

Committee Reports to the 2019 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 2019**

2018 Legislative Coordinating Council

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

Special Committee on Commerce

Joint Committee on Kansas Security
Legislative Budget Committee

Joint Committee on Pensions, Investments and Benefits
Joint Committee on State Building Construction

Capitol Preservation Committee
Child Welfare System Task Force
Health Care Stabilization Fund Oversight Committee



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Foreword

In the 2018 Interim, the Legislative Coordinating Council appointed two special committees to study two study topics. Legislation recommended by the committees will be available in the Documents Room early in the 2019 Session.

Joint committees created by statute met in the 2018 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 2019 Session.

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 Federal and State Affairs
- Joint Committee on Corrections and Juvenile Justice Oversight
- Joint Committee on Information Technology
- Robert G. (Bob) Bethell Joint Committee on Home and Community Based Services and KanCare Oversight
- Joint Legislative Transportation Vision Task Force
- Legislative Task Force on Dyslexia
- Statewide Broadband Expansion Planning Task Force

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 i.

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Summary of Conclusions and Recommendations

Special Committee on Commerce

The Legislative Coordinating Council did not designate a Committee chairperson (House or Senate), nor designate members of this Committee.

Joint Committee on Kansas Security

The Committee recommended full implementation of the Kansas Cybersecurity Act (KCA) and funding and other resources to enable that full implementation.

The Committee recommended the House Committee on Education and the Senate Committee on Education hold informational hearings on emergency preparedness drills required in public and private schools and educational institutions.

The Committee recommended the House Committee on Appropriations and the Senate Committee on Ways and Means review and provide for the replacement of equipment used to screen visitors to the Statehouse and for the addition of equipment to screen large packages delivered to the Statehouse.

The Committee recommended legislative leadership consider providing additional, regular information, training, or both regarding emergency procedures to legislators and legislative employees.

Legislative Budget Committee

The Committee made the following recommendations: the Legislature review the best practices and procedures for the non-competitive procurement of goods and services including those in the category of “best interest of the state” justification outlined in KSA 2018 Supp. 75-3739(a)(7); the Legislature fund the purchase of lottery vending machines from operating cash flows; the House Committee on Appropriations and the Senate Committee on Ways and Means monitor the Teach for America program to determine its efficacy in addressing teacher shortages in high-need districts; the Kansas Forest Service within Kansas State University take the lead on fire suppression for the State in coordination with the Adjutant General and the State Fire Marshal; there be a separate State General Fund line item in the appropriations bill for the Kansas Forest Service, with a proviso that states the amount of money would be used for fire suppression; the State Employee Health Plan submit a report detailing improved health outcomes attributable to the HealthQuest program to the Senate Committee on Ways and Means and the House Committee on Appropriations no later than January 31, 2019; locations throughout the state be explored for the possibility of additional on-site state employee health clinics; and the Kansas Department of Health and Environment and Kansas Department for Aging and Disability Services explore incentive options for managed care organizations for psychiatric residential treatment facility (PRTF) readmission reductions, extend the number of days preauthorized to 21 or more, and research the rate increase necessary to compete with private placements and the number of beds necessary to adequately serve Kansas youth at PRTFs with a report to the Senate Committee on Ways and Means and the House Committee on Appropriations no later than January 31, 2019.

Joint Committee on Pensions, Investments and Benefits

The Committee agreed to introduce a bill to redefine “service connected,” as that term is used in the death and disability provisions of the Kansas Police and Firemen’s Retirement Plan (KP&F). The Committee encourages the Legislature to consider legislation to increase the retirement cap on KP&F benefits. The Committee recommended the law regarding the sale of surplus public property and the distribution of the proceeds be reviewed. The Committee recommended the Legislature consider repealing the sunset on the pilot retention program of the Kansas Highway Patrol.

Joint Committee on State Building Construction

The Committee recommended all the agencies’ five-year capital improvement plans, except for those in which there was not a quorum; the Kansas Insurance Department’s request to remove the project to install safety film on the south and west first floor windows at a cost of \$12,000; and all leases presented to the Committee.

Capitol Preservation Committee

The Committee recommended future mural legislation clearly outline responsibilities and funding mechanisms, future mural proposals include a specific and realistic timeline for accepting artist proposals and completion of the mural, the Director of Legislative Administrative Services contact the artist of the *Brown v. Board of Education* mural about receiving a copy of the documentary filmed concerning such mural, the State Historical Society and the Kansas Department of Administration provide the Overmyer murals report and estimates to the Legislative Coordinating Council for its review, and the Kansas Department of Administration provide options for marking the north entrance to the Capitol Building to the Committee. The Committee approved the Law Enforcement Officers Memorial proposal and directed the Chairperson of the Capitol Preservation Committee to discuss the process of the Fallen Firefighters Memorial with the Kansas Firefighters Memorial Advisory Committee.

Child Welfare System Task Force

Drawing from the testimony it received over its 11 meetings in 2017 and 2018 and the 26 recommendations and associated supporting strategies submitted by the three working groups it convened to study its charged topics, the Task Force finalized a set of 23 recommendations addressing multiple areas of the Kansas child welfare system, including: workforce; data infrastructure; the Families First Act; access to care; the Code for Care of Children; foster care re-entry and transitional services; service setting; reintegration support; foster homes; analysis of service delivery; safety net, early childhood programs, and early intervention; information sharing; non-abuse neglect; relative search; immediate response; front-end staffing; case plans; post-adoptive support; maximizing federal funding; resources and accountability; serious injury review; Court Appointed Special Advocates; and physical access. The recommendations are organized into three tiers by priority. The Task Force also urges consideration of which supporting strategies contained in the workings groups’ report may be appropriate to use in implementing the Task Force’s recommendations.

Health Care Stabilization Fund Oversight Committee

The Health Care Stabilization Fund Oversight Committee considered two items central to its statutory charge: whether this committee should continue its work and whether a second, independent analysis of the Health Care Stabilization Fund (HCSF) is necessary. This oversight committee continues in its belief that 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 did not request the independent review.

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Report of the Special Committee on Commerce to the 2019 Kansas Legislature

CHAIRPERSON: None appointed

VICE-CHAIRPERSON: None appointed

OTHER MEMBERS: None appointed

STUDY TOPIC

The Committee is directed to:

- Consider investment analyses to be performed on economic development projects that receive state support;
- Review the substance of the bills introduced during the 2018 Legislative Session pertaining to the evaluation and transparency of economic development programs and, if applicable, introduce new legislation that forges together the best elements of those proposals; and
- Develop criteria that standing committees of the House and Senate may use when approving the creation of new programs or incentives that meet the future needs of the Kansas economy.

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Special Committee on Commerce

REPORT

Conclusions and Recommendations

The Special Committee on Commerce was not convened during the 2018 Interim. (*Note:* The Legislative Coordinating Council did not designate a Committee chairperson (House or Senate), nor designate members of this Committee.)

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Report of the Joint Committee on Kansas Security to the 2019 Kansas Legislature

CHAIRPERSON: Senator Dan Goddard; Senator Steve Fitzgerald (until September 2018)

VICE-CHAIRPERSON: Representative Kevin Jones

OTHER MEMBERS: Senators Kevin Braun (as of November 2018), Mike Petersen (as of November 2018), Pat Pettey, Lynn Rogers, and John Doll (until March 2018); and Representatives Michael Houser, Jarrod Ousley, Louis Ruiz, and Eric Smith

CHARGE

KSA 46-3301 directs the Committee to study, monitor, review, and make recommendations on matters related to the security of state officers or employees and of state and other public buildings and other property and infrastructure in the state. It further directs the Committee to consider measures for the improvement of security for the state. In addition, the Committee is authorized to address these additional topics:

- Emergency communications;
- Cybersecurity; and
- The safety of students and state employees.

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Joint Committee on Kansas Security

ANNUAL REPORT

Conclusions and Recommendations

The Joint Committee on Kansas Security (Committee) recommends full implementation of the Kansas Cybersecurity Act and funding and other resources to enable that full implementation. It urges steps be taken to ensure agency administrators and other state employees receive sufficient training to achieve best cybersecurity practices, and it notes the importance of having qualified information security professionals to manage cybersecurity. Further, it recommends review and possible amendment of KSA 2018 Supp. 75-7239(c)(14) to better align that reporting requirement of the Kansas Information Security Office with agency reporting requirements in KSA 2018 Supp. 75-7240(h)(1).

The Committee recommends the House Committee on Education and the Senate Committee on Education hold informational hearings on the number of emergency preparedness drills required in public and private schools and educational institutions.

The Committee recommends the House Committee on Appropriations and the Senate Committee on Ways and Means review and provide for the replacement of equipment used to screen visitors to the Statehouse and for the addition of equipment to screen large packages delivered to the Statehouse.

The Committee recommends legislative leadership consider providing additional, regular information, training, or both regarding emergency procedures, including for an active shooter situation, to legislators and legislative employees.

Proposed Legislation: None

BACKGROUND

The 2004 Legislature created the Joint Committee on Kansas Security (KSA 2018 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 Legislative Coordinating Council also directed the Committee to study emergency communications, cybersecurity, and the safety of students and state employees.

COMMITTEE ACTIVITIES

The Committee met in the Statehouse on January 29 and December 12, 2018.

Security of State Officers and Employees

At the January 29, 2018, meeting, the Secretary of Administration provided the Committee with a status update on a review of Kansas state agency security policies and procedures began in 2017. She stated the Department of Administration had received survey responses and copies of policies and procedures from more than 100 cabinet and non-cabinet agencies. The responses included descriptions of training opportunities and facility security equipment and procedures. She described efforts then under way: compiling a list of available in-person and online training opportunities, in cooperation with the Kansas Highway Patrol (KHP); compiling a list of security procedures to be incorporated into lease documents and adopted in offices where appropriate; and planning to review and update building security needs as funds became available. She noted security improvements were being funded *via* annual or five-year capital improvement budget requests.

Statehouse Security, including Screening Equipment

At the January 29, 2018, meeting, the former head of Troop K Capitol Police, KHP, reviewed the condition of Statehouse security screening equipment. He reported the x-ray inspection systems and magnetometers had been exposed to dust during Statehouse renovations and their warranties had expired. He described operational problems and the cost of service fees. He also reviewed recommendations for replacement equipment, training, and warranties.

The Troop K Captain and Lieutenant met with Committee members in an executive session during the December 12, 2018, meeting. Any information provided during a closed session is not summarized in this report; staff were not present during closed sessions. In open session, the Captain and the Lieutenant responded to Committee member questions regarding concealed carry, “flashing” and “brandishing” of concealed

weapons, emergency notifications for legislators in case of an emergency, and active shooter training.

2018 HB 2556, Establishing the State Interoperability Advisory Committee

At the January 29, 2018, meeting, an Assistant Revisor of Statutes provided an overview and history on 2018 HB 2556, which had been heard by the House Committee on Government Technology and Security earlier that day. Supporting documentation was distributed to Committee members. (*Note: 2018 Sub. for HB 2556 was enacted, establishing the State Interoperability Advisory Committee in statute; a Statewide Interoperability Executive Committee had been established by Executive Order 07-27. The statutory purpose of the State Interoperability Advisory Committee is to provide input to the Adjutant General’s Department for the development and deployment of centralized interoperable communications planning and implementation capacity for Kansas.*)

Election Security

At the December 12, 2018, meeting, the Director of Elections, Office of Kansas Secretary of State, reviewed voter registration security, the security of electronic poll books, cybersecurity training for state and local election staff, the interstate Crosscheck system, certification and verification of voting equipment, and federal Help America Vote Act (HAVA) funds available to the State.

Voter registration. The Director of Elections reported the statewide voter registration system, in use since January 1, 2006, had not experienced a data breach to date, although there have been repeated attempts. He stated the Office of the Secretary of State works with the Department of Homeland Security (DHS) and the Kansas Intelligence Fusion Center (KIFC) to identify and strengthen weaknesses in that system. He noted access to the voter registration system is limited to certain election officials in state and local offices and to specific computers, with multi-factor authentication required for access.

Security of electronic poll books. The Director of Elections explained counties may choose to use electronic poll books, which speed

voter check-in, but cannot connect those electronic poll books to the state voter registration system on Election Day and are advised to have a paper back-up. He noted each county is responsible for training its poll workers on electronic poll book operation.

Interstate Crosscheck system. The Director of Elections stated the Office of the Secretary of State partnered with DHS to review data collection and dissemination for this system. Implementation of additional security features was not completed before primary elections in participating states, so no data were collected and distributed using the Crosscheck system during 2018. He stated options available for upgrades appear to require funds in the range of \$8,000 to \$14,000; he noted the Office of the Secretary of State is entirely fee-funded. The Director of Elections stated, without Crosscheck, the State was unable to review records for potential duplicate registrations.

Voting equipment and HAVA funds. The Director of Elections stated each county is responsible for the purchase and maintenance of the voting equipment used in that county, but the county must have equipment certified by the Secretary of State. He stated, in 2018, Kansas has received \$4,383,595 in federal HAVA funds, matched by 5.0 percent from the state, for a total of \$4,602,775. Those funds are to be spent in the next five years, and it has been recommended the moneys be spent on voting equipment, implementation and training for post-election audits, additional security improvements to the statewide voter registration system, training and other resources to county election and information technology personnel, and development of security communications plans.

The Director of Elections also noted 2018 HB 2539 prohibits any board of county commissioners from purchasing, leasing, or renting any direct recording electronic voting system and requires any electronic or electromechanical voting system purchased, leased, or rented provide a paper record. He stated approximately 20 counties do not have systems capable of producing auditable, paper results.

Additional information. The Director of Elections, responding to Committee member

questions, also described new voting machines used in Johnson County, problems in reporting from the new election management software in Johnson County for the August 2018 primary election, and improved result reporting response times for the November 2018 general election; described voting machine testing before and after each election; discussed county responsibility to have paper records of votes; stated his office had received no complaints about malfunctioning voting equipment regarding the November 2018 election; and stated the Office of the Secretary of State has contracted for cybersecurity testing.

Kansas Crime Trends

The Executive Officer of the Kansas Bureau of Investigation (KBI) described the responsibilities and resources of the three KBI divisions—Investigations, Forensic Science Laboratory, and Information Services—and their roles in assisting local law enforcement agencies (LEAs). She noted more than 70.0 percent of Kansas local LEAs have ten or fewer staff members.

The Executive Officer stated violent crime and property crimes have been increasing since 2014, both in numbers of crimes and in the rates per capita, which had increased 25.0 percent for violent crime and 6.6 percent for property crime from 2014 to 2017. She noted the number of murders increased from 101 in 2014 to 176 in 2017, the most since 2000; among property offenses, motor vehicle theft showed the greatest increase, from 6,544 in 2014 to 8,232 in 2017 in Kansas and also increasing nationally. Firearms were involved in 68.8 percent of murders, 57.0 percent of robberies, and 45.8 percent of aggravated assaults; the percentages for the latter two categories exceed the national averages of 40.6 percent and 26.3 percent, respectively. The Executive Officer noted the KBI receives only summary data from eight of the larger LEAs; as a result, data in the Kansas Incident Based Reporting System (KIBRS) do not allow all analyses requested, and the KIBRS system is in need of replacement.

Reported losses from financial crimes increased from \$83.3 million in 2015 to more than \$102.6 million in 2017. The Executive Officer stated the KBI stopped accepting financial and

white collar crimes in fiscal year 2012, except cases involving public officials, due to lack of resources. She described Internet-based crimes in Kansas, the absence of capacity to investigate them, and work in Michigan (as an example) to establish public and private collaborations to address cybercrime.

The Executive Officer reported 3 of the 13 formerly vacant positions filled last year are assigned to child abuse investigations and the agency is seeking enhancements to focus additional agents on this subject area.

Regarding illegal drugs, the Executive Officer reported methamphetamine, heroin, fentanyl, and marijuana as most presented in KBI laboratory exhibits, and she described links between those drugs and violent and property crime.

Safe and Secure Schools

At the December 12, 2018, meeting, the Commissioner of Education described actions he and the Director of School Finance have taken to implement the provisions of 2018 House Sub. for SB 109, Section 76, which established the \$5.0 million School Safety and Security Grant Fund and required standards for school safety and security plans to be adopted by each school district. He noted representatives of the KHP, KBI, Attorney General, Adjutant General, State Fire Marshal, and the Kansas Department of Health and Environment were involved in development of school safety specialist position descriptions, tentative school safety standards, application forms, criteria for allocation of state aid, and recommendations to the State Board of Education (State Board). The Department of Wildlife, Parks and Tourism also has been involved with this effort.

The Commissioner of Education stated 156 school districts applied, requesting a total of \$13.0 million for school infrastructure, security technology, communications equipment, and other systems or facilities approved by the State Board. He noted the grants required a dollar-for-dollar local match. He stated, in 2018, the bill became effective July 1, the State Board approved tentative standards and recommended allocations on July 10, and state aid was distributed to the 156 districts on July 16. He provided the formula for

distribution of aid (enrollment head count minus virtual students times \$18.30, or the amount requested, which ever is lower) and a list of amounts requested and allocated by district. He noted no applications for weapons or ongoing salaries were approved.

The two school safety specialists hired by the Kansas State Department of Education in late September and October 1 also appeared before the Committee. A school safety specialist described efforts to create, review, and align required standards to meet requirements in the bill. Those efforts included presenting draft standards to local LEAs, local emergency management departments, 26 school districts, and the Council of Superintendents. The standards were approved by the State Board on December 11, 2018.

A copy of the final standards was provided. The standards address the topics of school infrastructure, technology systems used at the buildings, emergency communications, notifications to parents and community members, crisis plans, training on the crisis plans, crisis drills, exercises with all local responders, and firearms safety. The school safety specialist noted she and her colleague were working on a template for school crisis plans.

The school safety specialist described training that has been provided to school officials. She noted the bill references local collaboration and described roles of school, LEA, and other emergency response personnel.

Responding to questions, the Commissioner of Education discussed mental health efforts, including the mental health pilot program under way in schools in the Garden City, Kansas City, Parsons, Topeka, and Wichita districts and in schools served by the Central Kansas Cooperative in Education (2018 Sub. for SB 423, Section 1). The school safety specialist addressed suicide prevention within crisis plans.

Agriculture Security

The Director of the KIFC met with Committee members in an executive session on this topic during the December 12, 2018, meeting. (*Note: Staff were not present during closed sessions.*)

Armory Security

The Kansas National Guard Anti-Terrorism Program Manager met with Committee members in an executive session on this topic during the December 12, 2018, meeting.

Executive Agency Information Systems

At the December 12, 2018, meeting, the IT Audit Manager, Legislative Division of Post Audit (LPA), provided information on information technology (IT) security audits completed by LPA staff. She noted 2015 HB 2010 placed into statutes requirements LPA perform IT audits as directed by the Legislative Post Audit Committee. She noted reports of those audits are permanently confidential.

