; CDDOs
Key Performance Indicators: <ul style="list-style-type: none"> • Changes in HCBS waivers to add additional services • Increase in utilization of services (by those living in community versus facility; may receive information from case management component on where seniors are referred) 	

Return to [Figure 1](#) or [Appendix C](#).

Access to Services Recommendation 6.2: Promote Home and Community-Based Services. [Immediate Action, Tier II]

<p>Recommendation: Promote awareness of home and community-based services available now for older Kansans by,</p> <ul style="list-style-type: none"> • Educating staff of private and public services about programs available to seniors to enable home-based care and services. • Collaborating with MCOs to promote awareness of HCBS options including training of providers and community outreach. • Improve marketing of the Statewide Aging and Disability Resource Center (ADRC) phone number to access information on HCBS, PACE and other options for long-term care across the state. • Kansas Department for Aging and Disability Services (KDADS) will reinstitute the Explore Your Options (EYO) resource guide and work with the AAAs to gather resource information in the 11 Planning and Services Areas that each AAA serves. EYO's will be published online, and printed copies will be provided to the AAA's for distribution for individuals who do not have internet access. Consider marketing at Recommendation 1.1: Statewide Aging Conference. • Developing a web-based, interactive mapping tool showing providers and services available across the state.
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<ul style="list-style-type: none"> • Providing a list to consumers and professionals of Kansas physicians, mental health professionals, telehealth and dental providers that provide aging services into an informational packet to be distributed across the state and online, with additional instruction for accessing services for adult care homes, caregivers and in-home residents. List shall be updated every 2-3 years. 	
<p>Rationale: Working group indicated it is a critical need for older adults and caregivers to know where to access service information and resources when the need for long-term supports and services arise. The lack of access to reliable, up-to-date, and accurate information between agencies and to consumers can be frustrating and may be harmful to seniors and their families. New or developing programs and services to the public and private entities must be offered and marketed effectively and in a timely manner.</p>	
<p>Ease of Implementation (Score 1-10): 7</p> <ul style="list-style-type: none"> • Cost to create, print, and maintain the EYO Resource Guide will be a barrier to implementation. • Includes strategies for continuity by providing an updated guide for service offerings in Kansas. 	<p>Potential for High Impact (Score 1-10): 8</p> <ul style="list-style-type: none"> • Caregivers and professionals who serve older adults will be impacted due to increased awareness of where services are offered.
<p>Action Lead: KDADS; Legislature (appropriations)</p>	<p>Key Collaborators: k4ad; AAAs; hospital discharge staff, nurses, and social workers; NH discharge planners, MCOs; KABC; LeadingAge Kansas; KACE; KHCA/KCAL; AARP Kansas</p>
<p>Key Performance Indicators:</p> <ul style="list-style-type: none"> • Develop marketing campaign and assess its effectiveness • Increase calls to ADRC call center • Number of clicks or views on the EYO Resource Guide page. 	

Return to [Figure 1](#) or [Appendix C](#).

Access to Services Recommendation 6.3: Transition Services [Strategic Importance, Tier II]

<p>Recommendation: Develop an array of options to provide transition-related aging services.</p> <ul style="list-style-type: none"> • Kansas should apply for the federally funded, Money Follows the Person (MFP) Program to assist with transitions for individuals wanting to move back to the community. • PACE and other transitioning service models will be utilized for transitioning individuals with dementia and older adults between homes, private homes, community homes, assisted living, and adult care homes with skilled care to provide transition planning for seniors, their family, and caregivers in long-term care, home health, and for seniors in general that will include nurses and direct care staff to make the adjustment safer and less stressful for all, with consideration for rural parts of state where PACE model doesn't exist.
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<ul style="list-style-type: none"> • Add transition case management services through the Aging and Disability Resource Center (ADRC) to assist caregivers and older adults who wish to live remain in their own homes and choose not to enter live in an adult care home or long-term care environment and for older adults who need assistance as they onboard or transition to higher acuity care, such as Home Plus or Assisted Living. 	
<p>Rationale: Transition services are necessary to safely assist older adults with transitions between homes. Working group members discussed historic programs and other efforts that could be leveraged to provide transition services. The Money Follows the Person is a federal Medicaid program designed to move elderly adult care home residents out of adult care homes and back into their own homes or community-based settings. Kansas no longer has funding from this federal program. The working group also discussed limitations for rural and frontier parts of the state where PACE centers are not available or are located too far for older adults to access services.</p>	
<p>Ease of Implementation (Score 1-10): 3</p>	<p>Potential for High Impact (Score 1-10): 10</p>
<ul style="list-style-type: none"> • Considered a program overhaul, where adding case management services would be a new addition for ADRCs. • Cost may be a barrier to implementation and staff would need to apply for the federal MFP Program. 	<ul style="list-style-type: none"> • Will impact individuals who seek community-based care and assist older adults and caregivers in rural and frontier parts of state lacking a PACE Center. • Will improve access to resources for older adults to remain in their home and community longer.
<p>Action Lead: KDADS and Legislature</p>	<p>Key Collaborators: Legislature; KDHE; ADRC; KHCA; Centers for Independent Living; LTC Ombudsman; MCOs; LeadingAge Kansas; KABC; KACE; KHCA/KCAL</p>
<p>Key Performance Indicators:</p> <ul style="list-style-type: none"> • Service utilization • Calls to the ADRC 	

Return to [Figure 1](#) or [Appendix C](#).

Access to Services Recommendation 6.4: Affordable Housing [Immediate Action, Tier I]

<p>Recommendation: Encourage Recommend collaboration to invest in housing options to increase the availability of accessible, affordable housing options for older adults.</p>	
<p>Rationale: Affordable housing is a challenge for older adults. The working group discussed models of collaboration that may be used to assist seniors transitioning from a facility or for seniors who may have to enter a facility due to rising costs of owning and renting a home.</p>	
<p>Ease of Implementation (Score 1-10): 8</p>	<p>Potential for High Impact (Score 1-10): 9</p>

<ul style="list-style-type: none"> • Would require a pilot program • Collaboration would be ongoing to address the rising price of rent and home ownership. 	<ul style="list-style-type: none"> • Will allow seniors to remain in their home and communities longer. Those with I/DD and physical disabilities will also benefit.
<p>Action Lead: Kansas Housing Resources Corporation; Legislature (statute or other change)</p>	<p>Key Collaborators: Financial institutions; bankers; Housing and Urban Development (HUD); Housing Commission; landlords with success in section 8; Kansas county and geographic-based landlord associations; community development; community planners; HOAs; neighborhood associations; Kansas Department of Commerce; local housing authorities; Habitat for Humanity and like organizations; Kansas Association of Realtors; Kansas Real Estate Commission; AARP Kansas</p>
<p>Key Performance Indicators:</p> <ul style="list-style-type: none"> • Increase in affordable housing • Consumer Price Index (CPI) as baseline data • Increase in home and community-based service utilization • Landlords and associations participating in this initiative 	

Return to [Figure 1](#) or [Appendix C](#).

Access to Services Recommendation 6.5: Tiered Levels of Services [Strategic Importance, Tier III]

<p>Recommendation: Explore utilizing the Functional Assessment Instrument (FAI) to create tiered level of services for clients in assisted living and Home Plus.</p>	
<p>Rationale: The Kansas Health Care Association (KHCA) piloted the FAI and evaluated scores for those on Medicaid HCBS to determine allocations and create tiers. Providers that report to KHCA indicated that a tiered system would incentivize providers to participate in Home Plus and assisted living. KDHE would need to explore state plan amendment.</p>	
<p>Ease of Implementation (Score 1-10): 5</p>	<p>Potential for High Impact (Score 1-10): 8</p>
<ul style="list-style-type: none"> • Ease of implementation depends on MCO involvement • Cost will not be a barrier to implementation 	<ul style="list-style-type: none"> • Recommendation will impact low-income individuals and older adults that need more supervision and less hands-on physical care. • Recommendation would result in high impact for seniors seeking HCBS services.

Action Lead: KDADS; KDHE	Key Collaborators: MCO; Kansas Hospital Association (KHA); KHCA ; LeadingAge Kansas; KACE; KABC; KHCA/KCAL
Key Performance Indicators: <ul style="list-style-type: none"> • Increased number of HCBS providers and participants 	

Return to [Figure 1](#) or [Appendix C](#).

Senior Daycare Resources in the State of Kansas

In the last decade, the number of adult day service providers for older adults has decreased across the state due to inadequate funding, population density and the use of medical models of care where social models of care are needed to entice and retain older adults interested in this service (see *Figure 3*). In state fiscal year 2021, during the COVID-19 pandemic, four providers provided adult day care services to 13 unduplicated beneficiaries on the HCBS Frail Elderly Medicaid waiver: Catholic Charities Inc Day Care Services, Hmong Adult Day Care, Johnsonville Home LLC and Sunflower Adult Day Services Inc.

There are five recommendations for consideration.

Figure 3. Number of Senior Care Facilities Opened and Closed by Year and Types, 2012-2022

Facilities Opened by Year and Type

Count of Facility Name Row Labels	Column Labels											Grand Total	
	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022		
Adult Day Care ADC		1	2						1			4	
Assisted Living Facility ALF		3	5	4	2		5	1	1	2		23	
ALF/Home Plus/ADC											1	1	
ALF/RHCF				1	1	2					1	5	
Boarding Care Home BCH	1	1										2	
Home Plus	11	18	16	15	11	15	15	21	11	13	1	147	
Nursing Facility NF	2	2	3	2				1	2	1		13	
nf/ALF			1		1	4		2	1			9	
NF/RHCF/ALF				1								1	
Residential Health Care Facility RHCF		3	1	2		1	2	2	1	1		13	
RHCF/ADC											1	1	
Grand Total		21	30	26	21	17	24	21	27	15	16	1	219

Facilities Closed by Year and Type

Count of Facility Name Row Labels	Column Labels											Grand Total	
	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022		
ADC		1	2	3	1	3	1	1			1	13	
ALF		1		1	1	1	1	1	2	1	1	10	
BCH		3	4		1	1		1	1	1		12	
Home Plus		9	8	6	16	5	9	9	5	9	5	3	84
NF		1	1	5	6	5	5	5	5	4	6	43	
nf/alf						1						1	
nf/RHCF		1				1						2	
RHCF		1		4	2	3		2	1	1		14	
Grand Total		17	15	19	27	20	16	19	14	16	13	3	179

Source: Kansas Department for Aging and Disability Services.

Access to Services Recommendation 7.1: Adult Daycare Reimbursement Rates. [Immediate Action, Tier II]

<p>Recommendation: The State of Kansas should increase funding and reimbursement rates to adult day care services and Intellectual/Developmental Disabilities (I/DD) day services providers to increase staffing and provide more opportunities to serve people aged 60 and older in their homes during the day in lieu of going to a facility.</p> <ul style="list-style-type: none"> • Increase awareness and education for I/DD day service providers who have an older adult program to also serve older adults from the general population to increase accessibility for seniors without I/DD. 	
<p>Rationale: It is challenging to integrate services for the older I/DD population because of different care needs and the resistance from older adults to be in a mixed care setting. Hence, innovative solutions to leverage existing resources may be needed to meet the growing aging population. In addition, the working group discussed in-home alternatives for day services that were offered during the pandemic and allowing those services to continue for those older adults who do not wish to or may not be able to leave their homes.</p>	
<p>Ease of Implementation (Score 1-10): 3</p>	<p>Potential for High Impact (Score 1-10): 6</p>
<ul style="list-style-type: none"> • I/DD senior day programs and PACE programs are already established but bringing the two types of programs together and finding the funding to increase reimbursement rates are challenges. • Providers will have to be trained on serving older sub-populations and their specific needs. • Getting state funding and increasing staff may be challenging. 	<ul style="list-style-type: none"> • For those who are considered private pay, it would be helpful to avoid LTC placement out of home. • Not all I/DD providers with day services have the capacity to implement a senior day program.
<p>Action Lead: KDADS</p>	<p>Key Collaborators: I/DD providers who support older adults; PACE providers; KDHE; Legislature; adult day service providers; AAAs; potential candidates for adult day services providers; religious and community-based organizations; veterans organizations and associations</p>
<p>Key Performance Indicators:</p> <ul style="list-style-type: none"> • Number of people served • Number of new providers for this service as baseline data and corresponding reimbursement rates • Increase in budget • Utilization of outpatient and day services in communities • Reimbursement rates are increased 	

Return to [Figure 1](#) or [Appendix C](#).