The IT Audit Manager stated LPA has found many agencies do not conduct security awareness training and staff do not sufficiently understand security protocols, a number of agencies have poor physical controls for their data centers, many agencies do not keep up with security updates, and several agencies do not adopt strong password settings. Root causes include insufficient awareness of state security requirements; inadequate top management support, understanding, or emphasis; lack of sufficiently knowledgeable staff due to turnover, having too few staff, and low pay not commensurate with the expertise required; user pushback; insufficient attention to possible insider threats; and poor communication across agency divisions. She noted the Kansas Cybersecurity Act (KCA) (2018 House Sub. for SB 56) states executive branch agency heads are solely responsible for the security of all data and IT resources under such agency's purview.

The IT Audit Manager provided additional information to the Committee in an executive session.

Implementation of the Kansas Cybersecurity Act

At the December 12, 2018, meeting, the Chief Information Security Officer (CISO) for the executive branch stated the KCA addressed an absence of oversight and promotes the Kansas Information Security Office (KISO) established by

the bill as responsible to further collaborative and cooperative effort on IT security. He stated the KISO provides information assurance, technical security, and infrastructure security services related to security controls and resources for those connected to the state data network, at a cost to agencies. The KISO has provided cybersecurity awareness training and has more than 13,000 employees in the system. Its vulnerability scanning solution is available to all connected to the state data network, at no additional cost to agencies.

The CISO described reporting requirements in the KCA and suggested a change to a provision in the KCA to align two reporting requirements. He noted the absence of qualified security professionals hinders program development and stated not all agencies have the financial resources to immediately meet KCA implementation requirements. To help address that issue, the KISO has developed guides and templates available on its website to help identify potential security gaps. The CISO emphasized the role of agency executives under the KCA and the importance of the KISO in providing information to those executives.

Committee Discussion

The Joint Committee discussed topics at the December 12, 2018, meeting for possible conclusions and recommendations, including suggesting rules changes to the House and Senate when legislators handle firearms inappropriately inside the Statehouse; providing regular information, training, or both on emergency preparedness notification and procedures to legislators and Statehouse staff; policies for determining entry to the Statehouse; cybersecurity for state agencies and institutions, including assistance provided to executive agencies in achieving best practices in cybersecurity; and drills required in public and private schools.

CONCLUSIONS AND RECOMMENDATIONS

The Committee recommends full implementation of the KCA and funding and other resources to enable that full implementation. It urges steps be taken to ensure agency administrators and other state employees receive

sufficient training to achieve best cybersecurity practices, and it notes the importance of having qualified information security professionals to manage cybersecurity. Further, it recommends review and possible amendment of KSA 2018 Supp. 75-7239(c)(14) to require an annual status report of executive branch cybersecurity programs of executive branch agencies to the Joint Committee on Information Technology and the House Committee on Government, Technology and Security, in odd-numbered years. The Committee noted agencies are required by KSA 2018 Supp. 75-7240(h)(1) to submit a cybersecurity assessment report to the Chief Information Security Officer by October 16 of each even-numbered year, not every year.

The Committee recommends the House Committee on Education and the Senate Committee on Education hold informational hearings on the number of emergency preparedness drills required in public and private schools and educational institutions. The

Committee noted a proviso in the 2018 appropriations bill (House Sub. for SB 109, Sec. 98(c)) requires public and private schools and educational institutions, except community colleges, colleges, and universities, to conduct at least 16 emergency preparedness drills during the school year at some time during school hours, notwithstanding drill requirements of KSA 2018 Supp. 31-133.

The Committee recommends the House Committee on Appropriations and the Senate Committee on Ways and Means review and provide for the replacement of equipment used to screen visitors to the Statehouse and for the addition of equipment to screen large packages delivered to the Statehouse.

The Committee recommends legislative leadership consider providing additional, regular information, training, or both regarding emergency procedures, including for an active shooter situation, to legislators and legislative employees.

Report of the Legislative Budget Committee to the 2019 Kansas Legislature

CHAIRPERSON: Senator Carolyn McGinn

VICE-CHAIRPERSON: Representative Troy Waymaster

RANKING MINORITY MEMBER: Senator Anthony Hensley

OTHER MEMBERS: Senator Rick Billinger; and Representatives Steven Johnson, Richard Proehl, and Kathy Wolfe Moore

CHARGE

The Legislative Budget Committee is statutorily directed to compile fiscal information, and study and make recommendations on the state budget, revenues, and expenditures, and the organization and functions of the state, its departments, subdivisions, and agencies with a view of reducing the cost of state government and increasing efficiency and economy.

In addition to the statutory duties, the Committee is to:

- Review purchasing procedures concerning the practice of no-bid contracts;
- Review how funding is being used to investigate reports of abuse or missing children, as well as review the process used to determine if a child is in danger;
- Review tuition increases in the Regents institutions;
- Review causes of fee increases in the Kansas Corporation Commission Conservation Fee Fund;
- Review the implementation of secure schools and how the \$5.0 million appropriation was used; and
- Receive updates on the State General Fund receipts and expenditures.

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Legislative Budget Committee

ANNUAL REPORT

Conclusions and Recommendations

Following its review and discussion, the Legislative Budget Committee (Committee) makes the following recommendations:

- The Legislature review the best practices and common procedures to the non-competitive procurement of goods and services, noting the variation in each state's statutes and regulations. The Committee further recommends review of the Prior Authorization Review Process and exemptions from the competitive bidding process, noting its concerns regarding the number of contracts exempt under the "best interest of the state" justification outlined in KSA 2018 Supp. 75-3739(a)(7). The Committee recommends increasing procurement transparency and requests recommended changes from the Administration be reported to the Senate Committee on Ways and Means and the House Committee on Appropriations no later than February 18, 2019;
- The Legislature fund the purchase of lottery vending machines (LTVMs) from operating cash flows. This recommendation would reduce the total cost to purchase LTVMs by \$2.0 million compared to vendor financing, but would increase the reduction in State General Fund (SGF) revenue for FY 2019 by \$3.0 million in each year beginning with FY 2019. Three options were presented for the purchase and financing: vendor financing of \$10.2 million over five years; Kansas Master Lease Program of \$9.2 million over five years; and operating cash flows of \$8.2 million over two years;
- The House Committee on Appropriations and the Senate Committee on Ways and Means monitor the Teach for America program throughout the next two-year budget cycle to determine its efficacy in addressing teacher shortages in high-need districts. The Committee was concerned Teach for America has only recruited five teachers in the Kansas City area for the current school year (2018-2019), instead of recruiting teachers in high-need districts throughout the state;
- The Kansas Forest Service within Kansas State University take the lead on fire suppression for the state and coordinate fire suppression activities with the Adjutant General's Office and the State Fire Marshal. The Committee further recommends a separate SGF line item within the Kansas State University section of the appropriations bill for the Kansas Forest Service with a proviso that states the amount of money within the Kansas Forest Service budget be used for fire suppression within the state;
- The State Employee Health Plan (SEHP) submit a report detailing improved health outcomes attributable to the HealthQuest program and the required health assessment to the Senate Committee on Ways and Means and the House Committee on Appropriations no later than January 31, 2019. The Committee notes its concerns regarding the current SEHP HealthQuest rewards program, including the integrity of the required health assessment and the cost to employees to obtain testing results for the health assessment;

- Locations throughout the state be explored by the Kansas Department of Health and Environment for the possibility of additional on-site state employee health clinics;
- The Kansas Department of Health and Environment and the Kansas Department for Aging and Disability Services explore incentive options for managed care organizations for psychiatric residential treatment facility readmission reductions and extend the number of days preauthorized to 21 or more. The Committee further recommends the agencies research the rate increase necessary to compete with private and out-of-state placements and the number of beds necessary to adequately serve Kansas youth at psychiatric residential treatment facilities. The Committee recommends findings be reported to the Senate Committee on Ways and Means and the House Committee on Appropriations no later than January 31, 2019.

The Committee also makes the following observations:

- Caution should be exercised when reviewing the current profile and the ending balances. While there are substantial ending balances, the Committee notes those balances are decreasing over time. When ongoing expenditures are above receipts, it creates a structurally imbalanced budget that could require major corrections if the ending balances reach zero;
- The quick and efficient implementation of the grant funding and school safety provisions, also known as the Safe and Secure Schools Initiative, included in 2018 House Sub. for SB 109. In particular, the Committee commends the Kansas State Department of Education for providing grant funding to all 156 school districts that applied for funding. Awarded grants averaged \$32,268 per school district and ranged from \$1,043 for Healy (USD 468) to \$922,613 for Wichita (USD 259). The Committee also commends school districts for using their grant funding to make good investments in school safety infrastructure. The Committee notes the school safety provisions, including the grant funding, expire at the end of FY 2019. To be continued, all provisions would need to be approved again by the 2019 Legislature. If the 2019 Legislature elects to continue the Safe and Secure Schools Initiative, the Committee recommends the continuation of the practice used by the Department of Education in FY 2019 in which every school district that applied for grant funding received some level of funding; and
- Mid-month rate changes hamper the ability of oil and gas producers to adjust accounting practices mid-month for increased rates in a timely manner.

Proposed Legislation: None

BACKGROUND

The Legislative Budget Committee (Committee) is statutorily directed in KSA 46-1208 to compile fiscal information. It is also directed to study and make recommendations on the state budget, revenues, expenditures, and on the organization and functions of the State, its departments, subdivisions, and agencies with a

view of reducing the cost of state government and increasing efficiency and economy.

COMMITTEE ACTIVITIES

The Committee met three times during the interim. On September 5, the Committee received an overview of the 2018 Session budget, a review of no-bid or sole source contracts, a review of

university tuition increases, and an update on the Safe and Secure Schools Initiative. On October 3, the Committee received an update on the budget, a review of the Legislative Division of Post Audit's audit on wildfire suppression, a review of the Conservation Fee Fund, an update on the State Employee Health Plan (SEHP), an update on the Kansas Department of Health and Environment (KDHE) audit of the psychiatric residential treatment facilities (PRTF) 60-day admission policy, and follow-up on questions from the previous meeting. On November 14, the Committee received an overview from the Consensus Revenue and Caseload Estimates, an overview of the Agency Budget Enhancement Requests, an update on the Pilot Mental Health Program and Teach for America education programs and funding, an update on the Child Welfare System Task Force as well as funding for investigations for child abuse or missing children, a review of the KDHE PRTF audit results, and an update on the Mental Health Task Force.

Specific information about each topic follows.

Overview of 2018 Session Budget

At the September 5, 2018, meeting, Kansas Legislative Research Department (KLRD) staff provided an overview of the message from the Governor regarding 2018 House Sub. for SB 109, line item veto issues. The items vetoed included the Kansas Highway Patrol – Claim; Insurance Department – Insurance Department Service Regulation Fund; Board of Indigents' Defense Services – Legal Services for Prisoners, Inc., Health Insurance; Department of Commerce – Global Trade Services; Department of Commerce – Kansas International Trade Show Assistance; Department of Commerce – Innovation Growth Program; KDHE – PRTF 60-day admission policy; KDHE – KanCare Funding; Department for Children and Families (DCF) – Jobs for America's Graduates-Kansas; and Kansas Highway Patrol – Troop B Building.

Legislative staff presented information regarding select expenditures. Staff provided an update on the increases to K-12 school funding that have been approved by the Legislature for FY 2017, FY 2018, and FY 2019. Over this three-year period, the Legislature has added approximately \$543.5 million, including \$485.3 million from the

State General Fund (SGF), to the major categories of state aid. These categories include State Foundation Aid, Supplemental State Aid (LOB State Aid), Special Education State Aid, Capital Outlay State Aid, Capital Improvement State Aid, and Kansas Public Employees Retirement System (KPERS) employer contributions for public school employees. The largest increase was for State Foundation Aid, which increased by \$337.3 million, including \$305.8 million from the SGF. Other major increases include \$69.1 million (all SGF) for LOB State Aid, \$55.6 million (\$65.6 million SGF) for Special Education State Aid, \$36.0 million (all SGF) for Capital Outlay State Aid, and \$36.7 million (all special revenue funds) for Capital Improvement State Aid. Expenditures for KPERS employer contributions increased by only \$2.5 million (all SGF) during this period because the Legislature delayed \$194.0 million in KPERS contributions for FY 2019.

Legislative staff discussed expenditures relating to the human services caseloads. The current estimates are from April and have been discussed with members before, but major changes since then include funding for foster care, youth crisis centers, health homes, Rainbow Services, substance abuse services, and nursing facility reimbursement rates.

KLRD staff provided an overview of the 2018 legislative salary adjustments. In FY 2019, 13,486 state employees received salary adjustments as a result of the 2018 Legislative Pay Plan. Classes that received adjustments included benefits-eligible employees in the Executive or Legislative Branch who had been continuously employed since July 1, 2017. The salary adjustments applied as follows:

- Employees who received a 2.5 percent increase from the Legislature's Pay Plan last July or an agency-funded increase for those who were left out of the Legislature's Pay Plan last July received a single step, or approximately 2.5 percent increase; and
- Employees who did not receive an increase from either the Legislature's Pay Plan last July or an agency-funded increase received two steps, or approximately 5.0 percent increase.

Increases received in FY 2018 resulting from promotions or other individual factors (*i.e.*, taking on additional duties, merit increases) did not count against an employee's eligibility to receive a 5.0 percent increase this year, nor did bonuses.

The legislation excluded the following groups of employees from these increases: state officers elected on a statewide basis, Kansas Highway Patrol troopers and law enforcement officers, teachers at the State Schools for the Blind and Deaf, Kansas Bureau of Investigation special agents and forensic scientists, Judicial Branch employees, and Kansas Board of Regents and university employees.

Judges in the Judicial Branch—as well as Executive Branch employees whose pay is tied to that of judges—also received a 2.0 percent increase. Non-judicial staff received increases ranging from 2.5 percent to 12.5 percent, as determined by the Judicial Branch; however, the adjustments are funded at 5.0 percent.

For uniformed staff in the Department of Corrections, the hiring rate was set at Step 10 for all facilities, bringing all facilities to the same hiring rate as established for job classifications at the El Dorado Correctional Facility established in the August 2017 Executive Directive 17-482. In addition, benefits-eligible employees in the above referenced job classifications who had been continuously employed since July 1, 2017, received two steps, or approximately 5.0 percent, regardless of whether they received any increase under the Legislature's Pay Plan in July 2017. This increase is in addition to any increase received because of establishing Step 10 as the new hiring rate as indicated above.

The total cost to implement the plan in FY 2019 was \$25.5 million, including \$13.8 million from the SGF. The implementation cost was \$1.1 million SGF less than appropriated for this purpose.

Legislative staff also briefly discussed other various transfers in and out of the SGF for FY 2018 and FY 2019. Legislative staff provided an overview of the current status of SGF Receipts as of the end of FY 2018, at which time they were \$267.0 million. Total receipts for July and August,

the first two months of FY 2019, were \$13.4 million, or 1.6 percent, above the estimate. The component of total SGF receipts from taxes only was \$17.6 million, or 1.8 percent, above the estimate.

As noted in this report, during the final months of FY 2018, many of the underlying fundamentals for the individual income tax (especially withholding and estimated payments) have continued to exceed previous expectations. Receipts from this source exceeded the final FY 2018 estimate by almost \$230.0 million. The projected fiscal impact of the new Kansas income tax law implemented by 2017 SB 30 now appears to have been understated, mainly as it relates to the restoration of the tax on certain non-wage business income. The Department of Revenue is conducting an analysis of tax year 2017 returns to provide more complete information.

Review—No-Bid or Sole Source State Contracts

KLRD staff provided an overview of the current process for using requests for proposal (RFPs). In Kansas, the procurement and contracting process is statutorily required pursuant to KSA 2018 Supp. 75-3739(a), which states “all contracts for construction and repairs, and all purchases of and contracts for supplies, materials, equipment and contractual services to be acquired for state agencies shall be based on competitive bids.” The Department of Administration's Office of Procurement and Contracts develops and promulgates guidelines for this process.

RFPs are competitively negotiated procurement bids for either one-time or repetitive purchases. RFPs require prior authorization from the Office of Procurement and Contracts. Sole source contracts—or no-bid contracts—are procurement contracts awarded outside of the normal RFP bidding process. KSA 2018 Supp. 75-3739 authorizes the Director of Purchases to determine whether some transactions are competitive, and the Office of Procurement and Contracts employs a prior authorization review process to facilitate review of agency requests.

In FY 2018, the State of Kansas authorized \$428.2 million for 7,351 sole source contracts.

Committee members expressed concern for the increase in the overall number of contracts and the State's ability to maintain oversight of the larger number.

A representative from the Department of Administration provided additional information regarding sole source contracting practices and the exemptions that are not in statute, such as for conference or hotel events, off-contract purchases, and items purchased for evaluation. While the number of contracts has increased greatly, she believes a significant number of these increases are due to changes in the accounting system and reporting changes that were changed in the 2010 to 2011 time frame. KPERS is authorized to let its own contracts, but they must be entered into the accounting system so they are reflected as prior authorization contracts. The Department of Administration does track competitive and non-competitive contracts and is working to keep non-competitive contracts to a minimum.

A representative from the Kansas Department of Revenue provided information regarding the Department's large information technology non-competitive contract, stating there was no other competing organizations that provided the same software. The Department's information technology staff has been maintaining the system, but past budget constraints limited their ability to keep up with all updates. The Department of Revenue entered into a contract with CGI Technologies and Services, Inc., (CGI) for modernization of the existing system, which allows use of a cloud environment. It will ultimately pass full support and maintenance of the contract to CGI, who owns the software and knows the coding.

Review—Lottery Vending Machines

At the September 5, 2018, meeting, the Director of the Budget provided an update on the Kansas Lottery. The 2018 Legislature approved placing lottery vending machines (LTVMs) in retail stores, although the financing piece was not addressed in the fiscal note. The Division of the Budget now has an estimate of approximately \$4.5 to \$5.0 million for 272 vending machines in 2018, which was not included in the budget. Committee members discussed leasing versus a lease-purchase agreement for the machines. Three

options for the purchase and financing of the LTVMs are as follows:

- Vendor financing—\$10.2 million spread over five years;
- Kansas Master Lease Program—\$9.2 million spread over five years; or
- Operating cash flows—\$8.2 million spread over two years.

The legislation also stipulated the first \$4.0 million in revenue in FY 2019 and \$8.0 million in FY 2020 from the sale of lottery tickets through LTVMs be used for transfers to the Community Crisis Stabilization Centers Fund and the Clubhouse Model Program Fund of the Kansas Department for Aging and Disability Services (KDADS). However, the timeline for the purchase and receipt of the machines is approximately six months and the Kansas Lottery is unlikely to generate \$4.0 million during FY 2019 from this source. It was noted KDADS will be requesting additional funds that were committed to Crisis Centers as they had anticipated having proceeds from LTVMs, but those machines are not in place yet.

Review—University Tuition Increases

At the September 5, 2018, meeting, KLRD staff provided historic national trends on higher education tuition as there are many concerns about controlling tuition increases. Some states have put in some kind of a curb or a cap on tuition and some states are looking at charging based on a family's income. There is also deferred tuition that would allow students to agree to pay their tuition after they get a job and the repayment rate is based on the student's income.