Access to Services Recommendation 7.2: **Promote PACE Program Growth [Strategic Importance, Tier I]**

Recommendation: The State of Kansas should promote increasing access to PACE in rural parts of the state to serve as a hub to administer social models of adult day services that focus on person-centered care for the needs of older adults and increase the eligibility criteria for the program area.

- Provide financial incentives to rural hospital outpatient services to be PACE provider in smaller communities.

~~Expand the PACE program in underserved areas of Kansas to serve as a hub to administer social models of adult day services that focus on person-centered care for the needs of older adults and increase the eligibility criteria for the program area. Expand reach of the current PACE program, and other providers, to transport services and workers to those being served in-home, utilizing general transportation systems already in the area to get those skilled people and their equipment out to the homes, when necessary, to minimize costs and expand accessibility.~~

Rationale: The PACE program is designed to promote the provision of quality, comprehensive health services for older adults. Most services are provided in-home and at the PACE Center. Currently, 850-900 Kansans are served by a PACE program across 23 counties, with an increase of 150-200 participants in the last two years. However, service areas are limited and would need to be expanded to allow a PACE provider to be established in these areas, or to have existing PACE centers travel to administer services. PACE models are difficult to implement in rural and frontier areas due to low population density, coupled with workforce shortages and the costs of the service. For communities that are unaware of PACE or have never utilized services, existing transportation services could participate in helping implement and maintain a reliable service (e.g., Meals on Wheels, public transit, faith-based organizations).

Ease of Implementation (Score 1-10): 5

Potential for High Impact (Score 1-10): 9

- Requires communication and in-person visits to see what the situations in communities are to understand the obstacles to establishing PACE.
- Will require many partners and investment to increase the reach of the PACE model across the state.
- May utilize community transportation vans, senior center vehicles, and Red Cross transport programs for this effort.

- Expansion of the proven PACE program allows more seniors to have access to day services in rural and frontier areas of Kansas.
- Transportation is a huge barrier for many older adults, especially in rural or remote areas. This would help people remain in their preferred setting longer.

<ul style="list-style-type: none"> • Low population density increases costs, workforce shortages make it hard to staff services in the rural and frontier areas of Kansas 	
<p>Action Lead: KDADS, current PACE programs</p>	<p>Key Collaborators: U.S. Department of Health and Human Services (HHS); Alzheimer’s; charitable healthcare organizations; KDHE; home health agencies; county health departments; hospital outpatient professionals; technical or community colleges; home health agencies; local health departments; KDOT; Legislature; CMHCs; senior associations; gerontology experts; local health clubs; outpatient therapy clinics; AAAs</p>
<p>Key Performance Indicators:</p> <ul style="list-style-type: none"> • Number of new programs • Number of counties served by PACE programs • Number of people served • Decrease in ED visits • Decrease in ANE reports due to improved care • More PACE programs that cover more geographical areas of the state • Improved health and happiness for seniors, families, and staff • Transportation data – (e.g., how many rides x specific time) 	

Return to [Figure 1](#) or [Appendix C](#).

Access to Services Recommendation 7.3: Adult Daycare Locations. [Strategic Importance, Tier III]

<p>Recommendation: The State of Kansas will provide grants for senior centers, housing providers and assisted living providers to retrofit or establish space appropriate for adult day centers. In addition, expand reach of the current PACE program, and other providers, to transport services and workers to those being served in-home, utilizing general transportation systems already in the area to get those skilled people and their equipment out to the homes, when necessary, to minimize costs and expand accessibility.</p>	
<p>Rationale The working group recommends collaboration across appropriate state agencies to improve cross-communication with one another and the public and private sectors. In addition, the aim would be to provide funding and oversight using state grants or other incentives.¹¹</p>	
<p>Ease of Implementation (Score 1-10): 3</p>	<p>Potential for High Impact (Score 1-10): 8</p>

<ul style="list-style-type: none"> • The continuity is dependent on the follow-through by the State. • Involves finding money via grants. • Many senior centers are managed by volunteers and may not have the capacity – both staffing and space –to become a day care. 	<ul style="list-style-type: none"> • In rural areas the low numbers of individuals who would be served would be a barrier for providers who would struggle to cover costs of service provision. • Will allow for seniors to remain in their home and communities.
<p>Action Lead: KDADS; Legislature (appropriations)</p>	<p>Key Collaborators: Legislature; KDHE; Governor;; service providers; charitable organizations that help with housing adaptabilities in communities; KAC; AAAs; k4ad; local councils on aging; I/DD providers</p>
<p>Key Performance Indicators:</p> <ul style="list-style-type: none"> • Number of new day programs established • Number of older adults served • Reduction in adult care home utilization • Increased enrollments at day centers, independent resource centers, satisfaction survey utilization at sites • Increased attendance and use of adult daycare spaces. Increased number of adult daycare spaces 	

Return to [Figure 1](#) or [Appendix C](#).

Access to Services Recommendation 7.4: Community Partners Pilot. [Strategic Importance, Tier III]

<p>Recommendation: Encourage Senior Centers to collaborate with community partners who also provide day services (e.g., childcare) and involve non-traditional stakeholders such as business leaders to develop pilot programs for service recipients that address health, oral health, technology use, and other topics. A planned timeline from development shall be five years from onset of fact-finding studies to full implementation of the improvements offered. Official reports will be made to the State every two years to measure progress.</p>	
<p>Rationale: Local attention by investors and business leaders in communities may improve the quality of life for seniors in their communities and their families.</p>	
<p>Ease of Implementation (Score 1-10): 3</p>	<p>Potential for High Impact (Score 1-10): 8</p>
<ul style="list-style-type: none"> • Will require a pilot program to establish and recruit members of public and private sectors. • Innovation takes time and effort. • Will require funding. 	<ul style="list-style-type: none"> • Will benefit overall well-being, increase knowledge and awareness about health issues and available technology.

	<ul style="list-style-type: none"> • Will assist with low workforce numbers.
Action Lead: KDADS	Key Collaborators: Community healthcare centers; local chambers; KDHE; bankers; financial institutions; housing agencies; local health departments; technical schools; colleges; AAA; community businesses such as healthcare / technology; non-traditional stakeholders; and day providers; charitable and religious organizations; Senior centers; local community coalitions
Key Performance Indicators: <ul style="list-style-type: none"> • Official reports will be made to the state every two years to measure progress. • Decrease in LTC admissions for seniors • More opportunities for interaction with others • Caregiver supports • Programs are created 	

Return to [Figure 1](#) or [Appendix C](#).

~~Access to Services Recommendation 7.5: Adult Daycare Volunteers. [Immediate Action, Tier III]~~ (Recommendation combined with **Recommendation 9.9: Identify Future Workforce**)

Return to [Figure 1](#) or [Appendix C](#).

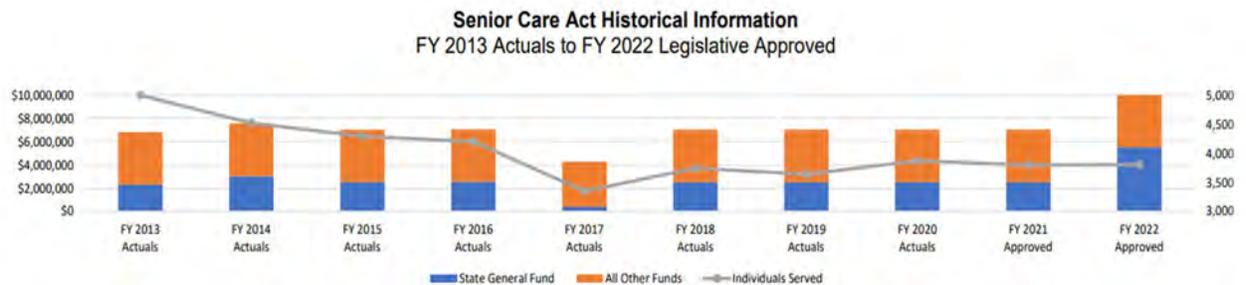
Funding and Implementation of the Senior Care Act (SCA)

The Senior Care Act (SCA) is a valuable funding source administered by the state Legislature and managed by the 11 Area Agencies on Aging (AAAs), serving 3,731 seniors in urban, rural, and frontier areas of the state. The SCA provides in-home services to persons who contribute to the cost of services based on their ability to pay. *Figure 4*, shown below, provides historical funding information for the SCA and individuals served. The 2022 Legislature approved an additional \$3.0 million State General Funds (SGF) in fiscal year (FY) 2022 to increase the funding for SCA services. This increases the funding for SCA services to \$10.0 million. The budget for FY 2023 remains the same as FY 2022 at 10.0 million.

Figure 4. Senior Care Act Historical Funding Information, FY 2013-2022

Funding for Senior Care Act

Individuals Served



	FY 2013 Actuals	FY 2014 Actuals	FY 2015 Actuals	FY 2016 Actuals	FY 2017 Actuals ¹	FY 2018 Actuals	FY 2019 Actuals	FY 2020 Actuals	FY 2021 Approved ²	FY 2022 Approved
Performance Measures										
Individuals Served	5,000	4,516	4,292	4,201	3,351	3,743	3,637	3,873	3,800	3,801 ³
Funding for the Senior Care Act										
State General Fund	\$2,309,565	\$3,026,799	\$2,517,872	\$2,547,848	\$415,000	\$2,515,000	\$2,515,000	\$2,515,000	\$2,515,000	\$5,515,000
Social Services Block Grant	4,500,000	4,542,935	4,500,000	4,500,000	3,857,980	4,500,000	4,500,000	4,499,999	4,499,999	4,499,999
Total Funding	\$6,809,565	\$7,569,734	\$7,017,872	\$7,047,848	\$4,272,980	\$7,015,000	\$7,015,000	\$7,014,999	\$7,014,999	\$10,014,999

¹ In May 2016, the Governor allotted \$250,000 from Senior Care Act services for FY 2017. During the next budget cycle (FY 2017, FY 2018, and FY 2019), the agency shifted \$1.8 million SGF from Senior Care Act services to other programs. The 2017 Legislature subsequently added \$2.1 million SGF for Senior Care Act services for FY 2018 and FY 2019.

² The 2020 Legislature added \$3.0 million SGF for Senior Care Act services for FY 2021. However, those funds were subsequently allotted due to low projected SGF balances by the Governor's June 25, 2020 Allotment Plan.

³ The number of individuals served for FY 2022 is an estimate the agency submitted in its budget submission for the 2021 Session. The number of individuals served is based off of the original request of \$2.5 million SGF, prior to the 2021 Legislature adding an additional \$3.0 million for Senior Care Act services.

Source: Kansas Department for Aging and Disability Services.