A representative of the Kansas Board of Regents (Board) provided comments regarding student tuition and addressed several areas, including steps taken to keep costs down. The Board is working to improve transfer of community college classes to four-year programs, as well as looking at a two-plus-two program, which would allow students to achieve a degree after two years of community college followed by two years at a higher education school. The Board

is also requiring schools work to bring the number of credit hours required for a degree back down to 120 hours (with the exception of some specialized degrees), as they have slowly increased over the years to 123 and 126 credit hours. Additionally, the Board is working toward concurrent enrollment for students still in high school.

Schools must submit requests for tuition and fees increases, and the Board reviews them before approving any increases. There are challenges with keeping the schools modernized as many young students want private bathrooms, nearby recreational facilities, and do not want to eat in large, impersonal dining facilities. The schools also must deal with students coming out of high school unprepared for college, as well as their mental health issues.

The Kansas State University Student Body President and Kansas Board of Regents Students' Advisory Committee Chairperson, 2017-2018, discussed the involvement of students in the process of setting fees and rates. Students are very involved in providing input on priorities for the Kansas State University budget. The Kansas Board of Regents Students' Advisory Committee also meets at every Board meeting, thus allowing the student body presidents to provide input to the Board.

Update—Implementation of Safe and Secure Schools Initiative

At the September 5, 2018, meeting, KLRD staff provided information and background on the Safe and Secure Schools Initiative. House Sub. for SB 109 (2018) created the School Safety and Security Grant Fund (Fund) and transferred \$5.0 million from the SGF to the Fund for FY 2019. The Fund is designed to provide grant moneys to school districts for school safety and security improvements. School districts applied to the State Board of Education (State Board), which then reviewed the applications and determined the amount of each grant. House Sub. for SB 109 also required school districts receiving grant moneys to match the amount of the grant on a dollar-for-dollar basis.

For FY 2019, the State Board awarded grant funding to 156 school districts, or 54.5 percent of the 286 school districts in Kansas. Districts

requested \$13.2 million in funding, which averaged \$84,933 per school district. Individual requests ranged from \$1,609 for Western Plains (USD 106) to \$1.2 million for Wichita (USD 259). The State Board awarded \$5.0 million in grant funding, which averaged \$32,268 per school district. Individual grants ranged from \$1,043 for Healy (USD 468) to \$922,613 for Wichita (USD 259).

When coupled with the required local match, total funding for these specific security projects will total at least \$10.1 million. School districts' budgets for the 2018-2019 school year may allocate additional funding for these projects, which would raise the total funding level. However, combined state and local funding will be at least \$10.1 million for the current school year.

KLRD staff provided the national perspective on school security and the steps taken by other states to address security, including requirements to adopt school safety plans, emergency preparedness drills, and school safety hotlines.

A representative of the Kansas State Department of Education (KSDE) discussed the process for implementation of the Safe and Secure Schools Initiative. KSDE reviewed the requests of 156 school districts who applied for grants and determined a formula for distribution in order to expedite distribution of the funding. The funding has been sent out and schools are required to submit interim reports on use of the funds around February 1, 2019, with a final report due June 1, 2019.

The Chief of the Prevention Division, Office of the State Fire Marshal, discussed the Fire Marshal's implementation of the emergency preparedness drills for schools. The Office encouraged schools, as well as nursing homes and hospitals, to work with local emergency agencies ahead of any drills.

The Superintendent of USD 372-Silver Lake discussed implementation of the Safe and Secure Schools Aid Grant in the district. The district focused on securing doors and reinforcing glass with protective film in entry areas. The district is also re-keying the classroom doors so they will not need a separate key for each room. The grant

helped defray those expenditures and they have plans for the next several years to upgrade camera systems and other security issues.

The Superintendent of USD 345-Seaman, discussed the district's security and use of the grant funds. The district encourages kids, parents, and teachers to "see something, say something" to address issues that concern them. The district has added security cameras in schools, lock-down devices, and have also added security cameras to their buses. The Superintendent stated the problem is deeper than safer schools. He noted there is a need for more compassion for others, to be more patient with others, and to address the mental health issues of kids and each other.

The Director of Safety and Environmental Services, USD 259-Wichita, wants to ensure schools are trusted as safe places. She discussed the efforts to prepare, protect, mitigate, respond, and recover from events. The district is taking steps to secure school grounds and is using the grant funds they received toward securing entries and installing new door locks and security cameras.

The Legislative Liaison for the Kansas Association of Chiefs of Police, Kansas Sheriffs' Association, and Kansas Peace Officers Association spoke about the cooperation and involvement of local law enforcement in the implementation of the school plans. Available resources vary across the state depending on whether they are in a rural or urban setting. Local law enforcement representatives look forward to further discussions with KSDE regarding their role in safety. Local law enforcement representatives have proposed some of the required drills do not need to include students. There are complex issues involved and school staff are actually the first responders when something happens in a school.

Update—Budget

At the October 3, 2018, meeting, KLRD staff provided information on the progress of FY 2019 funded enhancements.

KLRD staff updated members on the SGF Receipts and Expenditures. SGF Receipts were \$97.5 million above original estimates, mainly due to individual income, corporate income,

compensating use, severance, and cigarette taxes. Receipts that came in more than \$1 million below estimates were retail sales and insurance premium tax.

KLRD staff also provided an expenditure analysis based on the first two months of FY 2019. The 2018 Legislature approved a FY 2019 SGF budget of \$7.1 billion for the State. For the first two months (July and August), the State expended approximately \$1.5 billion, or 21.4 percent, of the total SGF budget for FY 2019. Based on the three- and six-year averages of SGF spending by state agencies in the first two months of the fiscal year, this amount is between \$50.0 million and \$60.0 million below what the State would normally spend. A comparison to the FY 2018 is \$37.3 million above what the State would normally spend over the first two months based on a \$7.1 billion SGF appropriation. The three- and six-month average is about a 0.8 percent variance, and the previous year is about a 0.5 percent variance as a measure to total spending.

Review—Legislative Post Audit on Wildfire Suppression

The Deputy Post Auditor, Legislative Division of Post Audit (LPA), reviewed the LPA Report titled *Kansas Wildfire Management: Evaluating the Adequacy of Kansas' Wildlife Suppression System*. LPA investigated whether Kansas' wildfire suppression system was adequately designed and resourced to effectively suppress wildfires. LPA determined the State is not adequately designed or resourced and recommended the Legislature amend state law to designate a single state entity to lead the State's wildfire suppression system and provide sufficient resources and funding to that entity.

The Adjutant General disagreed with portions of the report. Kansas employs an all-hazard approach to disaster planning and he does not see the fragmented structure noted in the report. He outlined steps taken to enhance wildland fire management and emphasized the need for continued cooperation between state agencies.

The State Fire Marshal expressed issues with the report. He stated the report discussed some issues the State has, but the fires experienced in 2016 and 2017 were particularly bad compared to

previous years; they are taking steps to improve response. The Fire Marshal added that the Kansas Forest Service is in need of additional funding.

A representative of the Kansas Forest Service applauded the auditors' work and indicated the agency is working much closer with the Adjutant General's and Fire Marshal's offices since the audit was conducted. There are approximately 13,000 volunteer firefighters across the state, but the Forest Service has funding for only one person to conduct wildfire training. A designated single lead state agency would add a great deal of value and would help tighten up the reporting requirements. The representative stated funding for the Kansas Forest Service currently goes through the Board of Regents and Kansas State University, but having a Forest Service line item in the budget would be more effective.

The Fire Management Officer, Kansas Forest Service, supports the audit and its findings. He stated Kansas needs a better system and the Forest Service is best suited to be the lead agency. Its employees have the experience and knowledge to lead this effort and are also natural resource professionals. The Forest Service currently lacks the funding to make this happen and he supports a budget line item.

Senator Hawk serves on the Kansas Forest Service Advisory Council; he stated the Legislature is seriously underfunding state wildfire training and suppression and better coordination is needed. He also stated this could be accomplished best by appropriately funding and staffing the Kansas Forest Service. The Advisory Council also suggested creating a Wildfire Authority, which could serve in a capacity similar to the Water Authority.

Representative Rooker also serves on the Kansas Forest Service Advisory Council; she agreed the Legislature needs to address the issue of the Kansas State University funding relationship with the Kansas Forest Service. She stated it is not about usurping authority of other agencies, but considering the needs of all stakeholders, including livestock owners and farmers.

The Fire Chief of Soldier Township spoke to the fact that Kansas is a home-rule state and local departments have put out many fires successfully, many of them with volunteer firefighters. Local fire departments are experiencing a declining number of volunteer firefighters. Because of this, they have to ask for help more often, but are hesitant to do so until they are sure a fire is beyond their control. He concurs with the idea of some kind of fire authority or working group to address this problem.

Review—Conservation Fee Fund

KLRD staff provided an overview of the Kansas Corporation Commission Conservation Fee Fund. The Conservation Fee Fund's major sources of revenue are the Oil Conservation Assessment and the Gas Conservation Assessment, which are assessed against oil and natural gas producers. Additional sources of revenue to the Fund include fees assessed to operators for well plugging, application fees for new injection well permits, and operator license renewals.

As of June 2018, the Kansas Corporation Commission (KCC) assesses oil producers at a rate of 144.00 mills per barrel of oil marketed or used, as authorized by KAR 82-3-206. Natural gas producers are assessed at a rate of 20.50 mills for each 1,000 cubic feet of gas sold or marketed as authorized by KAR 82-3-307. Prior to June 2018, the assessment rate for oil producers was 91.00 mills per barrel of oil marketed or used and the rate for gas producers was 12.90 mills per 1,000 cubic feet of natural gas sold or marketed.

The Conservation Fee Fund revenues are expended to support the KCC Conservation Division, primarily in salaries and wages and contractual services. Additionally, \$800,000 is statutorily transferred from the Conservation Fee Fund into the Abandoned Oil and Gas Well Fund annually (\$200,000 quarterly).

The Director, Conservation Division, KCC, determined approximately a year ago the mill rates needed to increase to keep up with budgetary requirements due to decreases in revenues, along with transfers out of the Conservation Fee Fund. The KCC called a special meeting of the Oil and Gas Advisory Committee to discuss this issue and to receive input from members. It also held several

open meetings with members of the oil and gas industry to discuss a mill increase. The KCC intends to continue to work through the Oil and Gas Advisory Committee to find the right mill balance.

The Director, Fiscal Services, KCC, provided information regarding analysis of cash flow and statutory obligations for the Conservation Fee Fund.

The President of the Kansas Independent Oil and Gas Association (KIOGA) spoke on behalf of the thousands of independent oil and natural gas explorers and producers the organization represents. The KCC last raised the mill rate in 2006, but declining oil and natural gas production has decreased the revenue stream. Oil and natural gas activity stabilized in late 2017 and drilling permits are up slightly; however, natural gas production is expected to continue to decline. KIOGA has concerns with the KCC using historical declines to project future declines and intends to work through the Oil and Gas Advisory Committee to address options for budgetary issues in the future.

Update—State Employee Health Plan

At the October 3, 2018, meeting, a representative of the Department of Administration provided an update on the State Employee Health Clinic. The clinic is being implemented as a pilot in Topeka and a contract was conditionally awarded in June and finalized in August. Renovations of the clinic space, located in the Mills Building, will begin soon. The Committee members discussed possible locations for additional clinics.

A representative of the State Employee Health Benefits, KDHE, provided an overview of the rates for calendar year 2019. Funds available to the SEHP are referred to as the reserve fund. The beginning balance of the SEHP reserve denotes the funds available at the beginning of each year, after all expenses have been paid from the previous plan year, including moneys remaining from payroll collections (employees and state agencies), direct bill contributions from retirees, COBRA contributions, and non-state public employer contributions.

The total revenues are based upon the contributions made by state agencies, non-state public employers, employees and retirees, and interest earned by the SEHP. The state agency and non-state public employer contributions are adjusted on July 1 each year. The employee contributions are adjusted January 1 of each year. SEHP expenses are payments for medical, dental, and prescription drug claims, and related contract administration fees that are paid by the SEHP. Administration expenditures are the expenditures to maintain the program, including employee salaries, consulting fees, and other expenses. A 2.0 percent annual growth in administration expenditures is factored into the projections. SEHP administrative expenditures represent less than 1.0 percent of health plan expenditures.

The Health Care Commission's (HCC's) funding objective in managing the SEHP over the long term is to have a target reserve equal to the actuarially calculated claims incurred but not reported, and a reasonable contingency to account for unforeseen and unexpected growth in health costs that could arise before SEHP revenue can be adjusted. The target reserve is adjusted for the health cost trend over time. The projected target reserve for each year is based upon a function of SEHP contributions, plan expenses, and the health care cost trend to maintain the financial stability of the health plan.

The HCC works with Segal Consulting, an actuarial firm, to develop the rates based upon the projected expenses and revenue for the SEHP. The Employee Advisory Committee also makes a recommendation to the HCC for consideration regarding the plan year rates. The HCC receives periodic financial reports summarizing plan revenues, expenditures, and both current and projected balances in the SEHP funds throughout the plan year. The employee rates for Plan Year 2019 will increase 3.3 percent, with the two spousal coverage tiers increasing 16.7 percent. The employer rates for FY 2020 will increase 3.3 percent. The non-Medicare eligible retiree rates will increase 6.7 percent.

Update—KDHE Audit of the PRTE 60-Day Admission Policy

At the October 3, 2018, meeting, the Director of Program Finance and Informatics, KDHE,

provided an update on the KDHE audit of the PRTF 60-day admission policy for children who are enrolled in the Medicaid program. KDHE and KDADS partnered to conduct an audit of managed care organizations' (MCOs') files for the cases involving stays in PRTFs to determine if the MCOs were adhering to proper procedures for determining medical necessity. The audit is being done in two waves and the first wave has been completed. State clinical staff determined MCOs did follow protocol. They also analyzed length-of-stay data.

The Commissioner of Behavioral Health, KDADS, distributed a presentation, but primarily responded to questions from Committee members regarding lengths of stay and the wait list. As of late September 2018, there were 121 children on the wait list. KDADS is implementing a Mobile Crisis Stabilization program that has had success in other states. It is also looking at policies and admission criteria to determine what is the right number of beds. The State continues to work with PRTF providers, but these providers are private organizations running a business and the State can only encourage them to increase beds and take Kansas children instead of out-of-state children for whom they are paid more.

Follow Up—September 5, 2018, Meeting

At the October 3, 2018, meeting, KLRD staff distributed a packet providing responses to questions raised by Committee members at the September 5, 2018, Legislative Budget Committee meeting, which included the following information:

- Changes from the original consensus revenue estimates for FY 2018 SGF receipts;
- Sole source contracts used by the State;
- Kansas Department of Revenue, including the implementation of Alvarez & Marsal recommendations, modernization of incoming mail processing, the sole source CGI contract, and collections data effective February 2017. The total expenditures are \$114.5 million paid over ten years. The bulk of the contract for modernization deliverables will be paid by

FY 2020 with remaining ongoing cost for maintenance and technical services in subsequent years;

- Kansas Department of Wildlife, Parks and Tourism sole source contract with Pheasants Forever for habitat specialists;
- Leasing versus buying Lottery vending machines (LTVMs). It was noted KDADS will be requesting additional funds that were committed to Crisis Centers as they had anticipated having proceeds from LTVMs, but those machines are not in place yet; and
- Deferred tuition programs established by other states, including Income Share Agreements, Pay It Forward programs, and Tuition Postponement Option programs.

The Office of Revisor of Statutes updated members on the Kansas Insurance Department case against the State. The court denied the State's request to dismiss the case and also denied the Insurance Department's request for a temporary injunction. The trial date is set for May 7, 2019.

Overview—Consensus Revenue and Caseload Estimates

Caseload Estimates

The Division of the Budget, DCF, KDHE, KDADS, and KLRD met on November 1, 2018, to revise the estimates on human services caseload expenditures for FY 2019 and develop estimates for FY 2020 and FY 2021. [Note: The caseload estimates include expenditures for Temporary Assistance for Needy Families, the Reintegration/Foster Care Contracts, KanCare Regular Medical Assistance, and KDADS non-KanCare.]

The estimate for FY 2019 is an increase of \$121.6 million from all funding sources and \$54.6 million from the SGF, as compared to the budget approved by the 2018 Legislature. The estimate for FY 2020 is an increase of \$84.7 million from all funding sources and a SGF decrease of \$20.5 million from the FY 2019 revised estimate. The

estimate for FY 2021 is an increase of \$71.3 million from all funding sources and \$51.0 million from the SGF above the FY 2020 estimate. The combined estimate for FY 2019, FY 2020, and FY 2021 is an all funds increase of \$277.6 million and a SGF increase of \$85.1 million.

Education Estimates

The Fall 2018 Education Consensus Estimates include major categories of state aid to school districts and KPERS employer contributions for public school employees. The estimates include a revised estimate for FY 2019 and initial estimates for FY 2020 and FY 2021. The FY 2019 estimate is \$4.5 billion (\$3.5 billion SGF). This is an increase of \$8.7 million, including a SGF decrease of \$6.5 million, from the FY 2019 approved amount. The FY 2020 estimate is \$4.9 billion (\$3.8 billion SGF). This is an increase of \$400.5 million (\$351.6 million SGF) above the FY 2019 revised estimate. The FY 2021 estimate is \$5.1 billion (\$3.9 billion SGF). This is an increase of \$154.5 million (\$113.5 million SGF) above the FY 2020 estimate.

Revenue Estimates

Estimates for the SGF are developed using a consensus process that involves the Division of the Budget, KLRD, the Department of Revenue, and three consulting economists from state universities. This estimate is the base from which the Governor and the Legislature build the annual budget. Consensus revenue estimates are based on current federal and state laws and their current interpretation.

For FY 2019, the estimate was increased by \$306.4 million, or 4.4 percent, above the previous estimate (made in April 2018 and subsequently adjusted for legislation enacted during the veto session). The revised estimate of \$7.310 billion represents 0.2 percent above final FY 2018 receipts.

The initial estimate for FY 2020 is \$7.271 billion, which is \$38.4 million, or 0.5 percent, below the newly revised FY 2019 figure. The amount of total taxes is estimated to increase by 2.7 percent in FY 2020, following a 2.9 percent increase in FY 2019.

The initial estimate for FY 2021 is \$7.235 billion, which is \$36.5 million, or 0.5 percent, below the FY 2020 figure.

The forecast is challenging due to high levels of uncertainty about the future of the economy, the impact of the Wayfair Supreme Court decision, and changes to state and federal income tax laws. The economic outlook for Kansas shows the Kansas personal income (KPI) 3.9 percent growth estimate for calendar year 2018 remains unchanged; 2019 KPI has increased from 3.8 percent to 4.0 percent and initial forecast of calendar year 2020 KPI growth is also 4.0 percent. On a national front, estimates for U.S. personal income is 5.1 percent in calendar year 2018, 4.4 percent in calendar year 2019, and 3.7 percent for calendar year 2020.

For the agricultural sector, net farm income for 2018 is predicted to be near the 2017 level. Crop prices continue to struggle, but above-average yields are lending support to overall cash receipts. A mild strengthening in crop prices is expected through 2021, while livestock prices are expected to trend slightly lower.

Approval of the new North American trade agreement is important to the agriculture sector, as broader trade war and tariff issues arise. Secondary impacts are being felt in the rural economy, which may explain why sales tax receipts are again weakening in many non-urban counties.

The Kansas Department of Labor reports the national picture shows non-farm jobs grew at 1.7 percent year over year from September 2017 to September 2018. Kansas added 20,600 more non-farm jobs, or an increase of 1.5 percent over the same 12-month period. The most recent job market survey reported the second highest number of job vacancies in Kansas since 2004. The Kansas unemployment rate of 3.3 percent is the lowest since 1999 (3.2 percent). The Kansas unemployment rate is projected at only 3.4 percent in calendar years 2020 and 2021, and the U.S. rate is projected at 3.5 percent during that same period.

The Department of Revenue analysis of 2016 returns reflected the majority of the liability associated with taxing non-wage income is coming

from taxpayers in the upper income bracket through restoration of the three-bracket system and repeal of the non-wage exemption. FY 2018 receipts ended about \$290.0 million more than had been originally estimated at the time SB 30 was enacted in 2017.

For FY 2019, the estimate also includes \$80.0 million to \$100.0 million of additional state income tax liability assumed attributable to federal tax law changes that occurred late last year using the federal Joint Committee on Taxation forecast. That forecast extrapolated down to Kansas suggests this impact might be even greater for FY 2020 and FY 2021.

For FY 2020 and FY 2021, individual income tax growth is expected to return to more normal historic levels, meaning it will be growing faster in response to growth in Kansas personal income.

For corporation income tax, receipts have been exceeding the previous forecast for a number of months due to increasing profits and repatriated dollars returned to the United States from off-shore locations under the provisions of the new federal law, also subject to Kansas' tax. With the new Global Intangible Low-Taxed Income (GILTI) provisions, the State will continue to receive some additional revenues on an ongoing basis.

Sales tax collections fell by 0.3 percent below FY 2018's receipts for the first four months of FY 2019. The trade war and the overall sluggish rural outlook appears to be depressing spending in the majority of the state's non-urban counties. Consulting economists indicate the fastest growing share of consumer spending over the last year has been on gasoline and energy, which means that money spent here is not available to purchase other items.

Compensating use tax collections grew 4.6 percent above last year's receipts for the first four months of the fiscal year. Use tax estimate was, in fact, increased by \$15.0 million. While the impact of the Wayfair Supreme Court decision is not completely known, up to approximately \$30.0 million, with a law change, would enable the State to compel third-party facilitators to collect and remit the tax.

Oil production forecast includes an average price for FY 2019 of \$52 per barrel, increased to \$54 per barrel in FY 2020, and projected in FY 2021 to rise to \$55.

Gas production receipts are now expected to be \$41.0 million in FY 2019, declining to less than \$34.0 million by FY 2021.

Interest earnings show significantly higher projected balances due to higher interest rates than had been previously assumed and larger ending balances.

Net transfers in FY 2020 and FY 2021 do not include \$293.1 million that was transferred to the SGF from the State Highway Fund in FY 2019. Net transfers for FY 2021 does include a transfer from the SGF of \$78.1 million to the City County Revenue Sharing Fund (CCRSF) and \$54.0 million to the Local *Ad Valorem* Tax Revenue Fund (LAVTRF).

Overview—Agency Budget Enhancement Requests

KLRD staff provided details on supplemental and enhancement requests from the agencies submitted in September 2018 from the incumbent Governor. The incoming Governor's recommendation will further refine these requests. In a regular year, the Governor has until the eighth calendar day of the legislative session to submit a budget. During a year in which a new Governor has been elected, the Governor will have 13 additional days to make that recommendation (on or before the 21st calendar day).

The agencies have submitted enhancement and supplemental requests totaling \$1.4 billion, including \$1.3 billion from the SGF, over three fiscal years. More specifically, the requests are \$140.5 million, including \$104.9 million from the SGF, in FY 2019; \$593.4 million, including \$504.9 million from the SGF, for FY 2020; and \$759.3 million, including \$654.8 million from the SGF, for FY 2021. These requests are in addition to the agency's base budget requests. Approximately half of the SGF enhancement requests in FY 2020 and FY 2021 are from the KSDE and the Board of Regents.

The Kansas Water Office has also requested additional transfers of \$6.0 million from the SGF and \$2.0 million from the Economic Development Initiatives Fund for FY 2020 and FY 2021. These transfers would reduce SGF revenue by \$8.0 million in each year.

Update—Specific Education Programs and Funding

Mental Health Initiative

In Sub. for SB 423 and House Sub. for SB 61, the 2018 Legislature created the Mental Health Intervention Team Pilot Program (Program) for FY 2019 “to improve social-emotional wellness and outcomes for students by increasing schools’ access to counselors, social workers and psychologists statewide” (Sub. for SB 423, Sec. 1(a)). The legislation requires school districts and community mental health centers (CMHCs) to enter into partnerships through memorandums of understanding (MOUs) to implement the Program. Additionally, the legislation requires mental health intervention teams to consist of school liaisons employed by the participating school districts and clinical therapists and case managers employed by the participating CMHCs.

The Legislature appropriated \$10.0 million, all from the SGF, to the KSDE to fund the Program for FY 2019. The appropriation includes \$4.2 million to cover treatment costs for participating students. This includes \$2.6 million for Medicaid expenditures and \$1.5 million for CMHCs. In addition, the appropriations include \$3.3 million to cover the expenditures associated with the school liaisons hired by participating school districts. Finally, \$2.5 million is included to create an online database to be used for the Program.

As implemented by KSDE, the Program will focus on providing care to two groups of students. The “alpha group” consists of youth who are children in need of care and are in state custody. These students have experienced multiple placements and move school districts multiple times throughout the school year. The “beta group” consists of youth who may move from time to time, but are likely to reside in one school district throughout their education.

All funding for the Program flows through the participating school districts. Following are the three different grant payments: School Liaison grants totaling \$3.3 million; CMHC grants totaling \$1.5 million; and KDHE grants totaling \$2.6 million.

There are 22 schools participating in the Wichita school district (USD 259), 28 schools participating in the Topeka school district (USD 501), 10 schools participating in the Kansas City school district (USD 500), 5 schools participating in the Parsons school district (USD 503), and 5 schools participating in the Garden City school district (USD 457). The Abilene school district (USD 435), in addition to having three participating schools, is serving as the fiscal agent for Solomon (USD 393); Chapman (USD 473); and Herington (USD 487), which have a total of six schools participating in the Program.

Teach for America

The 2018 Kansas Legislature appropriated \$520,000 for Teach for America. This program works with Kansas universities to prepare more teachers, particularly in areas where shortages exist.

Teach for America primarily consists of individuals who have a bachelor’s degree, but no teaching license. A program has been established that will assist these individuals in obtaining a teaching license, as well as on-the-job mentoring. KSDE staff have met with Teach for America representatives on several occasions to discuss how the program would work in Kansas. In addition, the State Board of Education has met with Teach for America representatives on two occasions to discuss the costs and implementation process of the program.

The current agreement and expenditures involved between the State Board of Education and Teach for America totals \$270,000 and covers five teachers in Kansas City, Kansas, at \$36,000 for a total of \$180,000; one Teach for America National Recruiter in the Lawrence area for \$80,000; and one day of professional development in Topeka at the *Brown v. Board of Education* Museum for \$10,000.

The State Board of Education was hoping Teach for America would move west, particularly to the Wichita and Garden City areas, where there is a large teacher shortage.

Update—Child Welfare System Task Force

House Sub. for SB 126 (L. 2017, ch. 102) required the Secretary for Children and Families to establish a Child Welfare System Task Force (Task Force) to study the child welfare system. The bill directed the Task Force to convene working groups to study the general administration of child welfare by DCF, protective services, family preservation, reintegration, foster care, and permanency placement. The Task Force and each working group were directed to study the following topics:

- The level of oversight and supervision by DCF over each entity that contracts with DCF to provide reintegration, foster care, and adoption services;
- The duties, responsibilities, and contributions of state agencies, nongovernmental entities, and service providers that provide child welfare services in the state;
- The level of access to child welfare services, including, but not limited to, health and mental health services and community-based services in the state;
- The increasing number of children in the child welfare system and contributing factors;
- The licensing standards for case managers working in the child welfare system; and
- Any other topic the Task Force or a working group deems necessary or appropriate.

The Legislative Coordinating Council approved five meeting days for the Task Force in 2018. The Task Force met February 2, July 16, August 27, September 28, October 22, and December 4.

The Task Force established three working groups: General Administration of Child Welfare and Foster Care (Working Group A), Protective Services and Family Preservation (Working Group B), and Reintegration and Permanency Placement (Working Group C).

On August 27, 2018, members of Working Group A and Working Group B presented their group recommendations to the Task Force. On September 28, 2018, members of Working Group C presented their group's recommendations to the Task Force. Starting from the recommendations made by each working group, the Task Force began a discussion of the recommendations.

On October 22, 2018, the Task Force continued the discussion of the recommendations made by the working groups and began prioritizing the recommendations into three tiers. The Task Force met on December 4, 2018, to finalize its recommendations. The Task Force must submit a final report to the Legislature on or before January 14, 2019.

Review—Funding for Investigations of Child Abuse or Missing Children

DCF is responsible for assessing reports of abuse or neglect and determining whether DCF should become involved. If it is determined a child is unsafe, DCF makes a recommendation to the court regarding what action should be taken regarding the child's safety. If the child is adjudicated a child in need of care (CINC), DCF is responsible for ensuring the child's safety and well-being.

The Kansas Protection Reporting Center (KPRC) evaluates all CINC reports received by DCF. KPRC staff take calls of reported abuse or neglect 24 hours per day and conduct an initial assessment to determine whether the report should be assigned for further investigation or assessment. Reports may be assigned for abuse, neglect, or Family in Need of Assessment (FINA). Reports that are assigned for abuse or neglect are investigated by DCF staff to determine the validity of the report and determine what services may be required. FINA assignments do not meet the criteria to assign for abuse or neglect and are reviewed by DCF to assess for other services.

A case finding is completed for each assigned abuse or neglect report. Generally, a case finding must be made within 30 working days from the date the report was assigned. The standard of evidence applied to all case finding decisions regarding abuse or neglect is preponderance of the evidence. Thus, a finding is affirmed if a reasonable person would conclude it is more likely than not the alleged perpetrator's actions or inaction meet the statutory definitions for abuse or neglect. A finding is substantiated if DCF staff determine:

- The facts and circumstances meet one of the required definitions for physical, sexual, or emotional abuse; physical or medical neglect; lack of supervision; or abandonment of a child; and
- The perpetrator's actions, behaviors, or omissions occurred and there was an intent to commit the act that resulted in the harm, a reasonable person would have anticipated harm would occur to the child, or the harm was a result of failure of refusal to protect the child; and
- There was serious harm, injury, or deterioration to the child; or there was a likelihood of, or endangerment of, serious harm, injury, or deterioration to the child.

A case finding is not required for FINA assignments.

In FY 2018, the Governor recommended adding \$75,000, including \$60,750 from the SGF, and 1.0 full-time equivalent (FTE) position to hire an investigator to assist with locating missing foster care children. The 2018 Legislature approved the additional FTE position and decreased the funding for the new investigator's salaries and wages to a quarter of the fiscal year and added language lapsing any of the unspent SGF money appropriated for that purpose in FY 2018.

For FY 2019, the Governor recommended adding \$150,000, including \$121,500 from the SGF, and 1.0 FTE position for the Special Investigator position. The 2018 Legislature

concurred with the Governor's recommendation for FY 2019.

DCF lapsed \$36,548, including \$29,604 from the SGF, of the funding for the Special Investigator position in FY 2018. The agency reported that \$3,757, including \$3,238 from the SGF, was used for the investigator's salary for two pay periods in FY 2018. The Special Investigator position was filled on April 8, 2018, but the position became vacant on May 6, 2018. The position was filled again on July 29, 2018, and has remained filled since that time.

DCF's revised request for FY 2019 includes \$192,210 to fund two positions: a special investigator and a public service administrator. The public service administrator provides administrative support for DCF's Investigate Missing Foster Care Children subprogram and assists the special investigator with in-person searches.

In addition to hiring the special investigator, the agency conducted special searches in Kansas City and Wichita. During these searches, DCF partnered with foster care contractor staff and local law enforcement to target specific locations. The Kansas City search was conducted on September 7, 2018, and the Wichita search was conducted on September 14, 2018. The agency estimates the expenses related to these searches total \$6,000. These searches resulted in the agency locating eight foster care youth.

Follow Up—KDHE Internal PRTF Audit Results

At the November 14, 2018, meeting, a representative of KDADS summarized the progress of the ongoing audit by the Kansas Foundation of Medical Care (KFMC) on the MCOs' determinations of medical necessity in admissions to PRTFs. KDADS indicated KFMC has reviewed 20 admissions and is continuing to review additional admissions. The agency anticipates KFMC finishing their audit by the end of December 2018, and then KFMC will provide a report to KDADS and the Legislature with their findings. The agency reported there are 125 children on the wait list. There are 294 PRTF beds; the census in October 2018 was 261. The agency indicated the main reason the census is less than

the number of beds is due to some beds being gender-restricted and lack of staffing of certain PRTFs. The agency noted a lot of other states are using a System of Care approach, which focuses more on providing services in the community, rather than in-patient admissions to facilities like PRTFs. KDADS is attempting to use more mobile crisis response efforts to avoid additional admissions. Additionally, KDADS is currently evaluating whether the reimbursement rate should be adjusted, if staffing issues can be improved, how many additional PRTF beds are needed, and how to incentivize PRTF providers to add more beds.

The Executive Director, Children's Alliance of Kansas, indicated there is a need for more PRTF beds and stated one of the current challenges with PRTFs and treatment of these children is coordinating with many different state agencies and other organizations. She reported there are roughly one-third the number of PRTF beds today than there were in 2011. Over this time, the average length of stay has decreased; however, the re-admission rate has significantly increased. Other states have longer initial authorization length of stays, some as long as 60 days, before treatment and continuation of stay is re-evaluated. Two of the MCOs have initial authorized stays of 14 days and the third MCO has a 30-day initial authorized policy.

Update—Mental Health Task Force

The Mental Health Task Force (Task Force) had recommendations last year, including PRTF recommendations, which included an incentive for lower re-admission rates. The Task Force has been trying to align recommendations with the Governor's Substance Abuse Task Force. Part of this concern is that the Problem Gambling and Addition Fund (PGAF) is being used as intended.

The main three priority recommendations the Task Force has are:

- **Medicaid expansion.** The Task Force states Medicaid expansion reduces the number of uninsured of when the State takes care. The majority of people at state mental health hospitals are uninsured. This recommendation is endorsed by the Governor's Substance Abuse Task Force;

- **Regional Crisis Services (RSI).** The Task Force states RSI has been very effective. The State has ongoing standing investment in making sure centers are available; and
- **State hospital regionalization.** The Task Force states moratorium was implemented in June 2015 and it is still in place. The group complements KDADS in getting part of the hospital re-certified. The Task Force has instituted a bed study to look at the need of available beds. In 1990, Kansas had more than 1,000 beds. The Task Force states the change has been dramatic. It also states people are looking back to 2013 to get good information on patient beds. Some individuals have given up trying to get individuals into the hospital beds. Regionalization is not an either/or, it is an "and." If the State is able to contract for regional beds, the State will still need the hospitals for the forensic population and those that are committed. The investment in the employees at Osawatomie State Hospital and Larned State Hospital is still imperative.

CONCLUSIONS AND RECOMMENDATIONS

Following its review and discussion, the Committee made the following recommendations:

- The Legislature review the best practices and common procedures to the non-competitive procurement of goods and services, noting the variation in each state's statutes and regulations. The Committee further recommends review of the Prior Authorization Review Process and exemptions from the competitive bidding process, noting its concerns regarding the number of contracts exempt under the "best interest of the state" justification outlined KSA 2018 Supp. 75-3739(a)(7). The Committee recommends increasing procurement transparency and requests recommended changes from the Administration be reported to the Senate Committee on Ways and Means and the

House Committee on Appropriations no later than February 18, 2019;

- The Legislature fund the purchase of LTVMs from operating cash flows. This recommendation would reduce the total cost to purchase LTVMs by \$2.0 million compared to vendor financing, but would increase the reduction in SGF revenue for FY 2019 by \$3.0 million in each year beginning with FY 2019. Three options were presented for the purchase and financing: vendor financing of \$10.2 million over five years; Kansas Master Lease Program of \$9.2 million over five years; and operating cash flows of \$8.2 million over two years;
- The House Committee on Appropriations and the Senate Committee on Ways and Means monitor the Teach for America program throughout the next two-year budget cycle to determine its efficacy in addressing teacher shortages in high-need districts. The Committee was concerned Teach for America has only recruited five teachers in the Kansas City area for the current school year (2018-2019), instead of recruiting teachers in high-need districts throughout the state;
- The Kansas Forest Service within Kansas State University take the lead on fire suppression for the State and coordinate fire suppression activities with the Adjutant General's Department and the State Fire Marshal. The Committee further recommends a separate SGF line item within the Kansas State University section of the appropriations bill for the Kansas Forest Service, with a proviso that states the amount of money within the Kansas Forest Service budget that would be used for fire suppression within the state;
- The SEHP submits a report detailing improved health outcomes attributable to the HealthQuest program and the required health assessment to the Senate Committee on Ways and Means and the House Committee on Appropriations no later than January 31, 2019. The

Committee notes its concerns regarding the current SEHP HealthQuest rewards program, including the integrity of the required health assessment and the cost to employees to obtain testing results for the health assessment;

- Locations throughout the state be explored by KDHE for the possibility of additional on-site state employee health clinics; and
- KDHE and the KDADS explore incentive options for MCOs for PRTF readmission reductions and extend the number of days preauthorized to 21 or more. The Committee further recommends the agencies research the rate increase necessary to compete with private and out-of-state placements and the number of beds necessary to adequately serve Kansas youth at PRTFs. The Committee recommends findings be reported to the Senate Committee on Ways and Means and the House Committee on Appropriations no later than January 31, 2019.

Committee Observations

The Committee also make the following observations:

- Caution should be exercised when reviewing the current profile and the ending balances. While there are substantial ending balances, the Committee notes those balances are decreasing over time. When ongoing expenditures are above receipts, it creates a structurally imbalanced budget that could require major corrections if the ending balances reach zero;
- The quick and efficient implementation of the grant funding and school safety provisions, also known as the Safe and Secure Schools Initiative, included in 2018 House Sub. for SB 109. In particular, the Committee commends the KSDE for providing grant funding to all 156 schools districts that applied for funding. Awarded grants averaged \$32,268 per school

district and ranged from \$1,043 for Healy (USD 468) to \$922,613 for Wichita (USD 259). The Committee also commends school districts for using their grant funding to make good investments in school safety infrastructure. The Committee notes the school safety provisions, including the grant funding, expire at the end of FY 2019. To be continued, all provisions would need to be approved again by the 2019 Legislature. If the 2019 Legislature elects to continue the

Safe and Secure Schools Initiative, the Committee recommends the continuation of the practice used by the KSDE in FY 2019, where every school district that applied for grant funding received some level of funding; and

- Mid-month rate changes hamper the ability of oil and gas companies to adjust prices to account for increased rates in a timely manner.