Themes that arose during recommendation development include the burden for long-term care facilities, insufficient SCA funding, and concern there would not be enough services for baby boomers relying on SCA funds by 2030. The working group identified a need for ongoing evaluation of the SCA program for service utilization; raising reimbursement rates for participating providers and recruiting more providers; increasing the one-time only service caps to coincide with the 2022 Governor's budget recommendation to increase the Medicaid lifetime

service cap for services; amending the act to allow for start-up costs for technology devices and enhancements; and publishing an Elder Count Book to reflect demographics of older adults and service offerings in Kansas.

There are six recommendations for consideration.

Access to Services Recommendation 8.1: Incentivize Providers. [Immediate Action, Tier I]

<p>Recommendation: The State of Kansas with the Kansas Association of Area Agencies on Aging and Disabilities (k4ad) will expand flexibility to incentivize providers via raising reimbursement rates to use the Senior Care Act program for services that promote choice, increased independence, and assist with overcoming unique challenges in rural and urban areas.</p> <ul style="list-style-type: none"> • Kansas Department for Aging and Disability Services (KDADS) will provide budget justification for increased plan of care costs due to raising reimbursement rates. • Require providers to pass on rate increases to workers to retain workforce. • KDADS will lead recruitment of providers to provide respite services; providers will develop respite services; AAAs will market those services. 	
<p>Rationale: The 2022 Legislature approved an additional \$3.0 million State General Funds (SGF) in fiscal year (FY) 2022 to increase the funding for SCA services. This recommendation would use existing Senior Care Act funds to implement using a stipulation in contracts about raising rates and designating rate passthrough. The working group also wanted to address existing challenges of inconsistent availability of respite services in some parts of the state.</p>	
<p>Ease of Implementation (Score 1-10): 8</p> <ul style="list-style-type: none"> • Currently no stipulations on how to use reimbursement rate increases. • A cost barrier may come from additional full-time employees (FTEs) having these services provided by KDADS and an increase in the plan of care cost associated with the client. • Travel and mileage reimbursement for providers would require some policy changes the state would enact via a regulatory process. 	<p>Potential for High Impact (Score 1-10): 10</p> <ul style="list-style-type: none"> • Will impact the local-level ability to hire, serve in centers, and centers are open because they have an employee that can make a living wage. • Will help counties subsidize wages.
<p>Action Lead: KDADS</p>	<p>Key Collaborators: k4ad; 11 AAAs</p>
<p>Key Performance Indicators:</p> <ul style="list-style-type: none"> • An increase in the number of providers • Increase in the number of plans being served in rural/frontier parts of the state. 	

Return to [Figure 1](#) or [Appendix C](#).

Access to Services Recommendation 8.2: One-Time-Only Service Caps. [Immediate Action, Tier I]

<p>Recommendation: Increase the one-time service caps with an annual review that ties the rate to the Consumer Price Index (CPI) and create an exemption process, to allow adequate funding for items such as durable medical equipment and technology to address social isolation and home modifications.</p>	
<p>Rationale: One-time-only services are funds intended for older adults to make one-time purchases necessary for their care or improving quality of life. The Senior Care Act Field Manual defines one-time services as, “an activity that is not intended to be ongoing (less than three months per 365 days) and has a unit of service of one dollar. The one-time-only cap has not been increased since 1996 (see Attachment 1).¹² Funds promote safety, security, personal choice, and emotional and physical health. Assistive services may include home modifications, vehicle modifications, and durable medical equipment.</p> <p>The Medicaid lifetime cap on assistive services is \$7,500, and the Aging and Disability Commission reports that the limit hasn’t been increased in two decades. During the 2022 legislative session, \$1.8 million, including \$716,495 SGF, was allotted to increase the lifetime limit on assistive services from \$7,500 to \$10,000 for FY 2023. The Governor recommends adoption of this request for FY 2023 and may support increasing the \$1,445 one time only service cap.¹³</p>	
<p>Ease of Implementation (Score 1-10): 10</p> <ul style="list-style-type: none"> Funds already allocated. 	<p>Potential for High Impact (Score 1-10): 10</p> <ul style="list-style-type: none"> Cost savings from this recommendation will result from seniors receiving assistive services, allowing them to remain in the home longer
<p>Action Lead: KDADS and Legislature</p>	<p>Key Collaborators: k4ad, 11 AAAs, Assisted Technology of Kansas (ATK); Legislature</p>
<p>Key Performance Indicators:</p> <ul style="list-style-type: none"> Annual reviews completed. Number of people served through one time only service 	

Return to [Figure 1](#) or [Appendix C](#).

Access to Services Recommendation 8.3: Elder Count Book. [Strategic Importance, Tier I]

<p>Recommendation: Seek funding and develop partnerships for the development and distribution of a new, publicly available Kansas Elder Count book that provides the same demographic and detailed data as the original Elder Count book. Elder Count book should be published biannually in print and electronic formats. This information would provide detailed and robust data to help consumers, local and state policymakers and other decision makers plan for current and future needs of older Kansans.</p>
<p>Rationale: The Kansas Elder Count Book was last published in 2002 and utilized data from multiple sources to create a snapshot of the older adult population and subpopulations.¹⁴ The</p>

2002 edition was a one-time only project and proved to be an invaluable resource outside the federal census. The book provided data by county, income-level and SES status. The working group recommends an update.

KDHE and the Bureau of Oral Health's Elder Basic Screening Survey (BSS) is a statistically representative sample study of older adults living in long-term care facilities. Working group suggested collaborating with effort. **The Task Force also suggested exploring the annual KIDS COUNT Data Center as a model.**

Ease of Implementation (Score 1-10): 5	Potential for High Impact (Score 1-10): 9
<ul style="list-style-type: none"> Established framework available. 	<ul style="list-style-type: none"> Will improve service delivery for seniors.
Action Lead: KDADS; Legislature	Key Collaborators: State associations; AARP; KABC; LeadingAge Kansas; KACE; KHCA/KCAL ; AAAs; foundations; academic institutions
Key Performance Indicators: <ul style="list-style-type: none"> Secure funding Publishing Elder Count Book Securing lead entity 	

Return to [Figure 1](#) or [Appendix C](#).

Access to Services Recommendation 8.4: Technology Investment. [Strategic Importance, Tier II]

<p>Recommendation: Kansas Department for Aging and Disability Services (KDADS) in collaboration with the Legislature will allow for and increase Senior Care Act (SCA) funding to be used for start-up costs to allow AAAs to invest in technology and add as an allowable service under the SCA.</p> <ul style="list-style-type: none"> Collaborate with initiatives expanding broadband services across the state and make it available in congregate settings (e.g., land lines). Seek Assisted Technology of Kansas (ATK) collaboration. Fund the purchase for devices, internet access, IT client support and bringing required technology to the person. 	
<p>Rationale: Lack of reliable broadband services and access in rural and frontier areas of Kansas is an ongoing challenge. The SCTF requested 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 on initiatives for expansion and to identify the broadband inequities between urban, rural and frontier parts of the state. Access to reliable internet will be necessary for older adults to access reliable internet and to receive technology-assisted services or telehealth.</p>	
Ease of Implementation (Score 1-10): 7	Potential for High Impact (Score 1-10): 9

<ul style="list-style-type: none"> Requires funding for new devices, providing internet access, hiring FTE for client support, and transporting services and devices to recipients. Will require Statute Amendment to allow for start-up costs 	<ul style="list-style-type: none"> Effort must be made to ensure all Kansans have access to internet and services. May identify older adults experiencing social isolation, identify health deterioration and health changes more quickly, increase access to services, connect older adults who need high acuity services, get information on health status, and increase ease of communication.
Action Lead: KDADS, Legislature	Key Collaborators: AAAs; MCOs; ATK – contracted for assisted devices to help people return or remain in the community; seniors to give input on tech; Office of Broadband Development
Key Performance Indicators: <ul style="list-style-type: none"> Equipment distribution Areas of distribution to those in need. 	

Return to [Figure 1](#) or [Appendix C](#).

Access to Services Recommendation 8.5: SCA Program Evaluation. [Strategic Importance, Tier II]

<p>Recommendation: KDADS in collaboration with the Kansas Association of Area Agencies on Aging (k4ad) will ensure that the SCA program is evaluated every 3-5 years by an objective, independent evaluator using research methodologies that ensure comprehensive input from caregivers, AAAs, participants, service providers, and other stakeholders.</p>	
<p>Rationale: The SCA program has not been evaluated since 1996.¹⁵ The working group discussed the importance of identifying service gaps, unmet needs and what services will have the most impact. While there is a quarterly review by all 11 AAAs, a SCA evaluation would provide a robust statewide assessment.</p>	
<p>Ease of Implementation (Score 1-10): 6</p> <ul style="list-style-type: none"> May be accomplished via legislative post audit. Methodology could be leveraged from the past and conducting research moving forward. 	<p>Potential for High Impact (Score 1-10): 8</p> <ul style="list-style-type: none"> It will ensure continuous updates of SCA programs.
<p>Action Lead: KDADS</p>	<p>Key Collaborators: k4ad; Legislature; academic institutions; AAAs; clients; older adults; caregivers; Alzheimer’s Association</p>
<p>Key Performance Indicators:</p>	

- Secure contract
- Service utilization
- Service gaps
- Evidentiary support and rationale for potential increased funding

Return to [Figure 1](#) or [Appendix C](#).

Access to Services Recommendation 8.6: SCA Data Systems. [Strategic Importance, Tier II]

Recommendation: Kansas Department for Aging and Disability Services (KDADS) will improve the data systems for multi-directional use under the Senior Care Act program and provide regular reports on service utilization and client needs.	
Rationale: Real-time data allows service providers to be nimble and address service gaps. KDADS uses the Kansas Aging Management Information System (KAMIS) to collect information from AAAs and other providers. However, multi-directional data sharing is currently not available for all users.	
Ease of Implementation (Score 1-10): 5	Potential for High Impact (Score 1-10): 10
<ul style="list-style-type: none"> • Federal grants may assist to fund this effort. 	<ul style="list-style-type: none"> • Will have real-time data and breakdown of services used, client-specific, program-specific data on what services are being used and provided. • Data will be usable and applicable for users. • Will include all users of KAMIS; the list will include InterHab, CMHCs, and will require cross-collaboration
Action Lead: KDADS	Key Collaborators: KAMIS users; AAAs; LeadingAge Kansas; KABC ; KACE; KHCA/ KCAL ; LTC Ombudsman; KanCare Ombudsman; MCOs
Key Performance Indicators:	
<ul style="list-style-type: none"> • Will include funding when it is allocated and system design, piloting, and implementation. 	

Return to [Figure 1](#) or [Appendix C](#).