Report of the Joint Committee on Pensions, Investments and Benefits to the 2019 Kansas Legislature

CHAIRPERSON: Senator Jeff Longbine

VICE-CHAIRPERSON: Representative Steven Johnson

OTHER MEMBERS: Senators Larry Alley, Anthony Hensley, Ty Masterson, and Lynn Rogers; and Representatives John Barker, Daniel Hawkins, Broderick Henderson, Jim Kelly, Annie Kuether, Richard Proehl, and Tom Sawyer

CHARGE

The Committee is to consider the following:

- Legislation enacted during the 2018 Legislative Session affecting the Kansas Public Employees Retirement System (KPERS or Retirement System);
- Performance of the pension obligation bonds issued in 2004 (\$500 million) and 2015 (\$1.0 billion);
- The overall funding ratio for the Retirement System;
- Various reports statutorily required to be submitted by KPERS to the Committee;
- Two firefighter-related topics from the 2017-2018 Biennium—the Retirement System cap for the Kansas Police and Firemen’s Retirement System and tools to address cancer in death and disability benefits (*e.g.*, the definition of “service connected”); and
- In order to fulfill the Committee’s duties and responsibilities, as provided by KSA 2018 Supp. 46-2201, monitor, review, and make recommendations regarding the Retirement System.

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Joint Committee on Pensions, Investments and Benefits

ANNUAL REPORT

Conclusions and Recommendations

The Committee encourages the standing committees of the Senate and House that are responsible for retirement policy to consider introducing legislation increasing the Kansas Police and Firemen's Retirement System (KP&F) retirement cap.

The Committee notes the Legislature must contribute an estimated \$631.0 million in FY 2020, at the minimum, in order to prevent the unfunded actuarial liability (UAL) from increasing. The Committee finds it is preferable to contribute at least \$50.0 million more than that amount if the State intends to meet the actuarial required contribution rate in FY 2021.

The Committee commends the Kansas Public Employees Retirement System (KPERS or Retirement System) Board of Trustees, staff, and wealth managers for implementing prudent investment strategies that have mitigated risk while seeking out returns.

The Committee recommends the Legislature review the law regarding the sale of surplus public property and the amounts credited to KPERS.

The Committee recommends the Legislature consider repealing the sunset on the pilot Deferred Retirement Option Program utilized by the Kansas Highway Patrol. There may be merit to broaden the program to include other law enforcement agencies; however, those agencies must demonstrate a need, explaining how the program would be a viable means to increase retention.

Proposed Legislation: A bill to redefine the term "service connected," as that term is used in the death and disability provisions of the KP&F Plan.

BACKGROUND

The Joint Committee on Pensions, Investments and Benefits, created in 1992, is authorized by KSA 2018 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 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 KPERS Board; and
- Introduce legislation it determines to be necessary.

On June 27, 2018, the Legislative Coordinating Council (LCC) charged the Committee to consider two firefighter-related topics from the 2017-2018 Biennium pertaining to the cap on retirement benefits and certain death and disability benefits.

COMMITTEE ACTIVITIES

The Committee met on October 29, 2018, to review KPERS long-term funding, the performance of pension obligation bonds, newly enacted legislation, investment performance, a pilot program, and the LCC charge. The Committee recommended legislation be introduced.

Review of KPERS Long-term Funding

The Committee reviewed the latest actuarial valuation, which is a snapshot of the financial condition of the Retirement System as of December 31, 2017. The actuarial value was estimated to be \$19.247 billion. Actuarial assets are calculated by “smoothing” investment gains and losses over a five-year period. A market value higher than the actuarial value means deferred investment gains or losses will flow through valuations over the subsequent four years. There is an estimated \$338.0 million in net deferred gains to be realized in the outlying years. A year ago, net deferred loss was \$566.0 million.

The funding status has improved for four of the five membership groups: the KPERS state, school, and local government groups and the Judges’ Retirement System. The funded ratio for the Kansas Police and Firemen’s Retirement System (KP&F) has decreased. The Retirement System’s overall funded ratio increased from 66.8 percent in 2016 to 68.4 percent in 2017. The unfunded actuarial liability (UAL) for the entire Retirement System decreased in 2017 by \$154.2 million, leaving \$8.907 billion to be funded. Changes in actuarial assumptions and a decrease in the assumed rate of return, from 8.00 percent to 7.75 percent, have diminished KPERS’ solvency. If all assumptions are met in the future, KPERS should be fully funded at the end of 2032. For KPERS funding to remain at a steady state, state-school employer contributions in FY 2020 will need to be \$631.0 million, which includes \$95.2 million for the normal employer cost rate, \$510.0 million for the UAL, and \$25.8 million for the deferred school contributions of fiscal year (FY) 2017 and FY 2019.

Bond Proceeds; Investment Performance

The purpose of pension obligation bonds is arbitrage, which assumes the State will pay a lower interest on servicing the bonds than what the KPERS’ portfolio can earn over time. The State has issued two pension obligation bonds. The first was in 2004 for an amount of \$500.0 million, gross of fees (2004C bond issue), and the second was issued in 2015 for \$1.0 billion, net of fees (2015H bond issue). 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.

The average annualized total returns for the 2004C and 2015H bond issues, as of June 30, 2018, are 7.38 percent and 7.95 percent, respectively. The two bond series have added approximately \$387.0 million to KPERS (2004C, \$287.0 million; 2015H, \$100.0 million).

Overview of 2017 Legislation Enacted; Implementation of New Provisions

Staff from the Office of Revisor of Statutes (Revisor) provided an overview of 2018 SB 260, which transferred the procurement responsibility of annual financial compliance audits from the Legislative Division of Post Audit to the Board, and 2018 HB 2444, which repealed statutes pertaining to divestment from Sudan and related reporting requirements. Staff also reminded the Committee of new working-after-retirement provisions that were previously enacted and took effect on January 1, 2018.

Investment Performance

At the end of FY 2018, the net asset value of the portfolio exceeded \$19.4 billion. The gross return of the total portfolio, which consists of domestic equity, international equity, fixed income, yield driven, real return, cash, real estate, and alternative investments, was 8.7 percent. This

is 70 basis points greater than the KPERS' benchmark. The top three performing asset classes were alternative investments, domestic equity, and real estate, generating returns of 17.1 percent, 14.9 percent, and 11.6 percent, respectively. For the trailing returns of the past 3-, 5-, 10-, and 25-year periods, the portfolio has surpassed its respective benchmarks.

KPERS' Chief Investment Officer observed there has been robust domestic growth, especially in corporate earnings. Risk factors for the future include high equity valuations, fading effects from the recent federal tax cuts, inflationary pressures, rising interest rates, international trade, and geopolitics. KPERS personnel recommended maintaining the current disciplined approach to wealth management, reducing risk while seeking increased returns where evident.

KP&F Benefit Cap; Death and Disability Definition

Revisor staff briefed the Committee on legislation that had been introduced during the 2017-2018 Legislative Biennium. Two bills (2017 SB 241 and 2018 HB 2720) would have increased the retirement cap for KP&F members, which is currently 90.0 percent of "final average salary," as that term is defined by law. Two other bills (2017 SB 242 and 2018 HB 2719) would have revised the definition of "service connected," as that term is used in KP&F death and disability benefits.

KPERS personnel presented a historical view on the KP&F retirement cap in 2013, from 80.00 percent to 90.00 percent, and on the employee contribution increase, from 7.00 percent for the first 32 years of service and 2.00 percent thereafter to 7.15 percent for all years of service. The Judges' Retirement System, it was noted, also has a maximum benefit cap, which is currently 70.0 percent of final average salary.

With regard to the disability definition, KPERS personnel found the term "blood-borne illnesses" was used in other states instead of specifically stating hepatitis C. Blood-borne illnesses would include all strains of hepatitis as well as HIV and other illnesses.

A representative from the Kansas State Council of Fire Fighters appeared in support of

both topics, saying the legislation previously introduced was based on Colorado law. He reviewed a study conducted by the National Institute for Occupational Safety and Health, from 2010 to 2015, for which nearly 30,000 firefighters were followed. The study found higher rates of certain types of cancer than in the general population. Studies have concluded firefighters' health is affected by the absorption of the different chemicals and toxins into the skin that are present in hazardous environments. He stated there is no way to completely keep people who work in those environments safe from exposure.

With regard to the limit on benefits, the conferee stated when the 90.0 percent cap was instituted, no one conceived it would be met, but today several older employees have exceeded the cap. The conferee proposed the language be changed to allow for 100.0 percent benefit accrual or eliminate the language pertaining to the cap altogether.

Deferred Retirement Option Program (DROP)

The Superintendent of the Kansas Highway Patrol (KHP) updated the Committee on the pilot program, which was authorized in 2015 and will sunset on January 1, 2020. Upon attaining normal retirement age, troopers, examiners, or officers of the KHP have the option of participating in the DROP plan for a minimum of three years and no more than five years. This is a one-time, irrevocable choice. Participation in the DROP plan does not guarantee continued employment. After electing to participate, a member's monthly retirement benefit, as determined by law, is deposited into the member's DROP account for the duration of the time period. The DROP account accrues interest on an annual basis, ranging from 0.0 percent to 3.0 percent, subject to certain investment rate-of-return requirements. During the member's DROP period, the member remains in active service. Employer and employee contributions continue to be made to KP&F, but the member does not earn any additional service credit after the effective date of the DROP election. If a member fails to subsequently participate in the DROP plan for a minimum of three years, all of the member's interest credits are forfeited. However, a disabled member does not forfeit interest earned. At the end of the time

period, a member is entitled to a distribution from the DROP account, which either may be rolled over into an eligible retirement plan or taken out as a lump-sum distribution.

To date, 13 eligible members of the KHP have entered DROP, which went into effect in 2016, around the same time the Career Progression Plan for troopers had started. A recent survey by the KHP indicated 162 troopers intend to enter DROP in the next 10 years, representing more than a third of the trooper workforce. The Committee was urged to permanently establish DROP for the KHP during the 2019 Legislative Session.

The Committee acknowledged receipt of written testimony from the Director of the Kansas Bureau of Investigation, who expressed interest in continuing DROP and expanding it to include that agency.

CONCLUSIONS AND RECOMMENDATIONS

In response to the LCC charge, the Committee recommends legislation be introduced redefining the term “service connected,” as that term is used in the death and disability provisions of the KP&F Plan. Based upon recent studies, the term should reflect specific types of cancers and include blood-borne illnesses.

Also in response to the LCC charge, the Committee encourages the standing committees of the Senate and House that are responsible for retirement policy to consider introducing legislation increasing the KP&F retirement cap. The various stakeholders and interested parties should consult with each other to ensure the legislation does not contain any unintended, adverse consequences.

For the first time in 24 years, the statutory employer contribution rate for the State-School Group will equal the actuarial required rate of contribution (ARC) in FY 2021, 14.23 percent. This reflects, in part, the Legislature’s dedication to improve the long-term solvency of the Retirement System. In FY 2018, the State contributed a record \$541.0 million. In the near future, the Legislature must contribute an estimated \$631.0 million in FY 2020, at minimum, in order to prevent the UAL from increasing. It is preferential to contribute at least \$50.0 million more than that amount if the State intends to meet the ARC rate in FY 2021.

The Committee notes KPERS was at one time one of the least funded public pension systems in the country; now Kansas has moved to the middle third of state rankings. Contributions alone cannot explain the improvements that have taken place. The Committee commends the KPERS Board, staff, and wealth managers for implementing prudent investment strategies that have mitigated risk while seeking out returns.

The Committee recommends the Legislature review the law regarding the sale of surplus public property to discern which property has been sold, the means of sale, and the amounts credited to KPERS.

The Committee recommends the Legislature consider repealing the sunset on the pilot DROP Program. If there are committee deliberations, the Committee requests KPERS to provide information on how the program has performed, including a cost-benefit analysis. There may be merit to broaden the program to include other law enforcement agencies; however, those agencies must demonstrate a need, explaining how the program would be a viable means to increase retention.

Report of the Joint Committee on State Building Construction to the 2019 Kansas Legislature

CHAIRPERSON: Senator Rick Billinger

VICE-CHAIRPERSON: Representative J.R. Claeys

OTHER MEMBERS: Senators Marci Francisco, Laura Kelly, Carolyn McGinn, and John Skubal; and Representatives John Alcala, Steve Alford, Steve Huebert, and Adam Lusker

CHARGE

The Committee is authorized by KSA 46-1701, which includes provisions allowing the Committee to meet on call of its Chairperson at any time and any place within the state and to introduce legislation. The Committee is to:

- Study, review, and make recommendations on all agency five-year capital improvement plans;
- Review leases, land sales, and other statutorily required reports by agencies; and
- Travel throughout the state to observe State-owned buildings.

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Joint Committee on State Building Construction

ANNUAL REPORT

Conclusions and Recommendations

The Committee recommended the following:

- All the agencies' five-year capital improvement plans, except for those in which there was not a quorum of members present;
- The Kansas Insurance Department's request to remove the project to install safety film on the south and west first floor windows at a cost of \$12,000; and
- All leases presented to the Committee.

Proposed Legislation: None

BACKGROUND

The Joint Committee on State Building Construction was established during the 1978 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 members 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).

Terms of office are until the first day of the regular legislative session in odd-numbered years. A quorum of the Committee is six members. The chairperson and vice-chairperson are elected by the members of the Committee at the beginning of

each regular session of the Legislature and serve until the first day of the next regular session. In odd-numbered years, the chairperson is to be a representative and the vice-chairperson is to be a senator. In even-numbered years, the chairperson is to be a senator and the vice-chairperson is to be a representative (KSA 46-1701).

The Committee may meet at any location in Kansas on call of the Chairperson and is authorized to introduce legislation. Members receive the normal *per diem* compensation and expense reimbursements for attending meetings during periods when the Legislature is not in session (KSA 46-1701).

The primary responsibilities of the Committee are set forth in KSA 2018 Supp. 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 (KSA 2018 Supp. 46-1702).

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 2018 Supp. 75-3717b). The budget estimate requirement does not apply to federally funded projects of the Adjutant General 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 cases, the Adjutant General reports to the Committee each January regarding the federally funded projects, and the Director of Kansas Correctional Industries advises and consults with the Committee prior to commencing such projects for the Kansas Correctional Industries (KSA 2018 Supp. 75-3717b and 75-5282).

The Secretary of Administration issues monthly progress reports on capital improvement projects, including all actions relating to change orders or 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 having an increase in project cost of \$125,000 or more, prior to approving the change order or change in plans (KSA 2018 Supp. 75-1264). This threshold was increased from \$25,000 to \$75,000 in 2000 HB 2017 and to \$125,000 in 2008 HB 2744. Similar requirements were prescribed in 2002 for projects undertaken by the State Board of Regents for research and development facilities and state educational facilities (KSA 2018 Supp. 76-786) and in 2004 for projects undertaken by the Kansas Bioscience Authority (KSA 2018 Supp. 74-99b16).

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, 2000 HB 2017 provided an alternative to prior approval by the Committee. Under these circumstances, a summary description of the

proposed change order or change in plans is mailed to each member of the Committee, and a member may request a presentation and review of the proposal at a meeting of the Committee. If, within seven business days of the date the notice was mailed, 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 of the Committee, who will call a meeting as soon as possible. At that point, the Secretary of Administration is not to approve the proposed action prior to a presentation of the matter at a meeting of the Committee. If two or more members do not 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, change in plans, or change in proposed use (KSA 2018 Supp. 75-1264).

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. Each year, the Secretary of Administration shall submit a report to the Committee that identifies properties where an excessive amount of energy is being used (KSA 2018 Supp. 75-37,128).

COMMITTEE ACTIVITIES

The LCC approved three meeting dates for the Joint Committee on State Building Construction, one of which was to be a travel day. Those meetings were held August 16, October 9, and October 29, 2018. The Committee reviewed agencies’ five-year capital improvement plans and traveled to Parsons State Hospital, Block 22 in Pittsburg, and the Farlington Fish Hatchery in Crawford County. All agency five-year capital improvement plans were recommended except for the following: the Kansas State Fair plan was not voted on due to a change in management and reorganization of the capital improvement

projects, and the Kansas Insurance Department plan was approved but modified at the request of the agency to delete item #8 for \$12,000 to install safety film on the south and west first floor windows. Approval was not given due to the lack of a quorum for the following agencies: the Department of Wildlife, Parks and Tourism; Kansas Bureau of Investigation; Department of Administration, Kansas Department for Aging and Disability Services (including state hospitals); Kansas Commission on Veterans' Affairs Office; and the Judicial Branch.

Five-Year Plans

Department for Children and Families (DCF). The Deputy Secretary of Operations, DCF, presented the agency's five-year capital improvement plan. The Deputy Secretary noted that all capital improvements for the agency relate to the MYRIAD Building at 500 SW Van Buren in Topeka. The building was constructed in 2000 and is owned by the Topeka Public Building Commission, on a lease-to-buy agreement. The State will own the building beginning in 2029. The Deputy Secretary highlighted several proposed capital improvements over the five-year period, including lobby remodeling, parking garage floor improvements, garage gate replacement, and a heating, ventilation, and air conditioning (HVAC) systems update. The plans include security upgrades and general maintenance requirements.

Kansas Department of Labor (DOL). The Chief Fiscal Officer (CFO), DOL, indicated the agency owns five buildings in Topeka. The CFO discussed several proposed projects over the next five years, including general rehabilitation and repair; installation of intercom systems at two buildings; renovation of buildings, including carpet replacement, lighting renovation, and boiler replacement; parking lot repavement and overlay; and HVAC upgrades.

State Historical Society. The Executive Director of the State Historical Society presented the agency's five-year capital improvement plan. The Executive Director highlighted a number of projects from the five-year plan, including ongoing annual emergency repairs, expansion of the Law Enforcement Memorial on the Statehouse grounds, rehabilitation and reinterpretation at the Kaw Mission State Historic Site in Council Grove,

renovation at the Shawnee Indian Mission State Historic Site in Fairway, stabilization of the Block House at the Fort Hays State Historic Site in Hays, and renovations at the Kansas Museum of History in Topeka. The Executive Director indicated most of the projects would be funded by private donations and grants, but noted the agency would be requesting partial funding from the State General Fund for projects in Council Grove and Topeka.

Kansas State School for the Blind. The Director of Operations, Kansas State School for the Blind, presented the school's five-year capital improvement plan. The Director indicated the school's plan involved three areas: safety and security systems, including fire and mass notification systems and securing entrances; campus boilers and HVAC upgrades; and ongoing rehabilitation and repair projects.