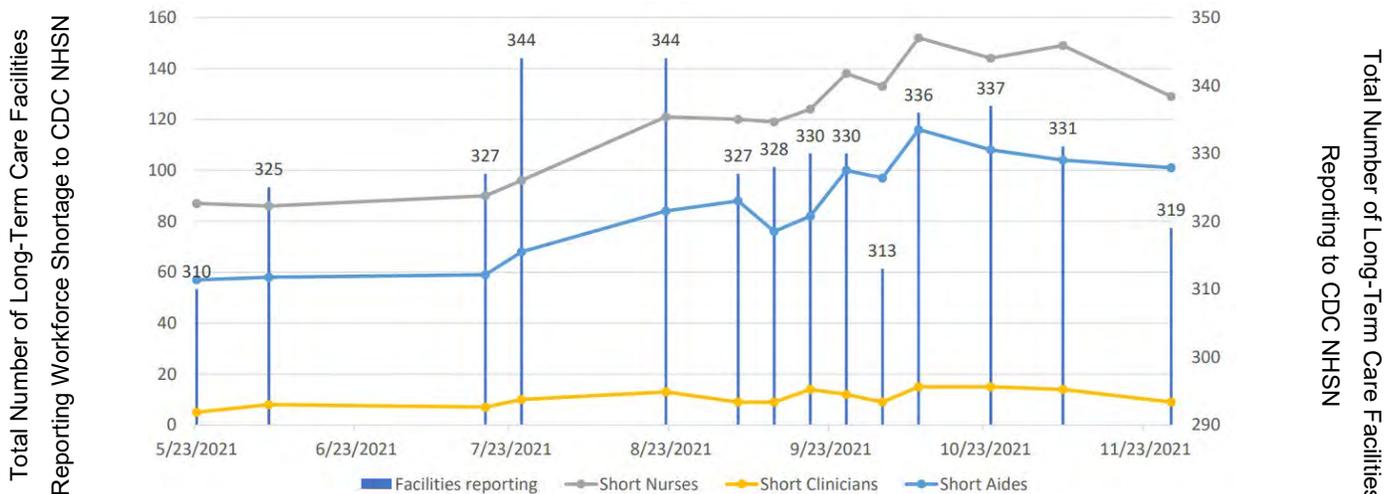
Workforce Subgroup

A well-trained workforce is one in which providers and their staff deliver direct-care and aging services with adequately trained staff and resources to meet needs across urban, rural and frontier parts of the state. Building a well-trained workforce will require recruiting, retaining, and training the workforce to meet the needs of older Kansans. The Workforce Subgroup was established by the SCTF to address the cross-cutting topic of workforce. KDADS provided data on the shortages of nurses, clinicians and aides in Kansas long-term care facilities from May to November 2021 as reported to the CDC National Healthcare Safety Network (NHSN; *Figure 5*).

Key themes from the group’s analysis of the Task Force’s recommendations included establishing a career ladder for new and current direct care workers, expanding the workforce and innovative ways to overcome workforce shortages, and expanding scope for licensing and increasing funding to recruit and retain more workers. The subgroup discussed and made recommendations recognizing the ongoing importance of investing in the workforce. The subgroup prioritized recommendations based on their capacity to retain current workforce, recruit future workforce and train current and future workforce.

There are 10 recommendations for consideration.

Figure 5. National Healthcare Safety Network (NHSN) Long-Term Care Facility Reported Staff Shortages, 2021



Note: Bars represent number of long-term care facilities reporting data to the CDC NHSN.

Source: Kansas Department for Aging and Disability Services.

Workforce Recommendation 9.1: Reimbursement Rates. [Strategic Importance, Tier I]

<p>Recommendation: The State of Kansas should provide appropriations to increase rates for service providers to increase worker pay, support safe staffing standards, and ensure a stable workforce, minimizing wait lists.</p> <p>Note: <i>The Task Force indicates that Recommendation 9.1 must be implemented before Recommendation 9.7 in order to ensure success. Both Recommendations are listed in Tier 1 due to their importance to the support and improvement of senior care in Kansas.</i></p>	
<p>Rationale: High direct care worker turnover rates lower the quality of care because consistency in direct care staff supports better healthcare outcomes. The subgroup discussed the main reason people are leaving the field is inadequate pay and the need for livable wages. Subgroup members discussed the state’s lag in acceptable wage packages for state employees across the board, leaving it unattractive for recruitment and difficult to retain quality trained employees needed in the diverse settings of today.</p> <p>This recommendation would apply to service providers meeting the definition of an adult care home and providers for HCBS services. Research would need to be conducted to review the rate calculation methodology to determine what the true costs of services are and what the market comparison rates are.</p>	
<p>Ease of Implementation (Score 1-10): 3</p> <ul style="list-style-type: none"> • An initial appropriation will be needed from the Legislature to raise rates. • Senior Care Act funds may not be available for this effort, so other funding sources will need to be explored. 	<p>Potential for High Impact (Score 1-10): 10</p> <ul style="list-style-type: none"> • Will impact worker retention and recruitment. • Will produce cost savings for facilities by reducing staff turnover.
<p>Action Lead: KDADS, Legislature, and providers</p>	<p>Key Collaborators: Advocacy groups focused on home and community-based services that are not Medicaid or Medicare funded; AARP; provider associations; direct care workforce associations (Kansas State Nurses Association [KSNA] and others)</p>
<p>Key Performance Indicators:</p> <ul style="list-style-type: none"> • Change in number of clients, providers, and workers • Staffing increases and retention • Recruitment and retention numbers should increase with providers, unemployment claims should decrease in the industry • Measure number of providers able to meet any new evidence-based minimum staffing requirements. 	

Return to [Figure 1](#) or [Appendix C](#).

Workforce Recommendation 9.2: ConnectToCareJobs Platform. [Immediate Action, Tier II]

<p>Recommendation: KDADS will lead the effort to enlist the State of Kansas to contract with ADvancing States and implement its worker matching and placement tool, “ConnectToCareJobs.com”.</p>	
<p>Rationale: ADvancing States, formerly the National Association of State Units of Aging (NASUA), has developed a matching and placement tool focused on community-based workers including all direct care workers and positions needed for operating care. “ConnectToCareJobs.com” is a state solution where state can see portal and real-time vacancies across the state. The initial investment is \$250,000 and then \$150,000 to maintain it. Seven states currently use the platform, including Colorado.</p>	
<p>Ease of Implementation (Score 1-10): 9</p>	<p>Potential for High Impact (Score 1-10): 9</p>
<ul style="list-style-type: none"> • Infrastructure for implementation is available. • ADvancing States has strategies built-in to the program for site monitorization and updates. • Ongoing funding would be required to maintain the program. 	<ul style="list-style-type: none"> • Will impact workforce recruitment. • Expanding the workforce would produce cost savings from decreasing turnover and easily identifying workers needing placement. • Higher quality of care and continuity of service delivery.
<p>Action Lead: KDADS Home and Community-Based Services Division; Legislature (appropriations)</p>	<p>Key Collaborators: Legislature; ADvancing States; KDOL; KansasWorks Jobs Fair; MCOs</p>
<p>Key Performance Indicators:</p> <ul style="list-style-type: none"> • Hits on web tools and placement service. • Community worker hires indicating that this was a place they found out about a job. • Safe Staffing levels • Longitudinal monitoring with: <ul style="list-style-type: none"> • Unemployment • Provider recruitment • Retention rates 	

Return to [Figure 1](#) or [Appendix C](#).

Workforce Recommendation 9.3: Workforce Incentives and Benefits. [Immediate Action, Tier II]

<p>Recommendation: The State of Kansas, in collaboration with Department for Children and Families (DCF), Kansas Department for Aging and Disability Services (KDADS), and the</p>

<p>Kansas Department of Health and Environment (KDHE), shall develop incentives or additional benefits for the direct care workforce, such as respite services and childcare assistance.</p> <ul style="list-style-type: none"> • The State of Kansas will establish funding to support community childcare centers for healthcare workers with broad hours of operation rather than traditional 8am-5pm. • Use grants to encourage on-site day care and programs where one kitchen can serve both children and seniors. 	
<p>Rationale: Respite care and childcare assistance are benefits that mitigate caregiver burnout and incentivize employees to remain at their jobs. The subgroup also suggested exploring innovative solutions such as a shared, communal kitchen.</p>	
<p>Ease of Implementation (Score 1-10): 4</p> <ul style="list-style-type: none"> • Will need to consult the regulatory process to see requirements for both childcare and senior care facilities. • Will require unique permits to allow for serving two high-risk populations. 	<p>Potential for High Impact (Score 1-10): 10</p> <ul style="list-style-type: none"> • Will impact workforce recruitment and retention. • Recommendation would produce high cost-savings related to onboarding and training new employees when current staff cannot be retained. • Recommendation will also increase the quality of life for residents in nursing facilities. • Facilities will also receive less citations and monetary fines related to care.
<p>Action Lead: DCF, KDADS, KDHE, Legislature (appropriations)</p>	<p>Key Collaborators: Legislature; KDHE; Host-site Providers</p>
<p>Key Performance Indicators:</p> <ul style="list-style-type: none"> • Retention rate • Decrease of unemployment claims from this industry • Increase number of staff providing aging services (recruitment) • Utilization of benefit 	

Return to [Figure 1](#) or [Appendix C](#).

Workforce Recommendation 9.4: Workforce Tax Credit. [Immediate Action, Tier II]

<p>Recommendation: The State of Kansas will explore the creation of a workforce tax credit for the aging services direct care workforce.</p>	
<p>Rationale: During the COVID-19 pandemic, the temporary Employee Retention tax credit and the ongoing Earned Income Tax Credit (EITC) were offered to retain employees. Implementing a specific tax credit for direct care workers also may assist with workforce recruitment in more rural and frontier parts of a state. The subgroup also discussed the tax credit as a short-term strategy during times of unequal or inadequate pay.</p>	
<p>Ease of Implementation (Score 1-10): 7</p>	<p>Potential for High Impact (Score 1-10): 9</p>

<ul style="list-style-type: none"> Legislative session, board approval, and agency budget development will be needed to establish tax credit. 	<ul style="list-style-type: none"> Will impact workforce recruitment and retention. Serve rural and frontier parts of the state.
Action Lead: Legislature	Key Collaborators: KDOR; KDADS
Key Performance Indicators:	
<ul style="list-style-type: none"> Number of those enrolled to receive tax credit 	

Return to [Figure 1](#) or [Appendix C](#).

Workforce Recommendation 9.5: Caregiver Tax Credit. [Immediate Action, Tier II]

Recommendation: The State of Kansas will explore the creation of a caregiver tax credit to help care for loved ones.	
Rationale: More older adults will have to be cared for by family members than in a facility setting because the traditional workforce is shrinking. This recommendation addresses recruitment of future caregivers and retention of current caregivers. For 2021 only, the American Rescue Plan Act of 2021, enacted March 11, 2021, made the child and dependent tax credit substantially more generous (up to \$4,000 for one qualifying person and \$8,000 for two or more qualifying persons) and potentially refundable. Oklahoma and New Jersey have model bills that could be adapted by the Kansas Legislature. The working group also recommends using the federal tax benefit as a model for a caregiver tax credit that would assist unpaid family caregivers.	
Ease of Implementation (Score 1-10): 7	Potential for High Impact (Score 1-10): 10
<ul style="list-style-type: none"> Legislative session and agency budget development will be needed to establish tax credit. Long-term strategy to address a shrinking traditional workforce. 	<ul style="list-style-type: none"> Will assist in recruiting an alternative workforce. Will impact the older adult to be cared for by a trusted family member or qualifying unrelated caregiver. The family member can stay home because of the tax credit and may not have to seek additional, full-time employment to take care of their loved ones.
Action Lead: Legislature	Key Collaborators: KDADS; KDOR
Key Performance Indicators:	
<ul style="list-style-type: none"> Collect baseline data to understand trends and demand for family members as caregivers Number of those enrolled to receive tax credit 	

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Workforce Recommendation 9.6: Cross-Sector Partnerships. [Strategic Importance, Tier II]

Recommendation: Explore cross-sector partnerships or models to align systems and share staffing resources, specifically those that are difficult to recruit for/retain, where appropriate.	
Rationale: The subgroup discussed innovative solutions to address workforce shortage. Cross-sector partnerships would include strategies to share resources such as administrative staff, dietary managers and building operations staff.	
Ease of Implementation (Score 1-10): 6	Potential for High Impact (Score 1-10): 9
<ul style="list-style-type: none"> • Sharing existing resources will require a pilot program. • Regulatory compliance of having full-time staff on-site may pose an issue. • Might require modification to regulation. 	<ul style="list-style-type: none"> • Will assist in workforce recruitment. • Will lessen financial burden on facilities and be applicable in rural and frontier communities where specialized, clinical and non-clinical staff are difficult to find.
Action Lead: Providers KDADS	Key Collaborators: KDOL; KDADS ; healthcare professionals; providers; provider associations; LTC Ombudsman
Key Performance Indicators:	
<ul style="list-style-type: none"> • How many employers and/or prospective workers use this new staffing resource sharing avenue? • Decrease in vacancy rates over time. • Less staff burnout. • Better staffing patterns 	

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Workforce Recommendation 9.7: Instructor Pay and Benefits. [Immediate Action, Tier I]]

<p>Recommendation: Provide ongoing government incentives with additional funding to increase the number of healthcare worker faculty and trainers.</p> <ul style="list-style-type: none"> • Ensure adequate pay and benefits for faculty to teach the nursing direct care workforce, including but not limited to Certified Nurse Aides (CNAs), Certified Medication Aides (CMAs), and Home Health Aids (HHAs). • Revise state regulatory language to align with federal language for direct and general supervision. • Explore use of technology to assist with RN supervisory roles and responsibilities. <p>Note: <i>The Task Force indicates that Recommendation 9.1 must be implemented before Recommendation 9.7 to ensure success. Both Recommendations are listed in Tier 1 due to their importance to the support and improvement of senior care in Kansas.</i></p> <p>Rationale: During the 2022 legislative session, Senate Bill 453 passed expanding opportunities for LPNs to teach CNA courses under “general supervision,” by an RN, which under the Kansas Nurse Practice Act relates to supervision of delegated nursing procedures. Recommendation cites the need for stabilizing increase in pay and benefits which is currently identified as a barrier to recruiting LPNs and RNs for course instruction. The subgroup</p>

indicated there might be a need to define, and possibly modify the regulatory definition of direct and general supervision to align with federal regulations. The subgroup also discussed use of technology to facilitate course supervision and provide flexibility on how an RN may supervise a course being taught by an LPN.	
Ease of Implementation (Score 1-10): 5	Potential for High Impact (Score 1-10): 8
<ul style="list-style-type: none"> • An amendment of regulation will be needed to align Kansas regulatory language to federal language. • Legal consultation will be needed on whether RNs remotely supervising courses will be feasible under current or future regulatory requirements. 	<ul style="list-style-type: none"> • Will impact workforce training.
Action Lead: KDADS, Legislature	Key Collaborators: Kansas Board of Regents; healthcare-related associations representing the spectrum of workforce need; KSBN; KDADS; education host programs
Key Performance Indicators: <ul style="list-style-type: none"> • Increase in number of faculty and other trainers • Increase in number of slots for students • Monitoring the number of instructors and participants/enrollees • Better staffing outcomes – increased number of certified healthcare workers 	

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Workforce Recommendation 9.8: Five-Year Career-Path Plan. [Strategic Importance, Tier III]

<p>Recommendation: Establish a five-year plan of state funding for direct career-path training of potential health professionals, including Certified Nurse Aides (CNAs), Certified Medical Aides (CMAs), Rehabilitation Aides, and Home Care Aides, as well as potential Licensed Practical Nurses (LPNs) and Registered Nurses (RNs), in cooperation with facilities and agencies providing direct care services, with renewal options of funding after the first five years of the plan.</p> <p>Plan Lead and Key Collaborator(s)</p> <ul style="list-style-type: none"> • Assemble a group to create a multifaceted universal career ladder program for the state of Kansas, including the Kansas Board of Regents, Kansas universities, community and technical colleges, Adult Basic Education (ABE) programs as well as regulatory bodies such as the Kansas State Board of Nursing (KSBN). • Include regulatory agencies including the Kansas Department for Aging and Disability Services (KDADS) in staffing conversations facilitated by Kansas State Board of Nursing (KSBN) and direct care workers. • In collaboration with technical schools and Adult Basic Education (ABE) programs, KDADS, Kansas Department of Health and Environment (KDHE), and Kansas

Department of Labor (KDOL) will identify possible available workers and placement options through interagency collaboration.

Plan Promotion

- Partner with KansasWorks Job Fairs, university and college job fairs, and promotions for direct and non-direct care worker job placements.
- If [Recommendation 9.2](#) is implemented, ADvancing States' worker matching registry will be marketed at job fairs for direct care certified and licensed students.
- The State of Kansas will invest in promotion of ongoing nursing leadership education tracks across the state.
- Establish a collaborative with the Kansas Adult Care Executives (KACE), LeadingAge Kansas, Kansas Health Care Association (KHCA), Kansas State Nurses Association (KSNA), and Kansas Hospital Association (KHA) to create a public service marketing campaign about direct care workers, health, and nurses that highlights the career pathway potential, the nobility of the professions, and the impact they have on communities and those they serve.
- Provide education and marketing for the difference between Certified Nurse Aides (CNAs), Licensed Practical Nurses (LPNs), and Registered Nurses (RNs) for understanding their roles and what they provide to patient care.
- Market to students the existing tuition grant programs and/or loan repayment programs offered across the state.

Rationale: The subgroup discussed the lack of statewide, ongoing training for LPNs to be leaders and the need to invest in ongoing leadership courses for LPNs and RNs as well as instructors to teach those courses. This effort would provide quality staff to improve care for older adults. The subgroup discussed the existing leadership track for RN programs, but the greater need is for LPNs. As of 2020, LPN leadership courses have been added to the core curriculum.

Working group members discussed the importance of creating programs to increase diversity in the direct care workforce. Working group member shared improvements made at the Johnson County Community College (JCCC), which identified admission tests as a barrier to entry and developed predominantly for middle-class and White populations. Working group member stated the JCCC removed the admission testing requirement and saw the student population change from 90 percent White students to 48 percent. This recommendation can also leverage information found under [Workforce Recommendation 9.10: *Eliminate Barriers to Workforce Entry*](#) if implemented.

Ease of Implementation (Score 1-10): 3	Potential for High Impact (Score 1-10): 10
<ul style="list-style-type: none"> • Recommendation requires state funding. 	<ul style="list-style-type: none"> • Will impact recruitment and training. • Providing a stable workforce will impact the quality and availability of care for seniors across the state.
Lead: KDADS and Legislature (appropriations)	Key Collaborators: Kansas Board of Regents; Kansas universities (University of Kansas, Kansas State University, etc.);

	community and vocational technology colleges; adult basic education (ABE) programs; KSBN; direct care workforce associations (KSNA, and others); KDHE; KDOL; KansasWorks; technical schools and adult basic education (ABE) programs; ADvancing States; KACE; LeadingAge Kansas; KHCA/ KCAL ; KABC ; KHA
<p>Key Performance Indicators:</p> <ul style="list-style-type: none"> • Better healthcare in remote areas (lack of infection after discharge) • Increase in workforce staff • Increase in retention across all workforce certification and licenses • Kansas Department of Labor (KDOL) report on employment trends 	

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Workforce Recommendation 9.9: Identify Future Workforce of Direct Care Workers and Volunteers. [Immediate Action, Tier III] ([Recommendation 7.5: Adult Daycare Volunteers](#) was combined with this Recommendation.)

<p>Recommendation: The State of Kansas will develop models of programs for both direct care workers and volunteers for aging services to identify future workforce.</p> <ul style="list-style-type: none"> • Empower high schools, community colleges, and technical schools to develop a volunteer training program to increase quality of life through non-nurse and nurse aide staff relieving hours of registered nurses who could be devoted more to care issues. • Implement a statewide reading program pairing school-aged children with older adults. Students from grades 3-4 would visit adult care homes once a week, where residents would volunteer to listen to them read. • Encourage high-school and college-age young people, including from clubs such as 4-H or scouting programs, to pursue volunteer positions or jobs in aging services. • Develop a strategic approach to building a more diverse workforce by engaging high school students directly to learn what would attract them to work in healthcare, such as partnering with KansasWorks Job Fairs to create a statewide program to go into high school settings to discuss funding opportunities and career advancements in the healthcare industry. • Provide non-degree-seeking course offerings at high schools or community colleges to educate and prepare people for caregiving. • Establish and nurture partnerships with universities and vocational technical and community colleges to encourage and support more opportunities for internships and engagement with geriatric and aging specialized service providers. • Provide ongoing funding to universities and community colleges to increase the programming and interest of students in professions that work with older adults, individuals with dementia and geriatric mental health issues.

<ul style="list-style-type: none"> • Increase community college and technical school funding for coursework directly related to geriatric or older adult health support services. • Develop a strategic approach to building a more diverse workforce by engaging high school students directly to learn what would attract them to work in healthcare. <p>Encourage Area Agencies for Aging (AAAs) and senior centers to partner with Kansas Alzheimer’s Association and AARP to access resources, training, and technical assistance for adult day service training and volunteer engagement.</p> <ul style="list-style-type: none"> • Younger volunteers from 4H, boy scouts, high school, or college. • Adult volunteers from the Retired and Senior Volunteer Program and Senior Companion programs (e.g., AmeriCorps). 	
<p>Rationale: Nurture partnerships with universities and vocational technical and community colleges to encourage and support more opportunities for internships and engagement with geriatric and aging specialized service providers. Facilities will monitor volunteers as they perform tasks related to socialization and quality of life.</p> <p>Interaction between generations can benefit everyone. The working group discussed the need to build upon existing programs to ensure volunteers are utilized statewide.</p>	
<p>Ease of Implementation (Score 1-10): 8</p> <ul style="list-style-type: none"> • Components have already been established. • Does not require budgetary approval or processes. • Recommendation is occurring but needs to be encouraged and promoted. • College students may act as staff under a college or university affiliation agreement of what is allowable care and interaction. • Initial collaboration to establish adult daycare volunteers will be difficult, but will become easier once access to resources, and training pathway is established. 	<p>Potential for High Impact (Score 1-10): 10</p> <ul style="list-style-type: none"> • Will impact recruitment and training. • Utilizing volunteers will produce a lot of cost savings if they do non-direct care that CNAs and nurses do not have time to do. • Quality of life in the facility will increase and will reduce citations. • Having adequately trained staff for all aspects of direct and non-direct care will improve retention and staff satisfaction. • Better trained staff and volunteers means better outcomes for people using those services. • Engages older adults and younger generations through volunteering. • Encourages recruitment into direct care workforce.
<p>Action Lead: Legislature, AAAs</p>	<p>Key Collaborators: Kansas Department of Education; Board of Regents; KSBN; long-term care administrators and owners; Service providers and groups at the local level; RSVP program managers; Alzheimer’s Association;</p>

	<p>AARP; 4H Club; AmeriCorps healthcare workers; local volunteer organizations; veterans associations; KanWork program; Older Kansans Employment Program (OKEP); faith-based organizations; existing and credible volunteer programs</p>
<p>Key Performance Indicators:</p> <ul style="list-style-type: none"> • Ongoing funding • Improved quality of life indicators and outcomes • Increasing applications and enrollment for nursing and direct-care certification programs • Number of new volunteers and number of training sessions • Increased education on Alzheimer's • Satisfaction in daily living, improved mental health responses, decrease in stressors for families • New resources, programs, and training opportunities 	

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Workforce Recommendation 9.10: Eliminate Barriers to Workforce Entry. [Immediate Action, Tier III]