Kansas State School for the Deaf. The Director of Operations, Kansas State School for the Deaf, presented the school's five-year capital improvement plan. The Director indicated the school's plan involved five major areas: safety and security systems, including fire and mass notification systems and securing entrances; campus boilers and HVAC upgrades; ongoing rehabilitation and repair projects; debt service payments for the School's Energy Service Performance Contract (the debt will be retired in mid-FY 2020); and a project to renovate and upgrade the HVAC system at Roth Auditorium.

State Board of Regents. The Director of Facilities, State Board of Regents, discussed the agency's five-year capital improvement plan. The Director indicated the only request for the agency is the annual request for rehabilitation and repair funds, which is initially appropriated to the State Board of Regents and then distributed to the Regents institutions. The request includes \$41.0 million, all from the Educational Building Fund, for FY 2020, and \$40.0 million for each subsequent fiscal year for the duration of the five-year plan.

Fort Hays State University. The Director of Facilities Planning, Fort Hays State University, discussed the university's five-year capital improvement plan. The Director highlighted

several projects requested by the university over the five-year plan, including a Memorial Union addition, renovations to Forsyth Library and Rarick Hall, and ongoing parking improvements. The Director also highlighted ongoing work relating to deferred maintenance projects, including renovations to Albertson, Cunningham, McCartney, McMindes Rarick, and Tomanek Halls; Gross Coliseum; the Akers Energy Center; and the Art and Design Building.

Emporia State University. The Vice President for Administration and Finance, Emporia State University, presented the university's five-year capital improvement plan. The Vice President highlighted ongoing projects, including a new residential life facility, a new aquatic research and outreach center, and a new university house. The Vice President discussed relocation of utility lines on Merchant Street and renovations to Abigail Morse Hall. She also discussed future projects requested by the university, including a new maintenance facility, an aquatic addition to the Student Recreation Center, and a wet laboratory addition to the Science Building.

Wichita State University. The Associate Vice President for Facilities, Wichita State University, presented the university's five-year capital improvement plan. The Associate Vice President provided project updates regarding ongoing capital improvements, including Fiske Hall renovations, development of Braeburn Square, Partnership Building 2, the Suites at the university, and YMCA Wellness Center. He also highlighted future capital improvement projects, including a Central Energy Plant Cooling Tower replacement, development of a new Crash Dynamics Laboratory, Phase V of Eck Stadium improvements, expansion or renovations to Koch Arena, and construction of a new School of Business.

Kansas State University. The Associate Vice President for Facilities and University Architect, Kansas State University, presented the university's five-year capital improvement plan. The Associate Vice President discussed current ongoing projects, including renovations to Trotter and Mosier Halls and Hale Library, various athletic projects to the Bill Snyder Family Stadium and the RV Christian Track, and construction of a new Agronomy Education Center. He also discussed future requested projects, including construction of a new

agriculture and research extension facility, a multi-cultural student center, expansion and renovations to the Derby Dining Center, McCain Auditorium, and the facility for the soccer and baseball teams. In addition, the request includes replacement of the Polytechnic runway in Salina.

Pittsburg State University. The Interim University Architect and Interim Director of Planning, Design and Construction, Pittsburg State University, reviewed the status of several ongoing capital improvement projects, including renovations to Axe Library, Bicknell Family Center for the Arts, Kelce College of Business, the Kansas Technology Center Outdoor Diesel Laboratory, and McPherson Hall. In addition, he highlighted progress on Block 22, the Living/Learning Community, which utilizes city and private funding to renovate existing buildings in downtown Pittsburg for student housing, innovation spaces, and businesses. He also discussed future capital improvement requests, including expansion to the Kansas Technology Center, McPherson Hall, the Tyler Research Center, and improvements to the Sports Complex.

University of Kansas Medical Center. The Director of Projects and Planning, University of Kansas Medical Center (KUMC), presented KUMC's five-year capital improvement plan. The Director discussed ongoing projects, including a new anatomy laboratory within Orr Major, upgrading of 35-year-old infrastructure, replacement of deteriorating tunnels running under Murphy Courtyard, switchgear replacement, and parking garage improvements. The Director also discussed future projects, including addition of a 41,000-square-foot Health Education Building at the School of Medicine in Wichita; expansion of the Dykes Library to create classroom, laboratory, clinic, and faculty office space for the new dental school; installation of solar panels on the roof of the Support Services building; and exterior wall replacement at Lied Research Building.

University of Kansas. The Director of Design and Construction Management, University of Kansas, presented the university's five-year capital improvement plan. The Director reviewed the status of current projects, including replacement of the volleyball facility and construction of the new indoor football practice facility. In addition, the Director discussed future projects, including

construction of a district chilled water plant to replace aging building chillers, ongoing parking lot repair, multi-year renovation to the Kansas Memorial Union, and renovations to Oliver Hall.

Kansas Department of Commerce. The Chief Fiscal Officer, Kansas Department of Commerce, presented the agency's five-year capital improvement plan. Projects for 2019 include \$200,000, all from special revenue funds, for elevator renovation at the Topeka Workforce Center and \$136,525, all from special revenue funds, for debt service payments on the Topeka Workforce Center. FY 2020 projects include \$100,000, all from special revenue funds, for a new roof and facade repair at the Garden City Workforce Center and \$136,650, all from special revenue funds, for debt service on the Topeka Workforce Center.

Kansas Department of Corrections. The Director of Capital Improvements, Kansas Department of Corrections, presented the agency's five-year capital improvement plan. The Director noted although the agency receives funding of \$5.0 million annually from the Correctional Institutions Building Fund (CIBF), in reality, after paying debt service and insurance, only about \$4.2 million is available for rehabilitation and repair projects each year. The Director noted three facilities—Hutchinson, Norton, and Winfield—were all more than 75 years old. He also noted most projects requested by the agency were relatively small, but one project, a new clinic and infirmary at Hutchinson Correctional Facility, would require funding of \$1.6 million from the CIBF in FY 2019 and FY 2020. The Director also provided an update to the renovation project at Lansing Correctional Facility, which he indicated was 25.0 percent complete. He noted the new housing units should be ready for occupancy in 2020.

Kansas Insurance Department. The Comptroller, Kansas Insurance Department, presented the agency's five-year capital improvement plan. In addition to an ongoing annual request for \$35,000 for rehabilitation and repair, she noted a number of projects underway for FY 2019, including repair and replacement of basement windows and window wells, carpet replacement, concrete and brick repair, parapet walls, exterior wall repair, and stairwell wall and

ceiling repair. The Comptroller also requested that item #8 of the plan to install safety film on the south and west first floor windows at a cost of \$12,000 be removed from the plan for FY 2019. For FY 2020, the agency is requesting \$147,235 for cooling tower replacement in the Kansas Insurance Department's building.

Adjutant General's Department. The Director of Public Works, Adjutant General's Department, presented the agency's five-year capital improvement plan. The Director discussed ongoing facility maintenance repair issues, along with a review of recently completed or substantially completed projects, FY 2019 planned projects, and the agency's five-year capital improvement plan. The Director noted the agency's FY 2019 projects were divided into two categories: life, health, and safety and sustainment repairs. The life, health, and safety repairs for FY 2019 are estimated to cost \$5.7 million, including \$4.3 million from federal funds and \$1.4 million from state funds. The sustainment repair projects are estimated at \$3.3 million, with half of the funding from the federal government and the other half from the State.

Kansas Highway Patrol. The Director for Support Services, Kansas Highway Patrol, presented the agency's five-year capital improvement plan. The Director highlighted the agency's FY 2020 requests, including funding for training academy maintenance repair, owned building rehabilitation, repair and scale maintenance, and large scale replacement. The request includes \$589,485, all from special revenue funds, for rehabilitation and repair projects at several troop locations, including security updates, window replacement, lighting, and painting projects. The request also includes funding to purchase a currently leased property on US 24 Highway in Topeka. The total for the project is estimated at \$3.6 million from FY 2020 through FY 2032. FY 2020 total costs are estimated at \$295,657. The agency is requesting an annual transfer from the State Highway Fund (SHF) to purchase the property.

Kansas Department of Transportation. The Division Director of Operations, Kansas Department of Transportation (KDOT), presented the agency's five-year capital improvement plan. The Director indicated the agency is requesting FY

2020 expenditures of \$16.0 million, all from the SHF, for a variety of projects, including \$3.8 million for rehabilitation and repair of 977 buildings. The projects include door and window replacement, interior and exterior painting, roofing repairs, overhead door replacement, salt/sand building repair, fencing repair, and parking lot repair and resurfacing. The agency is also requesting \$1.4 million from the SHF for roofing replacement projects at nine different facilities, including laboratories, area and subarea shops, and salt and sand cones and domes. The agency also requests \$4.4 million from the SHF for subarea shop modernization projects in Lakin, Smith Center, Topeka. The agency requests \$45,000 from the SHF for land purchases in Erie and Salina, \$1.2 million for district shop upgrades in Salina and Hutchinson, \$2.6 million to relocate the Newton Subarea Shop, and \$2.6 million to relocate the Kinsley Subarea Shop.

Kansas State Fair. The newly appointed General Manager, Kansas State Fair, discussed the agency's five-year plan. The General Manager noted the agency had requested \$17.1 million in projects for FY 2020 and explained several of the projects were being reevaluated and would be reconsidered by the Fair Board at its next meeting. He also noted the passage of 2018 SB 415, which allows for the sales tax earned at the State Fair grounds to be remitted to the State Fair Capital Improvements Fund.

Kansas Department of Wildlife, Parks and Tourism. The Budget Officer, Kansas Department of Wildlife, Parks and Tourism, provided the agency's five-year capital improvement plan. The Budget Officer indicated the agency was seeking \$17.5 million, all from special revenue funds, for FY 2020. The request includes funding for a variety of new construction and additional projects (\$5.3 million), including land acquisition, cabin site preparation, trail and shooting range development, and wetlands acquisition and development, and \$12.2 million for ongoing rehabilitation and repair projects, including major maintenance for parks, public lands, fish and wildlife areas, bridges, and dams.

Kansas Bureau of Investigation. The Executive Officer, Kansas Bureau of Investigation (KBI), discussed the agency's five-year capital improvement plan and the partial renovation of the

first floor of the Topeka Headquarters building to provide space for the Northeast Kansas Child Victims Task Force. The Executive Officer noted the agency requests a continuing \$100,000 from special revenue funds for ongoing repair, rehabilitation, and projects at KBI facilities, and \$190,000 from the State General Fund for carpet replacement at the Topeka Headquarters (\$40,000) and for a new generator at the Topeka Annex Building (\$150,000). In addition, the Executive Officer highlighted the progress on the first floor renovation of the Topeka Headquarters to provide space for the Northeast Kansas Child Victims Task Force. The project was funded in FY 2018 and FY 2019 with \$500,000 from the State General Fund each year. The area formerly housed the chemistry division, which relocated to the new Forensic Science Center at Washburn University. The Task Force will be composed of KBI special agents, special agents from the Office of the Attorney General, and law enforcement personnel from the Shawnee County Sheriff's Office and the Topeka Police Department.

Department of Administration. The Director of Facilities and Property Management, Department of Administration, presented the agency's five-year capital improvement plan. The Director indicated the agency is requesting a total of \$2.2 million from the State General Fund for ongoing rehabilitation and repair projects in FY 2020. Priority projects identified for FY 2020 include conversion of 15,000 square feet previously used as a data center into usable office space at the Landon State Office Building (LSOB), a fire alarm system upgrade at LSOB, elevator modernizations at LSOB, replacement of floor air handlers at LSOB and the Eisenhower State Office Building, restroom upgrades at the Eisenhower State Office Building, passenger elevator modernization and window replacement at the Judicial Center, tuck pointing at Memorial Hall, and patio replacement at Cedar Crest. In response to a Committee question, the Director indicated most of the Docking State Office Building has been mothballed and the agency can take no further action on the building without legislative direction.

Kansas Department for Aging and Disability Services and state hospitals. The Facilities Architect, Kansas Department for Aging and Disability Services, presented the five-year

capital improvement plan for the state hospitals. The Facilities Architect indicated the agency is requesting a total of \$12.0 million in FY 2020, all from the State Institutions Building Fund (SIBF), for ongoing rehabilitation and repair at the state hospitals (\$3.0 million), renovation of the Spruce Cottage at Parsons State Hospital and Training Center (\$1.3 million), and other repair and rehabilitation projects at all the state hospitals (\$1.3 million). The request also includes \$9.4 million for debt service for the new state security hospital (\$3.8 million), which pays off in FY 2023, and for rehabilitation and repair (\$2.6 million), which pays off in FY 2024.

Kansas Commission on Veterans' Affairs Office. The Director of the Kansas Commission on Veterans Affairs' Office discussed the agency's five-year capital improvement plan. The Director highlighted FY 2019 projects completed or underway, and discussed the agency's FY 2020 request. The request includes a total of \$835,261 from the SIBF for rehabilitation and repair projects and four projects (boiler replacement, installation of a covered walkway, roof replacement, and construction of a maintenance building) at the Kansas Veterans' Home in Winfield. The request also includes \$508,700 from the SIBF for rehabilitation and repair projects and parking and accessibility improvements at the Kansas Soldiers' Home in Fort Dodge. Finally, the request includes \$91,365 from the SIBF for projects at veterans' cemeteries at all four cemeteries (Fort Dodge, Fort Riley, WaKeeney, and Winfield).

Judicial Branch. Special Counsel to the Chief Justice, Kansas Judicial Branch, discussed the agency's five-year capital improvement plan. The Special Counsel highlighted FY 2019 approved and FY 2020 requested projects. For FY 2019, the Judicial Branch is estimating expenditures of \$500,000, all from special revenue funds, to construct a first floor meeting and training room. The space will also be utilized to conduct the spring bar exam. The FY 2019 amount also includes \$200,000 from special revenue funds to relocate the Judicial Center security guard station to the front of the building to provide more security for the Law Library and the future Clerk of the Appellate Court space on the first floor. The approved FY 2019 budget also includes \$200,000 from the State General Fund for the construction

of two new Court of Appeals judicial offices. This will allow all Court of Appeals judges and staff to be on one floor and all Supreme Court justices and staff to be together on one floor. For FY 2020, the Judicial Branch requests \$200,000 from special revenue funds to construct a Judicial Branch Learning Center, which would utilize an interactive learning environment to provide visitors with information about the Judicial Branch.

Statutorily Required Reports

The State Transportation Engineer, in accordance with KSA 2018 Supp. 75-3516, reported on KDOT's inventory system for real property and real estate transactions. The State Transportation Engineer indicated during FY 2018, the agency acquired 82 right-of-way parcels, 13 permanent easements, and 58 temporary easements. In the same time period, the agency sold 10 parcels and released easement interest in 29 parcels.

Leases and Sales

The State Lease Administrator, Office of Facilities and Property Management, presented the following leases, all of which were recommended by the Committee:

- Lease for the Kansas Department of Revenue (KDOR) Driver's License Examination Office in Independence, Kansas;
- Lease for an office space for the Southeast Public Defender's Office of the State Board of Indigents' Defense Services in Independence, Kansas;
- Lease for space for operations of the Medicaid Clearinghouse for the Kansas Department of Health and Environment in Topeka, Kansas;
- Lease for a KDOR Driver's License Examination Office in Winfield, Kansas; and
- Lease of state land (0.85 acres) located on the Norton Armory grounds in Norton,

Kansas (this lease was presented by a representative of the Kansas National Guard).

A representative of the Department of Agriculture presented information on a possible lease for a laboratory in Manhattan. Additional information will be provided during the 2019 Session. The Committee took no action on the information presented.

except for those in which there was not a quorum of members present.

The Committee recommended the Insurance Department's request to remove the project to install safety film on the south and west first floor windows at a cost of \$12,000.

The Committee recommended all leases presented to the Committee.

CONCLUSIONS AND RECOMMENDATIONS

The Committee recommended all the agencies' five-year capital improvement plans,

Report of the Capitol Preservation Committee to the 2019 Kansas Legislature

CHAIRPERSON: Jennie Chinn, State Historical Society

SENATE PRESIDENT'S APPOINTEES: Senator Elaine Bowers and Harrison Hems

HOUSE SPEAKER'S APPOINTEES: Representative Fred Patton and Melinda Gaul

SENATE MINORITY LEADER'S APPOINTEE: Tim Graham

HOUSE MINORITY LEADER'S APPOINTEE: Representative Valdenia Winn

GOVERNOR'S APPOINTEES: Kim Borchers and Jeremy Stohs (one position vacant)

EX OFFICIO MEMBERS: Frank Burnam, Kansas Department of Administration; and Peter Jasso, Kansas Creative Arts Industries Commission

CHARGE

The Committee will review various issues regarding the Capitol and its grounds, including the expansion of the Law Enforcement Memorial on the Capitol grounds.

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Capitol Preservation Committee

ANNUAL REPORT

Conclusions and Recommendations

The Committee makes the following recommendations:

- The Committee recommends future mural legislation to clearly outline responsibilities and mechanisms for funding of such mural;
- The Committee recommends future mural proposals to include a specific and realistic timeline for accepting artist proposals and an outlined process for working with the artist on completion of such mural;
- The Committee recommends the Director of Legislative Administrative Services to contact the artist of the *Brown v. Board of Education* mural about receiving a copy of the documentary filmed concerning such mural;
- The Committee recommends the State Historical Society and the Kansas Department of Administration to provide the Overmyer murals report and estimates to the Legislative Coordinating Council for its review; and
- The Committee recommends the Kansas Department of Administration continue to explore options for marking the north entrance to the Capitol Building and provide these options to the Committee.

Additionally, the Committee approves of the Law Enforcement Officers Memorial proposal provided by TreanorHL on behalf of the Law Enforcement Officers Memorial Advisory Committee.

The Committee also directs the Chairperson of the Capitol Preservation Committee to discuss the process of the Fallen Firefighters Memorial with the Kansas Firefighters Memorial Advisory Committee.

Proposed Legislation: None

BACKGROUND

The Capitol Preservation Committee was created by the Kansas 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 the areas is 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 2018 Supp. 75-2269, the Division of Legislative Administrative Services has the responsibility of implementing the recommendations of the Committee.

The Committee is made up 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 Executive Director of the State Historical Society, and the Director of the Creative Arts Industries Commission. The Governor has the authority to appoint the chairperson from the Committee's membership.

The Committee was granted one meeting day by the Legislative Coordinating Council (LCC).

COMMITTEE ACTIVITIES

The Committee met on August 30, 2018, at the Statehouse. During the meeting, the Committee reviewed the *Brown v. Board of Education* mural, including discussion of mural progress and the use of hallway space next to the mural; discussed the conservation of the Overmyer murals on the first floor of the Capitol; received updates on the Capitol Visitor Center, including the correction of cracks on the marble flooring in the Visitor Center, the addition of signage directing visitors to the main entrance of the Capitol, and consideration of a flagpole to mark the entrance; received a presentation on the expansion of the Law Enforcement Officers Memorial on Capitol grounds; discussed the Fallen Firefighters Memorial; received an update on the Eisenhower statue on Capitol grounds; and discussed legislation related to other murals.