<p>Recommendation: The State of Kansas will compile, utilize, and act upon research on how to eliminate barriers for entering the field of aging services and obstacles once in the field.</p> <ul style="list-style-type: none"> • Provide the identifiers of urban, rural, and frontier demographics to the public. • Evaluate numbers of direct care workers who wish to provide home care as CNAs. • Require or encourage exit interviews for staff that left their places of employment to develop action items that can come from this shared information. • Encourage and educate about mental health support for those working in healthcare by researching needs and mental health related obstacles for remaining in the field via focus group questions. • Assess if there is an allowance for open communication support between employers and employees in all decision-making processes. • Collaborate with workforce and associations who provide a variety of backgrounds and experience that can contribute to healthcare trends and solutions. • Facilitate communication with nurses throughout the state who practice in a variety of areas for insight normally not heard by other associations. • Utilize workforce and associations for engagement with student nurses' association at the state and national level. • Share existing data. <p>(If implemented, Recommendation 1.5: Rural Healthcare Coalition could consider all or parts of this recommendation for its charge.)</p>

(If Recommendation 9.2: ConnectToCare Jobs Platform is implemented, direct care workgroup with ADvancing States should be referenced.)	
Rationale: The subgroup discussed the need to act upon existing research identifying gaps and issues in the senior-care industry in Kansas and nationally.	
Ease of Implementation (Score 1-10): 8	Potential for High Impact (Score 1-10): 9
<ul style="list-style-type: none"> • Leverage existing research to compile for state to use for acting on workforce issues. • Will either be a pilot program or entirely new program • Funds will need to pay contracted person or FTE to compile research. 	<ul style="list-style-type: none"> • Gaining knowledge of service gaps. • Will assist with gathering recruitment, and retention data.
Action Lead: KDADS and KDOL	Key Collaborators: Kansas universities; KDOL; aging organizations; Kansas chambers; Kansas Association of Counties; providers; healthcare professionals; provider associations; direct care workforce associations (KSNA, and others); Health Occupations Credentialing (HOC); KDADS; KSBN
Key Performance Indicators:	
<ul style="list-style-type: none"> • Quantitative data based on surveys across most of the objectives • Better staffing outcomes • Data collection of information from providers and healthcare professionals 	

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Appendix A. Task Force Recommendation Crosswalk

The table below includes a list of recommendations developed by the SCTF and assigned to the working groups (WG) for further study. The last column provides action taken by the working groups.

Task Force Recommendations	WG Assigned	WG Action
Potential Legislation		
Creating a separate Senior Care Act-like program to provide services to persons with younger-onset Alzheimer's disease 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.	Not assigned	This recommendation was not included for final consideration because it is out of scope - "younger-onset" does not fit definition of the age under the SCA.
Adding regulations for assisted living centers and appeals protections for residents for involuntary or improper discharges.	WGA	Recommendation 3.5: Appeals of Involuntary Removal.
The Legislature pass HB 2004, providing the right of residents and their representatives to appeal involuntary transfers and discharges or evictions from assisted living facilities.	WGA	Recommendation 3.5: Appeals of Involuntary Removal.
Pass HB 2004, "Charlie's Bill," creating the right to appeal an involuntary discharge or transfer from an adult residential care facility.	WGA	Recommendation 3.5: Appeals of Involuntary Removal.
Pass HB 2122, enacting the supported decision-making agreements act to provide a statutory framework for adults who want decision-making assistance.	WGA	Recommendation 3.6: Decision-Making Assistance.
Legislation to provide at least rudimentary regulatory oversight of temporary staffing agencies to address poor quality and unreliability of services by these agencies, exorbitant fees for long-term care providers and the State. Potential legislation should include establishing a state registry, creating a basic regulatory framework, and setting upper payment limit parameters.	WGA	House Bill 2524 did not pass during the 2022 legislative session due to the wage cap for direct care workers. The Quality of Care and Protective Services working group did not include recommendation for re-consideration for the 2023 legislative session.

Task Force Recommendations	WG Assigned	WG Action
Temporary staffing agency - establish a registry, create basic regulatory framework, and set upper limits on charges.	Workforce	Provision was included in House Bill 2524 but did not pass due to the wage cap for direct care workers.
Examine and modify HCBS/FE rate-setting methodology (to promote further rebalancing, fairly reimburse providers, and offer more choices to KanCare members).	WGB; WGA	Recommendation 6.1: Modify Medicaid Waivers and Recommendation 8.1: Incentivize Providers.
Mapping Related		
Develop a map that shows where various senior service providers are throughout the state, e.g., nursing homes, state licensed only adult care homes, CMHCs with aging specialists, geropsychology units of hospitals, to help identify underserved areas and target development of services.	WGB	Recommendation 6.2: Promote Home and Community-Based Services.
Seek assistance from universities to help with mapping of services.	WGB	Recommendation 6.2: Promote Home and Community-Based Services.
Coordinate with a university to obtain mapping of services, service providers, waitlists, and bans on services due to lack of workforce.	WGB	Recommendation 6.2: Promote Home and Community-Based Services.
Coordinate with a university to obtain mapping of geriatric psychology services available in the state.	WGB	Recommendation 6.2: Promote Home and Community-Based Services.
The State identify geropsychology resources.	WGB	Recommendation 6.2: Promote Home and Community-Based Services.
Workforce Issues		
Expand funding for aging mental health specialists at all CMHCs.	WGA	Recommendation 3.8: Funding CMHCs.
Address barriers to those waiting to allow requests for eligibility determination to avoid those individuals having a 30-day wait when transitioning from a nursing home.	WGA	Recommendation 3.2: Background Checks.
Reauthorization of temporary nurse aides.	Workforce	This recommendation was not included for final consideration due to concern for the safety,

Task Force Recommendations	WG Assigned	WG Action
		quality, and efficacy of care when utilizing temporary nurse aides. The group instead encourage facilities to hire and designate a position (e.g., hospitality aides) to provide person-centered, non-direct care for residents.
Have MCOs explore alternate supports to address the workforce shortage, such as an individuals' strengths and abilities, supportive relationships/family caregivers, technology, shared living, and community supports.	Workforce, WGB	Recommendation 6.1: Modify Medicaid Waivers.
Better advertise the worker matching registry used by all three MCOs for services in the community.	Workforce	Recommendation 9.2: ConnectToCareJobs Platform.
Encourage career ladder - tuition grant program and/or loan repayment program.	Workforce	Recommendation 9.8: Five-Year Career-Path Plan.
KDADS should consider raising the rates for in-home providers for the FE, PD, and BI waivers and specifically require the providers to pass the rate increase on to the direct service staff.	WGB	Recommendation 8.1: Incentivize Providers.
The Legislature could remove restrictions on licensure of APRNs. Currently, APRNs in the state must work under the supervision of a physician in a “collaborative practice agreement,” often paying out-of-pocket fees to the doctor each year. Ending these limitations would improve healthcare access across the state especially in rural Kansas.	Workforce	Senate Bill 174 passed during the 2022 legislative session.
Community Services		
The State should support family caregiver services that can delay or decrease the likelihood of needing to enter a nursing facility. These can include education and training, counseling, legal consultations, and respite care. Efforts should be made to	WGB	Recommendation 1.4: Caregiver Services.

Task Force Recommendations	WG Assigned	WG Action
provide these caregivers at least unpaid leave and paid leave.		
The State should fund the services needed to meet individuals' long-term services and supports (LTSS) needs and allow them to remain in the community. Expand HCBS options to include a range of residential choices as well as home modifications and assistive technologies.	WGB	Recommendation 8.4: Technology Investment.
Look at a framework to support person-centered planning, where an individuals' own wishes, strengths, relationships, then technology, and community support we can all access are considered before we apply paid eligibility-based services.	WGA	Recommendation 1.2: Person-Centered Practices.
Broadband		
Need to address statewide broadband availability as a public safety issue.	WGB	Recommendation 8.4: Technology Investment.
Mental Health		
The State should establish mechanisms to ensure that LTSS agencies and mental health authorities address the mental health needs of individuals receiving LTSS.	WGA	Recommendation 2.2: Psychotropic Medication Education.
Require CMHCs to provide mental and health and aging training for clinical staff who provide services to older adults.	WGA	Recommendation 3.8: Funding CMHCs.
Funding for aging specialist at CHMCs.	WGA	Recommendation 3.8: Funding CMHCs.
Provide access for residents with a level two (mental health needs) be provided in the nursing home by a CMHC.	WGA	Recommendation 3.8: Funding CMHCs.
Other Recommendations		
Provide dementia training - Four hours of dementia training annually for direct	WGB	Recommendation 1.3: Education Training Credits.

Task Force Recommendations	WG Assigned	WG Action
care workers (e.g., nurse aide, medication aide), two hours of training for new employees within 90 days of employment.		
Seek funding and develop partnerships for the development and distribution of a new Kansas Elder Count book that provides the demographic and detailed data as the original Elder Count book. This information would provide detailed and robust data to help legislature and state staff plan for current and future needs of older Kansans.	WGB	Recommendation 8.3: Elder Count Book.
Research-state-licensed facilities providing HCBS care in 2018 vs 2021	WGB	This recommendation was not included for final consideration because the information can be obtained from KDADS under a data request.
Study HCBS rate setting in state-licensed facilities.	WGB	Recommendation 8.1: Incentivize Providers.

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Appendix B: Characterization Rubrics

Figure B-1. Recommendation Characterization Rubric for Working Groups

Recommendation:	
Rationale:	
Ease of Implementation (Score 1-10):	Potential for High Impact (Score 1-10):
<input type="checkbox"/> Change, (Easiest) <input type="checkbox"/> Pilot, <input type="checkbox"/> Overhaul, <input type="checkbox"/> New, (Most difficult) Will cost be a barrier to implementation? Does the recommendation include strategies for continuity? <i>(How does it consider sustainability?)</i> Which of the following mechanisms may affect the achievability of the recommendation? <input type="checkbox"/> Legislative session <input type="checkbox"/> Federal approval process <input type="checkbox"/> Regulatory process <input type="checkbox"/> Contracts <input type="checkbox"/> Agency budget development <input type="checkbox"/> Grant cycles <input type="checkbox"/> Systems (e.g., IT) <input type="checkbox"/> Technology/Infrastructure	Will it benefit seniors living in Kansas? <input type="checkbox"/> Yes <input type="checkbox"/> No Will it significantly impact subpopulations? <input type="checkbox"/> Individuals with Alzheimer's <input type="checkbox"/> Rural <input type="checkbox"/> Frontier <input type="checkbox"/> Urban <input type="checkbox"/> Workforce <input type="checkbox"/> Caregivers <input type="checkbox"/> Low-income individuals <input type="checkbox"/> Uninsured or Underinsured individuals <input type="checkbox"/> Individuals with [Acute] Behavioral Healthcare Needs <input type="checkbox"/> Individuals with I/DD or PD <input type="checkbox"/> Limited English Proficient (LEP) persons <input type="checkbox"/> Others? <i>(List here)</i> Does it serve those who have been disproportionately impacted by the issue? <i>(Does it address inequities?)</i> Could the recommendation produce savings in other areas?
How does this recommendation contribute to the well-being of seniors living in Kansas?	
Action Lead: <i>[Who takes point on this recommendation?]</i>	Key Collaborators: <i>[Who should be included as decisions are made about how to implement this recommendation?]</i>
Intensity of Consensus: <i>[Does it align with vision statement?]</i>	
Key Performance Indicators: <i>[How can the state assess progress when this recommendation is implemented?]</i>	