Review of *Brown v. Board of Education* Mural

The Committee reviewed the *Brown v. Board of Education* mural, including discussion of mural progress and the use of hallway space next to the mural.

Discussion of Mural Progress

The Committee discussed the *Brown v. Board of Education* mural, noting reaction to the artwork at both donor and public events has been very positive. The Committee discussed the mural selection process, noting the length of the process, which began with enactment of legislation in

2010; involvement of different Committee members and the Mulvane Art Museum at Washburn University; and the process for calling for artists.

The Committee noted, for future selection of artists and artwork, it is important to be cognizant of what is being requested from the artists, the projected timeline of the project, and the need to have frequent communication with the artists to keep everyone apprised of the progress of the project. The Committee noted it would be helpful to have future mural legislation assign responsibility for the project. The Committee indicated some of the delays in the *Brown v. Board of Education* mural project were related to a lack of a clear assignment of responsibility.

The Committee discussed the fundraising activities for the mural. The Committee noted an important component in fundraising is to have a product for the donor to see and believe in; noted the importance of having a fundraising mechanism that can be depended upon to succeed; and indicated donors are more comfortable with writing a check to an agency of the State rather than to a third-party fundraising organization, particularly with the lengthy timeline of these types of projects. The Committee also commended the fundraising work completed by Kenya Cox, Executive Director, Kansas African American Affairs Commission, and Committee member Kim Borchers for the fundraising guidance she provided during the project.

Concerning the contract with the *Brown v. Board of Education* artist, Michael Young, the Director of Legislative Administrative Services indicated the contract contained three phases for payment to the artist. The Director noted a critical item for the contract was providing upfront funding to the artist so work could begin while the remainder of the funding was being acquired. The Director stated the fundraising payments were for approximately \$110,000, but additional money was raised to allow for maintenance and lighting of the mural in future years. The Chairperson requested the artist keep all of the drafts of his work on the project, as there is an interest from a historical perspective in these items.

The Committee also noted coordination with state agencies, particularly with the Office of Facilities and Property Management (Facilities Management), which is overseen by the Kansas Department of Administration, was critical due to issues such as lighting and how to handle the unveiling of the mural. The Committee thanked Facilities Management staff for their work installing and unveiling the mural. Committee members also expressed their appreciation to the Director for his assistance with negotiating the contract with the artist. The Committee noted the contract with the artist permits the State to use the image of the mural.

Use of Hallway Space Next to the Mural

The Director addressed the use of the hallway space next to the mural, stating concerns had been raised about the number of food and drink events that routinely occur in this area. The issue was brought to the attention of the LCC, which made a decision to no longer allow events with food and drink in this area. The one exception is the use of a table for coffee and food in a small area next to the Old Supreme Court Room when the House of Representatives majority caucus meets in the room.

Committee members expressed their appreciation to the Director for his work with the LCC on determining the rules for usage of the hallway space next to the mural.

Conservation of Overmyer Murals

The Committee previously received concerns from Capitol Visitor Center Staff about cracks in the murals created by David Overmyer on the first floor of the Capitol. The Committee received a report on the damage to the murals prepared by the Museum Registrar of the State Historical Society.

The Committee also received a free estimate for conservation of the murals from a Colorado company. The estimate was in the range of \$8,500 to \$11,500 for on-site treatment of the murals. The estimate specified treatment would include written and photographic documentation; local adhesive consolidation of cracked, loose, lifted paint; filling and painting of losses; and overall dusting of each mural. The estimate included preparation and administrative time, travel time, actual on-site

time, report time plus travel, and on-site expenses. It was based on 4.5 to 6 days of actual on-site time for one conservator; the number of days could be halved by having two conservators on-site. The Committee noted conservation work should not be done during the legislative session due to the number of people in the building.

Capitol Visitor Center Updates

A representative of the Kansas Department of Administration provided an update on issues concerning the Capitol Visitor Center. The representative noted there were a significant number of cracks on the marble flooring in the Visitor Center. He stated Lardner Monuments was contracted to make 14 repairs in late December 2017 and early January 2018, with each repair costing \$100 and involving a colored epoxy material. He stated Facilities Management has changed its cleaning practices and now uses hand mops on the floor rather than a floor machine to help prevent future cracking.

The representative reported Knox Signs and Graphics has been contracted to install ten-inch dark bronze cast aluminum letters over the center arch of the Visitor Center entrance to identify it as a public entrance. In addition, Facilities Management is working on ways to assist the public in finding the Visitor Center from the street and public visitor parking lots.

The representative noted the north entrance of the Capitol was originally planned to have a fountain; however, a fountain would be difficult to maintain. He noted Facilities Management is considering the addition of a 40-foot flag pole with a base instead of a fountain. Committee members discussed options for marking the north entrance of the Capitol, but there was no consensus on either the flagpole or the fountain.

Expansion of Law Enforcement Officers Memorial

A representative of the Kansas Office of the Attorney General informed the Committee there is an unfortunate need to expand the Law Enforcement Officers Memorial on Capitol grounds to recognize fallen law enforcement officers. The representative noted the current memorial is running out of space and an expansion

plan has been developed, which would maintain the integrity of the monument while not detracting from the aesthetics of the Capitol grounds.

A representative of TreanorHL presented an expansion design to the Committee. The representative provided historical background and reviewed the drawings of the plan. The representative explained the expanded design includes a ripple effect to symbolize the ripple effect that each law enforcement officer has on the community as he or she performs his or her duties; the design incorporates suggestions from Facilities Management, such as the relocation of benches to reduce the amount of debris and water that might accumulate around the memorial and removal of granite chips around the perimeter; and noted the symbolism of soft blue lighting and the use of lions in the design. The representative stated the expansion includes space for an additional 384 names and visitors will be able to use an app to assist in finding the panel on which a specific name is located. The representative stated the plan documents are being finalized and, once approved, can go out for bid. The representative stated construction would not begin until after the next planned ceremony in May 2019.

The Committee noted the design is well-thought-out and dignified.

Fallen Firefighters Memorial

Staff of the Office of Revisor of Statutes provided an update concerning the Fallen Firefighters Memorial, noting there are some funding mechanisms in law for such a memorial, but additional funding is needed and the design concept needs to be finalized.

A representative of the Kansas Department of Administration noted funds have been allocated for construction and maintenance, but additional funding is needed to pay for the design phase and other expenses exceeding the initial funding provided. The Committee was informed the original design concept would need to be reevaluated since there have been changes to the Capitol grounds since 2001.

Eisenhower Statue Update

A representative of the Kansas Department of Administration provided the Committee with an update on the Eisenhower statue on the northwest corner of the Capitol grounds. (*Note:* In its report to the 2018 Legislature, the Committee supported the enactment of legislation for the Eisenhower statue on Capitol grounds. Legislation authorizing the construction of such a statue honoring Eisenhower was enacted by the Legislature in 2018 SB 262.) The representative noted Peterson Monuments of Abilene, Kansas, has been contracted to engrave a granite pedestal with “Dwight D. Eisenhower,” with delivery and installation of both the pedestal and statue on the Capitol grounds in mid-October 2018. The concrete footing and base were already in place when the Committee met. Jim Brothers Sculpture Studio, Inc., of Lawrence, Kansas, had been contracted to create the statue with scheduled delivery on or before October 12, 2018. The representative noted the date of the dedication of the statue would be coordinated with the availability of family members to attend. (*Note:* The dedication was held on October 22, 2018.)

Legislation Related to Other Murals

The Committee discussed other murals that have been requested through legislation, but have not yet been completed. Kansas Legislative Research Department staff noted one mural, to honor the 1st Kansas (Colored) Voluntary Infantry regiment. The Chairperson stated it was her understanding additional legislation would be needed to move forward with the project.

CONCLUSIONS AND RECOMMENDATIONS

Following discussion, the Committee made the following recommendations:

- The Committee recommends future mural legislation to clearly outline responsibilities and mechanisms for funding of such mural;
- The Committee recommends future mural proposals to include a specific and realistic timeline for accepting artist proposals and an outlined process for

working with the artist on completion of such mural;

- The Committee recommends the Director contact the artist of the *Brown v. Board of Education* mural about receiving a copy of the documentary filmed concerning such mural;
- The Committee recommends the State Historical Society and the Kansas Department of Administration provide the Overmyer murals report and estimates to the LCC for its review;
- The Committee recommends the Kansas Department of Administration continue to

explore options for marking the north entrance to the Capitol Building and provide these options to the Committee;

- The Committee approves of the Law Enforcement Officers Memorial proposal provided by TreanorHL on behalf of the Law Enforcement Officers Memorial Advisory Committee; and
- The Committee directs the Chairperson of the Capitol Preservation Committee to discuss the process of the Fallen Firefighters Memorial with the Kansas Firefighters Memorial Advisory Committee.

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Report of the Child Welfare System Task Force to the 2019 Kansas Legislature

CHAIRPERSON: Senator Vicki Schmidt

VICE-CHAIRPERSON: Representative Steve Alford [until 1/9/2018]; Representative Erin Davis [from 1/9/2018]

LEGISLATIVE MEMBERS: Senators Barbara Bollier [until 7/18/2018], Laura Kelly, and Ty Masterson [from 7/26/2018]; and Representatives Linda Gallagher and Jarrod Ousley

NON-LEGISLATIVE MEMBERS: Gina Meier-Hummel, Secretary for Children and Families (non-voting); Patricia Long, Director of Prevention and Protection Services (PPS), Department for Children and Families (DCF) (non-voting); Rachel Marsh, Saint Francis Community Services (non-voting); Lindsey Stephenson, KVC Kansas (non-voting); Hon. Daniel Cahill, district court judge, appointed by the Chief Justice of the Supreme Court (Chief Justice) [until 4/4/2018]; Hon. Jeffry Larson, district court judge, appointed by the Chief Justice [from 4/4/2018]; Mickey Edwards, state director, Kansas Court Appointed Special Advocates, appointed by the Chief Justice; Alicia Johnson-Turner, citizen review board member, appointed by the Chief Justice; Mary Tye, foster parent organization representative, appointed by the Judicial Council; Serena Hawkins, guardian *ad litem*, appointed by the Judicial Council; Ashlyn Yarnell, family law attorney, appointed by the Judicial Council; Gail Cozadd, licensed social worker, appointed by the Judicial Council; Dr. Katherine Melhorn, Child Death Review Board representative; Sandra Lessor, Sedgwick County District Attorney's Office, appointed by the Kansas County and District Attorneys Association; and Sgt. David Ohlde, Marysville Police Department, appointed by the Kansas Association of Chiefs of Police.

CHARGE

House Sub. for SB 126 (2017) directs the Secretary for Children and Families to establish a Child Welfare System Task Force to study the child welfare system. The bill directs the Task Force to convene working groups to study the general administration of child welfare by the Kansas Department for Children and Families (DCF), protective services, family preservation, reintegration, foster care, and permanency placement. Additionally, the Task Force and each working group are directed to study the following topics:

- The level of oversight and supervision by DCF over each entity that contracts with DCF to provide reintegration, foster care, and adoption services;

- The duties, responsibilities, and contributions of state agencies, nongovernmental entities, and service providers that provide child welfare services in the State of Kansas;
- The level of access to child welfare services, including, but not limited to, health and mental health services and community based services in the State of Kansas;
- The increasing number of children in the child welfare system and contributing factors;
- The licensing standards for case managers working in the child welfare system; and
- Any other topic the Child Welfare System Task Force or a working group deems necessary or appropriate.

Child Welfare System Task Force

FINAL REPORT

Conclusions and Recommendations

The Task Force adopted the following 23 recommendations, organized by priority into three tiers. More information regarding the references to the report of the Mental Health Task Force may be found in the crosswalk attached to this report as Appendix A. (*Note: The numbering of recommendations is for ease of reference only and does not reflect priority order.*)

Tier One Recommendations

The Task Force adopted the following five recommendations as its highest priority recommendations:

1. *Workforce.* The State of Kansas should invest in the child welfare system workforce by increasing funding for recruitment, retention, and support to effectively attract and retain high-quality staff;
2. *Data Infrastructure.* The State of Kansas should create a single, cross-system, web-based, integrated case management and data reporting system that can be used by the Kansas Department for Children and Families (DCF) and all relevant agencies and stakeholders to efficiently and effectively share information (*e.g.*, education, dental, medical, behavioral);
3. *Families First Act.* The State of Kansas should fund and institute the federal Families First Prevention Services Act in Kansas and follow the federal guidelines;
4. *Access to Care.* The State of Kansas should require access to high-quality and consistent medical and behavioral health care for Medicaid-eligible high-risk youth through the Medicaid state plan or other appropriate sources of funding; and
5. *Code for Care of Children.* The Judicial Council should review the Code for Care of Children (CINC Code), especially with regard to: a) the way DCF's definition of "non abuse neglect" relates to cases under the CINC Code, and b) modifications to meet the child's ongoing best interests for permanency.

Tier Two Recommendations

The Task Force adopted the following nine recommendations as high priority recommendations:

6. *Foster Care Re-entry and Transitional Services.* The State of Kansas should provide young adults age 18-21 with the option to seamlessly re-enter the child welfare system, and ensure continuity in medical, behavioral health and support services for youth who have exited the custody of DCF;

7. *Service Setting.* The State of Kansas should prioritize delivering services for children and youth in natural settings, such as, but not limited to, homes, schools, and primary care offices, in the child's community when possible. The needs of the child and family should be the most important factor when determining the settings where services are delivered;
8. *Reintegration Support.* The State of Kansas should provide consistent, individualized, evidence-based support throughout reintegration for children in need of care and caregivers, including, but not limited to, parents and foster parents;
9. *Foster Homes.* The State of Kansas should invest in foster home recruitment and retention by increasing funding for supplemental training and providing additional financial incentives that support older youth, high-needs children, and birth families, as well as modifying licensing requirements;
10. *Analysis of Service Delivery.* The State of Kansas should establish a work group or task force to conduct an analysis to: 1) determine what it costs to adequately fund high-quality child welfare services; 2) by 2021, evaluate the benefits of privatizing child welfare services; and 3) determine the best public/private collaboration to deliver child welfare services. DCF shall determine appropriate outcome measures and periodic evaluations shall be conducted to ensure contractors are achieving set outcomes and provide opportunities for ongoing collaboration and review. Summary reports should be provided to the Legislature semi-annually;
11. *Safety Net, Early Childhood Programs, and Early Intervention.* The State of Kansas should fully fund, strengthen, and expand safety net and early childhood programs through public services (DCF, mental health, substance abuse, and education) and community-based partner programs, and reduce barriers for families needing to access concrete supports. The State of Kansas should ensure availability and adequate access to early childhood behavioral health services statewide. The Task Force recommends consideration of related Mental Health Task Force recommendations 1.2 (Medicaid Expansion Models), 1.3 (Housing), 3.1 (Regional Model), and 6.4 (Early Intervention);
12. *Information Sharing.* The State of Kansas should establish a multi-disciplinary approach and share information across and among stakeholders, irrespective of state borders, in accordance with federal and state laws;
13. *Non-Abuse Neglect.* The State of Kansas should provide differential responses for newborns and refer them to evidence-based services. The Task Force recommends consideration of related Mental Health Task Force recommendations 6.1 (Expand Service Options), 4.2 (Regional Model), and 6.4 (Early Intervention); and
14. *Relative Search.* The State of Kansas should ensure that diligent search for relatives for possible placement begins immediately when a child is removed from the home. DCF should establish benchmarks for relative identification and shall monitor related outcomes, such as number of relatives identified within the first 30 days, number of children in relative placements and length of time for the child to reach that placement, and number of relatives contacted. DCF should regularly report on these benchmarks and outcomes to the Legislature.

Tier Three Recommendations

The Task Force adopted the following nine recommendations as important recommendations:

15. *Immediate Response.* The State of Kansas should provide immediate response 24/7 to hotline calls and dedicated immediate response investigators to be dispatched, when warranted;
16. *Front-End Staffing.* DCF should employ highly skilled and experienced front-end child welfare staff;
17. *Case Plans.* The State of Kansas should restructure the case plan process to improve coordination of services among all stakeholders to strengthen collaboration in the case;
18. *Post-adoptive Support.* The State of Kansas should ensure both federal and state subsidies to adoptive families and implement best practices for post-adoptive support services;
19. *Maximizing Federal Funding.* The State of Kansas should conduct an audit of potential funding streams by program area to ensure the State is maximizing federal benefit;
20. *Resources and Accountability.* The State of Kansas and DCF should provide services that are in the best interest of children in their care by supporting a system that is accountable and resourced well enough to provide the needed services. Considerations should include, but not be limited to, the awarding of funds based upon qualifications and not financial factors; improving workforce morale and tenure; and providing technology to improve efficiencies;
21. *Serious Injury Review.* The State of Kansas, in accordance with federal and state confidentiality laws, should formalize a Serious Injury Review Team to establish and conduct a review process both internally and externally for an immediate and necessary response when a child dies or suffers serious bodily injury after having previous contacts with DCF Protection and Prevention Services concerning prior abuse and neglect;
22. *Court Appointed Special Advocates.* The Legislature shall fund Court Appointed Special Advocates (CASAs) to ensure the availability of CASA volunteers in all jurisdictions, without disrupting the current funding CASAs receive from the State of Kansas; and
23. *Physical Access.* The Legislature should fund increased physical access between children in need of care and their families, as well as ensure that families are supported in accessing services as required by the case plan.

Additional Considerations: The Legislature should consider restoring Temporary Assistance for Needy Families (TANF) eligibility to its pre-2011 status.

BACKGROUND

The 2017 Legislature passed House Sub. for SB 126 (SB 126), directing the Secretary for

Children and Families to establish a Child Welfare System Task Force (Task Force) to study the child welfare system in the State of Kansas. Previously, the 2015 and 2016 Special Committees on Foster Care Adequacy, the House Committee on Children

and Seniors, and the Senate Committee on Public Health and Welfare had examined various topics related to the child welfare system. (*Note:* Reports, minutes, and testimony of these committees may be found under each committee's page at www.kslegislature.org.)

SB 126 directed the Task Force to convene working groups to study the following topics: the general administration of child welfare by the Kansas Department for Children and Families (DCF); protective services; family preservation; reintegration; foster care; and permanency placement. Additionally, the Task Force and each working group were directed to study the following topics:

- The level of oversight and supervision by DCF over each entity that contracts with DCF to provide reintegration, foster care, and adoption services;
- The duties, responsibilities, and contributions of state agencies, nongovernmental entities, and service providers that provide child welfare services in the State of Kansas;
- The level of access to child welfare services, including, but not limited to, health and mental health services and community-based services, in the State of Kansas;
- The increasing number of children in the child welfare system and contributing factors;
- The licensing standards for case managers working in the child welfare system; and
- Any other topic the Child Welfare System Task Force or working group deems necessary or appropriate.

The bill required the Task Force to submit a preliminary report to the 2018 Legislature and a final report to the 2019 Legislature.