Figure B-2. Recommendation Characterization Rubric for Workforce Subgroup

Recommendation:	
Rationale:	
Ease of Implementation (Score 1-10):	Potential for High Impact (Score 1-10):
<input type="checkbox"/> Change, (Easiest) <input type="checkbox"/> Pilot, <input type="checkbox"/> Overhaul, <input type="checkbox"/> New, (Most difficult) Will cost be a barrier to implementation? Does the recommendation include strategies for continuity? (How does it consider sustainability?) Which of the following mechanisms may affect the achievability of the recommendation? <input type="checkbox"/> Legislative session <input type="checkbox"/> Federal approval process <input type="checkbox"/> Regulatory process <input type="checkbox"/> Contracts <input type="checkbox"/> Agency budget development <input type="checkbox"/> Grant cycles <input type="checkbox"/> Systems (e.g., IT) <input type="checkbox"/> Technology/Infrastructure	Which area will the recommendation most impact? <input type="checkbox"/> Recruitment <input type="checkbox"/> Retention <input type="checkbox"/> Training Could the recommendation produce savings in other areas?
How does this recommendation contribute to the well-being of seniors living in Kansas?	
Action Lead: <i>[Who takes point on this recommendation?]</i>	Key Collaborators: <i>[Who should be included as decisions are made about how to implement this recommendation?]</i>
Intensity of Consensus: <i>[Does it align with vision statement of “To utilize a systematic approach to understand the needs of the formal and informal workforce serving seniors in the state of Kansas; while discovering these needs, creating a long-term approach with public policy recommendations to entice a workforce to return to and be retained in the senior services industry, to enable seniors and their families to have supports to make choices for their best lives, in their preferred environment.” To be addressed during final review.]</i>	
Key Performance Indicators: <i>[How can the state assess progress when this recommendation is implemented?]</i>	

Appendix C. Topic Lists by Tier

The working groups designated 12 recommendations to Tier I (Figure C-1), 26 recommendations to Tier II (Figure C-2) and 11 recommendations to Tier III (Figure C-3). The full text for each recommendation and working group rationale is available in the body of the report (beginning on page 5).

Figure C-1. Tier I Recommendations by Topic Area

Antipsychotic Medications	Prevent ANE	Survey & Fines
<input type="checkbox"/> Recommendation 2.1 Geriatric Psychiatric Prescribers	<input type="checkbox"/> Recommendation 3.1 Workforce Clearinghouse	<input type="checkbox"/> Recommendation 4.1 Multidisciplinary Surveyors
Alzheimer's, Dementia, Mental Health	Rebalancing HCBS	Daycare Resources
<input type="checkbox"/> Recommendation 5.1 State Advisory Council <input type="checkbox"/> Recommendation 5.2 Dementia and Alzheimer's Disease Coordinator	<input type="checkbox"/> Recommendation 6.4 Affordable Housing	<input type="checkbox"/> Recommendation 7.2 Promote PACE Program Growth
Senior Care Act	Workforce	Cross-cutting
<input type="checkbox"/> Recommendation 8.1 Incentivize Providers <input type="checkbox"/> Recommendation 8.2 One-Time-Only Service Caps <input type="checkbox"/> Recommendation 8.3 Elder Count Book	<input type="checkbox"/> Recommendation 9.1 Reimbursement Rates <input type="checkbox"/> Recommendation 9.7 Instructor Pay and Benefits	<input type="checkbox"/> Recommendation 1.1 Statewide Aging Conference <input type="checkbox"/> Recommendation 1.2 Person-Centered Practices <input type="checkbox"/> Recommendation 1.5 Rural Health Coalition

Note: ANE stands for Abuse, Neglect and Exploitation

Figure C-2. Tier II Recommendations by Topic Area

Antipsychotic Medications	Prevent ANE	Survey & Fines
<input type="checkbox"/> Recommendation 2.2 Psychotropic Medication Education	<input type="checkbox"/> Recommendation 3.2 Background Checks <input type="checkbox"/> Recommendation 3.3 Abuse, Neglect, and Exploitation Training <input type="checkbox"/> Recommendation 3.4 Financial Crime Campaign <input type="checkbox"/> Recommendation 3.6 Decision-Making Assistance <input type="checkbox"/> Recommendation 3.7 Mandated Reporters	<input type="checkbox"/> Recommendation 4.2 Technical Assistance <input type="checkbox"/> Recommendation 4.3 Corrective Plans <input type="checkbox"/> Recommendation 4.4 Adult Care Home Survey Website
Alzheimer's, Dementia, Mental Health	Rebalancing HCBS	Daycare Resources
	<input type="checkbox"/> Recommendation 6.1 Modify Medicaid Waivers <input type="checkbox"/> Recommendation 6.2 Promote Home and Community-Based Services <input type="checkbox"/> Recommendation 6.3 Transition Services <input type="checkbox"/> Recommendation 6.4 Affordable Housing	<input type="checkbox"/> Recommendation 7.1 Adult Daycare Reimbursement Rates
Senior Care Act	Workforce	Cross-cutting
<input type="checkbox"/> Recommendation 8.4 Technology Investment <input type="checkbox"/> Recommendation 8.5 SCA Program Evaluation <input type="checkbox"/> Recommendation 8.6 SCA Data Systems	<input type="checkbox"/> Recommendation 9.2 ConnectToCareJobs Platform <input type="checkbox"/> Recommendation 9.3 Workforce Incentives and Benefits <input type="checkbox"/> Recommendation 9.4 Workforce Tax Credit <input type="checkbox"/> Recommendation 9.5 Caregiver Tax Credit <input type="checkbox"/> Recommendation 9.6 Cross-sector Partnerships	<input type="checkbox"/> Recommendation 1.3 Education Training Credits <input type="checkbox"/> Recommendation 1.4. Caregiver Services.

Figure C-3. Tier III Recommendations by Topic Area

Antipsychotic Medications	Prevent ANE	Survey & Fines
	<ul style="list-style-type: none"> <input type="checkbox"/> Recommendation 3.8 Funding CMHCs <input type="checkbox"/> Recommendation 3.9 Statewide Needs Assessment 	
Alzheimer's, Dementia, Mental Health	Rebalancing HCBS	Daycare Resources
<ul style="list-style-type: none"> <input type="checkbox"/> Recommendation 5.3 Alzheimer's State Plan and Task Force 	<ul style="list-style-type: none"> <input type="checkbox"/> Recommendation 6.5 Tiered Levels of Services 	<ul style="list-style-type: none"> <input type="checkbox"/> Recommendation 7.2 Expand PACE Program <input type="checkbox"/> Recommendation 7.3 Adult Daycare Locations <input type="checkbox"/> Recommendation 7.4 Community Partners Pilot <input type="checkbox"/> Recommendation 7.5 Adult Daycare Volunteers
Senior Care Act	Workforce	Cross-cutting
	<ul style="list-style-type: none"> <input type="checkbox"/> Recommendation 9.8 Five-year Career-Path Plan <input type="checkbox"/> Recommendation 9.9 Identify Future Workforce of Direct Care Workers and Volunteers <input type="checkbox"/> Recommendation 9.10 Eliminate Barriers to Workforce Entry 	

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Appendix D: Other Recommendations

The table below provides recommendations proposed by the working groups but were not considered as a high priority at this time. The recommendations have been provided by topic area for future efforts.

Figure D-1. Other Recommendations

Topic Area	Recommendation
Administration of Antipsychotics	Implement a statewide caregiver hotline to address psychotropic medication questions that caregivers could call for an additional support when questions/challenges arose for staff to answer.
Administration of Antipsychotics	KanCare case management assistance for dementia and psychotropic medication use cases.
Administration of Antipsychotics	Summarize lessons learned and experiences from residents, providers, prescribers, caregivers, and family members throughout the pandemic regarding the use of antipsychotic medications.
Safeguards to Prevent Abuse, Neglect, and Exploitation (ANE)	Create an after-care policy that allows seniors to remain in the same environment and bring services to them instead of moving from one facility or room to another.
Safeguards to Prevent Abuse, Neglect, and Exploitation (ANE)	Fund research how other states use public registries for abuse, neglect, and exploitation
Safeguards to Prevent Abuse, Neglect, and Exploitation (ANE)	Improve opportunities for activities and systems of care delivery for elders in care settings to help reduce isolation and reactive behavioral changes.
Safeguards to Prevent Abuse, Neglect, and Exploitation (ANE)	Ensure the rights of residents and their representatives to appeal involuntary transfers and discharges or evictions from assisted living facilities and review research conducted by the Judicial Council to ensure a process is put into place. <i>(Note: This recommendation was previously included in the report as Recommendation 3.5: Appeals of Involuntary Removal. The Task Force agreed to remove this recommendation from the report, retaining it in Appendix D, because the Judicial Council's final report on the topic was not available at the time of the Task Force's final meeting.)</i>
Adult Care Home Surveys and Fines	Ensure facilities are aware of option to designate a percentage of Civil Monetary Penalties (CMPs) to be used for approved facility improvements to increase quality of life for older adults.
Rebalancing of Home and Community Based Services	Leverage the increase in protected income level to mitigate any costs associated with coming into compliance with the CMS final settings rule.

Rebalancing of Home and Community-Based Services	Allow all waiver services to be provided to anyone receiving HCBS services, regardless of which waiver they are on.
Funding and Implementation of the Senior Care Act (SCA)	Develop a more stable funding base by recrafting the SCA funding formula using state census for seniors aged 75 and older to implement and expand/extend/ensure services that is dependable for implementation and continuity of services, such as travel time and mileage costs for providers and pay for family caregivers.
Funding and Implementation of the Senior Care Act (SCA)	Utilize existing programs to overcome SCA service shortages.

Appendix E: Task Force and Working Group Membership

2022 Senior Care Task Force

- Senator Richard Hilderbrand, Chairperson
- Representative Susan Concannon, Vice-Chairperson
- Senator Cindy Holscher
- Senator Kristen O’Shea
- Representative Charlotte Esau
- Representative Jarrod Ousley
- Kendra Baldrige, Kansas Department of Health and Environment
- Leanna Chaffee, Midland Care
- Jamie Gideon, Alzheimer’s Association
- Annette Graham, Central Plains Area Agency on Aging
- Lacey Hunter, Kansas Department for Aging and Disability Services
- Jan Kimbrell, Kansas Silver Haired Legislature
- Ernest Kutzley, AARP
- Linda MowBray, Kansas Health Care Association
- Haely Ordoyne, Kansas Adult Care Executives
- Bill Persinger, Valeo Behavioral Health
- Rachael Pirner, Elder Law Attorney
- Camille Russell, Kansas Long-Term Care Ombudsman
- Sarah Schlitter, Johnson County Developmental Supports
- Debra Zehr, LeadingAge Kansas

Quality of Care and Protective Services Working Group (WGA)

- Leanna Chaffee, Midland Care
- Tracy Davies, Washburn University
- Representative Charlotte Esau
- Lacey Hunter, Kansas Department for Aging and Disability Services
- Chrisy Khatib, Kansas Department for Children and Families
- Jan Kimbrell, Kansas Silver Haired Legislature
- Ernest Kutzley, AARP

- Carter Olson, Nicol Homes
- Bill Persinger, Valeo Behavioral Health
- Rachael K. Pirner, Elder Law Attorney
- Camille Russell, Kansas Long-Term Care Ombudsman
- Debra Zehr, LeadingAge Kansas

Access to Services Working Group (WGB)

- Kendra Baldrige, Kansas Department of Health and Environment
- Heather Brown, Johnson County Developmental Supports
- Staci Carson, Johnson County Developmental Supports
- Tanya Dorf-Brunner, Oral Health Kansas
- Jamie Gideon, Alzheimer's Association
- Annette Graham, Central Plains Area Agency on Aging
- Jan Kimbrell, Kansas Silver Haired Legislature
- Linda MowBray, Kansas Health Care Association
- Senator Kristen O'Shea
- Sarah Schlitter, Johnson County Developmental Supports
- Shawn Sullivan, Midland Care Connection

Workforce Subgroup

- Leanna Chaffee, Midland Care
- Jamie Gideon, Alzheimer's Association
- Senator Cindy Holscher
- Jan Kimbrell, Kansas Silver Haired Legislature
- Ernest Kutzley, AARP Kansas
- Haely Ordoyne, Kansas Adult Care Executives
- Christina Rudacille, Johnson County Community College
- Camille Russell, Kansas Long-Term Care Ombudsman
- Kelly Sommers, Kansas State Nurses Association
- Shawn Sullivan, Midland Care Connection
- Debra Zehr, LeadingAge Kansas

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Report of the Legislative Task Force on Community and Technical College State Funding to the 2023 Kansas Legislature

CHAIRPERSON: Representative Susan Humphries

VICE-CHAIRPERSON: Senator Molly Baumgardner

OTHER LEGISLATIVE MEMBERS: Senators Rick Billinger and Tom Hawk; and Representatives Troy Waymaster, Valdenia Winn (substitute member), Kathy Wolfe Moore, and Brandon Woodard

NON-LEGISLATIVE MEMBERS: Heather Morgan, Carter File, Alysia Johnston, Greg Nichols, Ben Schears, and Blake Flanders

CHARGE

Provisions in the 2022 Appropriations Bill (Section 109(g) of House Sub. for Sub. for SB 267) direct the Task Force to:

- Study the provision of state funding to the community and technical colleges in Kansas.

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Legislative Task Force on Community and Technical College State Funding

REPORT

Conclusions and Recommendations

The Legislative Task Force on Community and Technical College State Funding makes the following recommendations:

- The Task Force recommends the Kansas Board of Regents (KBOR) use a three-year average (current academic year and two previous years) of data to calculate funding distributions for tiered and non-tiered education state aid rather than using a single previous year of data;
- The Task Force recommends the Legislature review the statutory definition of “new state money” as it relates to performance agreements and consider creating a new definition;
- The Task Force urges KBOR to review the current performance agreement process and consider creating a process that incentivizes larger goals rather than punishing colleges for not meeting metrics. The Task Force also recommends the Legislature consider funding the 2.0 percent performance incentive that was previously unfunded;
- The Task Force recommends the Legislature review and consider removing the proviso requiring funding for the Excel in Career Technical Education Initiative (SB 155) program to be distributed by KBOR within 60 days of the class start date;
- The Task Force recommends the Legislature grant KBOR auditing authority or utilize the Legislative Division of Post Audit process if audits are needed of the data inputted by colleges for the cost model calculation;
- The Task Force recommends the Legislature review statutes related to residency requirements and review where residency requirements for technical colleges originated and consider putting such requirements in statute;
- The Task Force recommends the Legislature add reappropriation authority to the tiered and non-tiered funding line items in the appropriations bill;
- The Task Force recommends the Legislature review the proviso prohibiting KBOR from transferring moneys between the tiered and non-tiered accounts; and
- The Task Force recommends the Legislature ensure the recentering of tiered and non-tiered education state aid funding occur as required in 2022 House. Sub. for Sub. for SB 267.

Proposed Legislation: None.

BACKGROUND

The Legislative Task Force on Community and Technical College State Funding (Task Force) was established by provisions in 2022 House Sub. for Sub. for SB 267, the 2022 appropriations bill, Section 109(g). The Task Force is composed of 13 members:

- Chairperson of the Senate Committee on Education;
- Chairperson of the Senate Committee on Ways and Means;
- Ranking Minority Member of the Senate Committee on Ways and Means;
- Chairperson of the House Committee on Appropriations;
- Ranking Minority Member of the House Committee on Appropriations;
- Chairperson of the House Committee on Higher Education Budget;
- Ranking Minority of the House Committee on Higher Education Budget;
- Three members representing the community colleges, appointed by the Kansas Association of Community College Trustees;
- Two members representing the technical colleges, appointed by the Kansas Association of Technical Colleges; and
- A member of the Kansas Board of Regents (KBOR).

The 2022 appropriations bill required the Task Force to review the provisions for state funding for community and technical colleges concerning the postsecondary tiered technical education state aid and non-tiered course credit hour grants described in Section 109(f) of the bill and other formula-related topics. The provisions state that legislative

intent for FY 2024 is to implement the funding formula for community and technical colleges concerning the postsecondary tiered technical education state aid and non-tiered course credit hour grants so that community and technical colleges that were overfunded according to the formula in FY 2023 will receive 50.0 percent of the amount of the overfunding in FY 2024.

For FY 2025, legislative intent is to fully implement the funding formula for the community and technical colleges concerning the postsecondary tiered technical education state aid and non-tiered course credit hour grants.

The Task Force is required to report its recommendations to the Senate Committee on Ways and Means and the House Committee on Higher Education Budget on or before January 9, 2023.

COMMITTEE ACTIVITIES

The Legislative Coordinating Council approved two meeting days for the Task Force in 2022. The Task Force met on August 30. The Task Force received presentations on the statutory procedure of the cost model for community and technical college state aid funding, calculation of the cost model, institutional performance agreements, and residency requirements. The majority of the meeting comprised Task Force member discussion of formula-related issues.

Overview of the Two-year College State Aid Funding Model

Statutory Overview

An Assistant Revisor of Statutes reviewed the statutory procedure of the funding system, a cost model, for community colleges and technical colleges. Funding both for the provision of general education and technical courses is determined using the cost model required by state law; funding for technical education takes into account additional costs to deliver those courses.

The postsecondary tiered technical education state aid is determined by the tiered technical course credit hours for students who are deemed Kansas residents using the statutory framework for

community colleges or rules and regulations for technical colleges. The cost calculation model is based on numerous factors and is set by KBOR. The non-tiered course credit hour grant amount is also set by KBOR.

The Assistant Revisor of Statutes noted the appropriations from FY 2023 to the tiered (\$66.0 million) and non-tiered (\$95.0 million) courses. Additionally, the Legislature directed KBOR to distribute funding in FY 2023 so that each institution would receive no less than what they received in FY 2022, with the directive that by FY 2025, the funding formula will be fully implemented.

Between FY 2023 and FY 2025, funds will be recentered among institutions to ensure each school is funded according to the cost model. In FY 2024, appropriations of institutions that are overfunded will be reduced by 50.0 percent of the overfunded amount. In FY 2025, all institutions will be funded according to the cost model.

Calculation of the Cost Model

A KBOR representative provided an overview of the history and calculation of the instructional cost model for Kansas resident students. For every tiered course, four factors determine course rate: instructor costs, instructional support costs, institutional costs (overhead), and extraordinary costs (equipment and infrastructure).

Non-tiered courses have three factors for course rates: instructor costs, instructional support costs, and institutional support costs. The course rate is then multiplied by the number of eligible student credit hours (SCH) to calculate total course costs.

Committee Discussion

Task Force members discussed the following issues related to funding:

- The under and overfunding of community and technical colleges and the proviso to balance funding so that underfunded colleges will receive full funding and overfunded colleges will receive funding according to the funding formula;

- The proviso requiring that each institution receive no less state aid funding than what they had the previous year, which had been in place for about ten years, and the disproportionality of funding that was created over time as schools grew and changed;
- Increased FY 2023 tiered and non-tiered appropriations by the Legislature and the provisos creating the recentering of funding process so that all colleges are funded according to the formula in FY 2025;
- Major differences in colleges across the state in terms of the number of out-of-district students and the differences in the calculating of funding related to in-district SCH and out-of-district SCH;
- Whether colleges have the opportunity to review their proposed funding allocation from KBOR and whether changes could be made if colleges noted any issues;
- The Excel in Career Technical Education Initiative (SB 155) program and a proviso requiring KBOR to distribute SB 155 funding to the colleges within 60 days of the class start date; and
- The three main funding sources of community colleges: local property taxes, tuition, and state aid. The technical colleges operate with two main funding sources: tuition and state aid.

Institutional Performance Agreements

An Assistant Revisor of Statutes provided information on institutional performance agreements. KBOR is charged with supervising performance measures, and the colleges were asked to develop institutional improvement plans showing how the performance indicators would be implemented and measured by each school. As of 2005, state law provides that each college's receipt of new state funds is contingent on compliance with the performance agreement.

Committee Discussion

Task Force members discussed the performance agreements in terms of the six measures. Three of the measures are chosen by each college from a list provided by KBOR. The other three measures are created by each college. The school must meet four out of six measures. Task Force members noted KBOR is currently reviewing the entire performance agreements process.

Residency Requirements

Community Colleges

An Assistant Revisor of Statutes provided information on statute and KBOR regulations for community college residency requirements related to state aid to Kansas students.

The basic requirement for Kansas student residency is to live in the state for six months prior to enrollment. In addition, active military service members, certain military service members who have established domiciliary residence, employees of a community college, persons having special domestic relations circumstances (such as a student whose parents are going through a divorce), persons who lost their resident status within 6 months of enrollment, students who were living in Kansas at graduation of high school or 12 months prior, and persons recruited for employment may be considered residents for state aid purposes.

Community and Technical Colleges

The Assistant Revisor of Statutes reviewed the rules and regulations that govern community and technical colleges residency determinations for state aid purposes, including the factors a college can consider when determining residency for state aid purposes, including payment of Kansas income taxes, ownership of a home in Kansas, and a registration to vote in Kansas.

Committee Discussion

Task Force members discussed the differences between the community college and the technical college residency requirements. Technical colleges do not count students who drive from another state as residents for purposes of state aid, but if those

students choose to move to and reside in Kansas, either in a dorm or apartment, then they are considered residents.

The technical college tuition for in-state and out-of-state students is the same, according to two presidents of technical colleges on the Task Force. Community college residency requirements were set in statute in 1972 and amended in 1999.

CONCLUSIONS AND RECOMMENDATIONS

Following discussion, the Task Force made the following recommendations:

- The Task Force recommends KBOR use a three-year average (current academic year and two previous years) of data to calculate funding distributions for tiered and non-tiered education state aid rather than using a single previous year of data;
- The Task Force recommends the Legislature review the statutory definition of “new state money” as it relates to performance agreements and consider creating a new definition;
- The Task Force urges KBOR to review the current performance agreement process and consider creating a process that incentivizes larger goals rather than punishing colleges for not meeting metrics. The Task Force also recommends the Legislature consider funding the 2.0 percent performance incentive that was previously unfunded;
- The Task Force recommends the Legislature review and consider removing the proviso requiring that funding for the Excel in Career Technical Education Initiative (SB 155) program be distributed by KBOR within 60 days of the class start date.
- The Task Force recommends the Legislature grant KBOR auditing authority or utilize the Legislative Division of Post Audit process if audits

are needed of the data inputted by colleges for cost model calculation;

- The Task Force recommends the Legislature review statutes related to residency requirements and review where residency requirements for technical colleges originated and consider putting such requirements in statute;
- The Task Force recommends the Legislature add reappropriation authority to the tiered and non-tiered funding line items in the appropriations bill;
- The Task Force recommends the Legislature review the proviso prohibiting KBOR from transferring moneys between the tiered and non-tiered accounts; and
- The Task Force recommends the Legislature ensure the recentering of tiered and non-tiered education state aid funding occur as required in 2022 House. Sub. for Sub. for SB 267.