ORGANIZATION

SB 126 established the following members and appointing authorities for the Task Force:

- The Chairperson of the Senate standing Committee on Public Health and Welfare;
- The Vice-chairperson of the Senate standing Committee on Public Health and Welfare;
- The Ranking Minority Member of the Senate standing Committee on Public Health and Welfare;
- The Chairperson of the House standing Committee on Children and Seniors;
- The Vice-chairperson of the House standing Committee on Children and Seniors;
- The Ranking Minority Member of the House standing Committee on Children and Seniors;
- The Secretary for Children and Families, or the Secretary's designee, who shall be a non-voting member;
- The Director of Prevention and Protection Services for DCF, who shall be a non-voting member;
- One representative from each entity that contracts with DCF to provide foster care, family preservation, reintegration, and permanency placement services, appointed by each such entity, each of whom shall be a non-voting member;
- One member appointed by the Chief Justice of the Supreme Court;
- One representative of Kansas Court Appointed Special Advocates, appointed by the Chief Justice of the Supreme Court;

- One member of a citizen review board established pursuant to the Revised Kansas Code for Care of Children, appointed by the Chief Justice of the Supreme Court;
- One member representing a foster parent organization, appointed by the Judicial Council;
- One guardian *ad litem* with experience representing children in child in need of care cases, appointed by the Judicial Council;
- One family law attorney with experience providing legal services to parents and grandparents in child in need of care cases, appointed by the Judicial Council;
- One social worker licensed by the Behavioral Sciences Regulatory Board (BSRB), appointed by the Judicial Council;
- One member of the State Child Death Review Board established by KSA 22a-243, and amendments thereto, appointed by the Board;
- One county or district attorney with experience in child in need of care cases, appointed by the Kansas County and District Attorneys Association; and
- One law enforcement officer, appointed by the Kansas Association of Chiefs of Police.

The appointments to the Task Force were completed by mid-July 2017. Subsequent changes to the Task Force membership occurring in 2017 can be found in the “Report of the Child Welfare System Task Force to the 2018 Legislature” (Preliminary Report).

In January 2018, Representative Alford resigned as chair of the House Committee on Children and Seniors and from the corresponding

position on the Task Force; Representative Davis was appointed to replace him in these positions. In April 2018, Hon. Daniel Cahill resigned from the Task Force and the Chief Justice appointed Hon. Jeffry Larson to replace him. In July 2018, Senator Masterson was appointed to replace Senator Bollier as vice-chairperson of the Senate Committee on Public Health and Welfare and in the corresponding position on the Task Force.

Pursuant to SB 126, staff and meeting support for the Task Force was provided by the Office of Revisor of Statutes, the Kansas Legislative Research Department (KLRD), and the Division of Legislative Administrative Services.

WORKING GROUPS

At its August 4, 2017, meeting, the Task Force voted to establish three working groups and directed each working group to study two of the topics assigned by SB 126. The working groups established were:

- General Administration of Child Welfare and Foster Care (Working Group A);
- Protective Services and Family Preservation (Working Group B); and
- Reintegration and Permanency Placement (Working Group C).

SB 126 directed the Task Force chairperson, vice-chairperson, and ranking minority members to appoint a chairperson and vice-chairperson for each working group. Each chairperson and vice-chairperson was then responsible for appointing members of their respective working groups, which SB 126 required consist of not more than seven non-Task Force members and not fewer than two Task Force members. Each non-Task Force member appointed to a working group was required by the bill to possess specific expertise related to the working group’s assigned topic of study. Appointments of working group members were completed in September 2017. A list of working group members is attached to the Task Force’s 2017 Preliminary Report as a part of Appendix B.

SB 126 required DCF to “provide assistance to working groups to prepare and publish meeting agendas, public notices, meeting minutes and any research, data, or information requested by a working group.” With Task Force approval, DCF contracted with the Kansas Health Institute (KHI) to provide much of this staff support.

The Legislative Coordinating Council (LCC) approved three meeting days for each working group for 2017. Each working group met three times. Copies of the 2017 reports submitted by the working groups to the Task Force are attached to the Task Force’s 2017 Preliminary Report as Appendix B.

The LCC approved four meeting days for each working group for 2018. Working Group A met seven times in 2018, Working Group B met eight times in 2018, and Working Group C met nine times in 2018. Under the structure established by the Task Force to allow for public testimony, the working groups invited interested members of the public to submit testimony regarding the topics identified by SB 126 and the Task Force. A total of 51 testimony submissions were received; 49 of those were approved for distribution to the working groups (pursuant to confidentiality requirements, testimony including any confidential information or containing details of an individual case, after review by the chairperson of a working group, was rejected and destroyed). From these submissions, the working groups selected persons to invite to present oral testimony, along with subject matter experts from various organizations. Each working group heard verbal testimony at several of its 2018 meetings.

After reviewing and hearing the testimony submissions, including recommendations provided in the testimony, each working group consolidated and ranked a list of recommendations by consensus. The working groups finalized a total of 26 recommendations, including 12 designated as high priority, which were provided to the Task Force in August and September 2018 through the working groups’ “Child Welfare System Working Groups: Report to the Child Welfare System Task Force” (Working Groups Report) (attached to this report as Appendix B).

For each recommendation, the working groups identified actions that would be required to implement the recommendation, supporting strategies to be considered in implementing the recommendation, highlighted testimony related to the recommendation, and highlighted evidence from any other states’ programs that informed or could be instructive in implementing the recommendation. For high-priority recommendations, the working groups also identified action required to implement the recommendation and certain standard characteristics of each recommendation.

In addition to the recommendations, the Working Groups Report also contains additional detail regarding the working groups’ process, meetings, and testimony received.

At the August and September 2018 Task Force meetings, working group members presented the Task Force with an overview of each recommendation and the associated supporting strategies and state spotlights, and conferees identified by the working groups were contacted and given the opportunity to present their testimony to the Task Force regarding relevant recommendations. Summaries of these presentations are provided later in this report.

TASK FORCE MEETINGS

The LCC approved six meeting days for the Task Force in 2017. The Task Force met five times in 2017: August 4, September 19, October 10, November 14, and December 12. A teleconference meeting scheduled for August 22 was canceled.

Summaries of the 2017 meetings of the Task Force can be found in the 2017 Preliminary Report, which also contains the preliminary conclusions and ten preliminary recommendations adopted by the Task Force.

The Chairperson of the LCC, Speaker Ryckman, Jr., approved the February 2, 2018, meeting of the Task Force pursuant to LCC Policy 20. The LCC subsequently approved five additional meeting days for the Task Force in 2018. The Task Force met six times in 2018:

February 2, July 16, August 27, September 28, October 22, and December 4.

Additional detail regarding each of the Task Force meetings, minutes, audio recordings, Task Force handouts, and written testimony submitted by conferees may be accessed on the Legislature's website on the Task Force webpage: www.kslegislature.org.

February 2, 2018, Meeting

Perspectives of Youth Leaders and Independent Advocacy Organizations

The Chairperson recognized Benet Magnuson, Kansas Appleaseed, who provided the Task Force with an overview of the Strengthen Families Rebuild Hope coalition, which is composed of organizations and individuals dedicated to reforming Kansas' foster care system. He noted three priorities identified from the coalition's work: 1) the need to reduce the number of children in foster care; 2) the need for additional resources for high-acuity youth; and 3) the fact that Kansans are encouraged by the work of the Task Force and attention being paid by DCF and are looking to the Task Force and DCF for leadership. Mr. Magnuson introduced the following Coalition members, who each briefly addressed the Task Force:

- Young leaders Carl Burris, Zachary Brown, Natalie Zarate, and Stormy Lukasavage, who related their experiences as youth in foster care;
- Tara Wallace, Kansas African American Foster Care and Adoption Coalition, who related her experience in the foster care system, cited statistics showing that African American children are removed from their homes at a significantly higher rate than white children, and urged the Task Force to take steps to increase case worker retention rates;
- Becky Fast, Kansas Chapter of the National Association of Social Workers, who discussed the challenges in recruiting and retaining social workers and the successes of family preservation services;

- Lori Burns-Bucklew, FosterAdopt Connect, who provided an overview of her organization and its work;
- Teresa Sowell, foster parent and social worker, who identified a number of priorities based upon her experiences, including the use of licensed social workers, relative and kinship placements, removal of barriers to licensing of kinship families, financial support of kinship families, foster family recruitment, and support of birth parents;
- Scott Anglemeyer, Kansas Association of Community Action Programs, who provided an overview of his network and its programs and noted the impact of poverty issues on the child welfare system, and he encouraged the Task Force to further examine these issues; and
- Sister Therese Bangert, Sisters of Charity of Leavenworth, who related her experience working at a residential children's home and noted the importance of experienced social workers, resources for family preservation, and finding family members to provide homes.

Conferees provided additional information in response to questions from the Task Force, as follows:

- Ms. Sowell discussed barriers to licensure for kinship families, including diversions and expungements that occurred early in a parent's life, and ways to encourage foster parents and birth parents to work together, including a new program being implemented by DCF;
- Ms. Burns-Bucklew provided additional information regarding FosterAdopt Connect, which provides services in both Missouri and Kansas. On the Kansas side, their services are funded through Johnson County Mental Health. The organization provides behavioral intervention services and also works to recruit and retain foster parents; and

- The young leaders discussed their ability to make and maintain connections with important figures in their life while in the foster care system.

Update: DCF Review and Plans for Improvement

Gina Meier-Hummel, Secretary for Children and Families, and Task Force member, provided the Task Force with responses to follow-up questions, including:

- Update on missing children (as of January 31, there were a total of 68 missing children, 61 of whom are verified to have run away, including 33 repeat runaways);
- Data back to 2010 regarding the number of youth in foster care with a concurrent receipt of Temporary Assistance for Needy Families (TANF) assistance;
- Additional information regarding DCF's voluntary Family Services programs;
- Information regarding the availability of additional federal Title IV-E funds; and
- Further detail regarding new employment data provided at the December 12, 2017, meeting.

In response to a question, the Secretary stated DCF is meeting with subcontractors to explore ways to rework licensing procedures for kinship placements to try to increase access to federal funding.

Requested Responses from Department of Health and Environment and Department for Aging and Disability Services

Susan Fout, Commissioner of Behavioral Health Services, Kansas Department for Aging and Disability Services (KDADS), provided the Task Force with information requested at the December 12, 2017, meeting, including possible reasons for discrepancies in reporting lengths of stays in psychiatric residential treatment facilities

(PRTFs); the number of out-of-state placements by Kansas managed care organizations (MCOs) occurring in Kansas PRTFs over the past three to four years (none identified); and the number of PRTF days and renewal days authorized, per MCO, for CY 2013 and CY 2016.

Ms. Fout stated KDADS had met with KVC Kansas, St. Francis Community Services (St. Francis), and the MCOs to discuss the PRTF issues raised by the Task Force. In response to a question regarding differences in average length of stay between MCOs, Ms. Fout stated the cause was unknown, but KDADS would be reviewing the information to try to identify an explanation.

In response to questions, Jon Hamdorf, Interim Medicaid Director, Kansas Department of Health and Environment (KDHE), explained that originally, children were assigned evenly between MCOs, based upon number and acuity of patients. There is now an opportunity for more choice between MCOs. Task Force members requested more information regarding who has the authority to exercise that choice.

In response to further questions, Mr. Hamdorf stated KDHE and KDADS had recently rebuilt a clinical team to review prior authorization and claims data. Ms. Fout stated she believed there were currently 8 Kansas PRTFs, with about 272 total beds. One PRTF has requested a capacity increase and two others have indicated a desire to increase. Ms. Fout noted implementation of a pilot program intended to provide children on the PRTF wait list with increased community services. Ms. Fout stated community mental health centers previously conducted the screenings for PRTF authorization, but due to parity issues, the screenings were moved to the MCOs, where they are currently conducted.

Other Business

Working Group Updates

Hina Shah, KHI, reported the working groups did not meet in January, but had issued requests for submission of testimony regarding critical issues identified by the working groups. The working groups meet in February to begin reviewing and hearing testimony.

Representative Gallagher noted testimony deadlines might be shorter than expected and the former chairperson, Representative Alford, had expressed to her his concern that rural parts of the state receive the word about the opportunities to present testimony.

Facilitator Status Update

Representative Gallagher announced Casey Family Programs (CFP) had agreed to serve as facilitator for the Task Force. She will be providing CFP with information regarding the Task Force. CFP has information regarding the national picture and peer states' child welfare systems, as well as various data they can provide. CFP should be able to provide representatives to attend the remaining Task Force meetings in person, as well as some working group meetings. There will be no cost for CFP's facilitation.

July 16, 2018, Meeting

The Chairperson announced that Steven Greene, Director of Policy and Legislative Affairs, would be representing DCF at the meeting because Secretary Meier-Hummel and Patricia Long were out of state.

Overview: The Family First Prevention Services Act

Anne Heiligenstein, Casey Family Programs, provided the Task Force with an overview of the Family First Prevention Services Act (FFPSA), enacted as part of the Bipartisan Budget Act in February 2018.

The major provisions of the FFPSA include: new funding for prevention activities through Title IV-E funds; new policy ensuring appropriate placements for children in foster care; and new funding and reauthorization of existing funding for child welfare programs.

The Title IV-E funding for prevention activities will be available for children at imminent risk of placement in foster care or youth in foster care who are pregnant or parenting, as well as available for parents or kinship caregivers. The funding may be received for evidence-based services that include mental health prevention and treatment services, substance abuse prevention and

treatment services, and in-home parent skills-based programs. Each of these services may be provided for up to 12 months, but there is no limit on how many times a child and family can receive prevention services. Qualifying programs must be "promising," "supported," or "well-supported," pursuant to guidance that will be issued by the Secretary of Health and Human Services. States must submit a prevention and services program plan as part of the state's Title IV-E plan. Reimbursement for eligible prevention services will begin October 1, 2019.

Ms. Heiligenstein next discussed the provisions ensuring appropriate placements in foster care, including availability of Title IV-E foster care maintenance payments for a child in foster care who is placed with their parent in a licensed residential family-based treatment facility or for an eligible youth placed in a qualified residential treatment program (after two weeks in care).

Finally, Ms. Heiligenstein highlighted several other provisions of the FFPSA, including:

- Additional items promoting safety, permanency, and well-being;
- Provisions promoting timely permanency for children across state lines;
- Reauthorization of adoption assistance and legal guardianship incentives; and
- Continuation of child welfare funding through reauthorization of Title IV-B programs and services and the John H. Chafee Foster Care Independence Program, both until FY 2021.

In response to questions from the Task Force, Ms. Heiligenstein provided the following information:

- Medicaid expansion is a state-by-state decision, but the new funding available through FFPSA is critical in states without expansion;

- The U.S. Congress may be scaling back TANF programs to target poverty programs;
- Each state is responsible for defining “imminent risk” to qualify children for the prevention services;
- The Legislature must appropriate the money required to access the new federal funding, but the Secretary for Children and Families and Governor will create the state plan;
- Her understanding is many or most Kansas providers are already accredited to be a qualified residential treatment program; and
- The federal government must release the clearinghouse for prevention programs by October 1, 2018, and states must inform the federal government by November 8 whether they want to launch in 2019 or 2021.
- Staff recruitment and retention efforts, including a new classification of unlicensed child protection specialists;
- Efforts regarding accountability and changing culture; and
- Staff changes (23 key personnel changes in past 8 months) and regional trips to meet with staff and community partners.

The Secretary also noted DCF is working toward increased funding for prevention services and has issued a request for information regarding the juvenile crisis intervention center beds authorized during the 2018 Legislative Session.

Responding to questions, the Secretary stated the new unlicensed specialist position has about a \$2,000 lower starting salary than its licensed counterparts; the new grants and the new monitoring system will be funded through consensus caseloads; and one of the goals of implementation of the FFPSA in Kansas will be services for homes where children could potentially be removed due to parental drug abuse.

DCF Update

Secretary Meier-Hummel provided the Task Force with a DCF update *via* telephone, including information regarding:

- Efforts regarding child safety, prevention, and permanency;
- Transparency initiatives, including 2018 legislation (House Sub. for SB 336);
- Development of and process for new child welfare grants and contracts;
- Latest numbers and efforts regarding missing or runaway youth (73 verified runaways, 6 unserved *ex parte*, 1 relative abduction, and 2 unknown absent without leave as of July 12, 2018) and children sleeping in offices;

In response to questions regarding contracting with child placing agencies (CPAs) under the new grants and contracts and the potential impact of the Adoption Protection Act (2018 SB 284, see below), the Secretary stated CPAs have been subcontractors under KVC Kansas or St. Francis, but moving forward they will be directly managed by DCF. The religious belief component of SB 284 will only affect those contractors asserting such belief, but CPAs providing foster care case management services cannot make this assertion and will have to serve all individuals.

The Secretary also provided the Task Force with responses to requests received at the February 2, 2018, Task Force meeting, including:

- Total children in DCF custody as of February 1, 2017 (7,798), and February 1, 2018 (8,281);
- Number of children in foster care in a PRTF as of February 1, for 2017 and

2018, broken down by contractors and MCOs;

- PRTF wait list and screening information for children in foster care; and
- Information regarding the uniformity or consistency of PRTF authorizations among MCOs.

2018 Legislative Session Update

KLRD staff provided the Task Force with a memorandum and overview of legislation enacted during the 2018 Legislative Session involving the child welfare system. Enacted bills included:

- HB 2639, regarding fingerprinting of persons involved with child care facilities and prohibited crimes for such persons;
- House Sub. for SB 179, establishing a framework for juvenile crisis intervention centers and updating the Child in Need of Care (CINC) Code and Newborn Infant Protection Act;
- SB 284, making substantial amendments to the Kansas Adoption and Relinquishment Act and enacting the Adoption Protection Act;
- House Sub. for SB 336, amending law related to public records, including when information may be disclosed under the CINC Code; and
- SB 428, regarding licensure requirements for child care facilities.

KLRD staff noted the memorandum also contained a list of relevant bills introduced but not enacted during the 2018 Session. One of these bills, HB 2751, which would establish the Office of the Child Advocate, was submitted to the Judicial Council with a request for study during the interim, and the Judicial Council has accepted this request.

In response to a question regarding application of the language of the Adoption Protection Act in SB 284 to state contractors, an assistant revisor stated the language would prevent case management contractors from withholding services due to a sincerely held religious belief, but would not apply to child placement contractors. The assistant revisor stated the grantees under the new contracts being developed could be considered “contractors” for purposes of the bill.

Other Business

Working Group Updates

Ms. Shah provided the Task Force with working group updates. Each working group met five or six times since February 2018 to receive testimony and discuss and prioritize recommendations to submit to the Task Force in their final reports.

In response to a question from Ms. Shah regarding plans for presentation of the reports, the Chairperson stated she tentatively anticipated hearing a working group report and associated testimony at each meeting starting in August 2018, leaving the final meeting in early December 2018 to finalize the Task Force’s recommendations and report.

The Chairperson welcomed Hon. Jeffry Larson as a new member of the Task Force, replacing Hon. Daniel Cahill following Judge Cahill’s resignation.

August 27, 2018, Meeting

Presentation of Working Group A Report and Recommendations

Sandra Lessor, chairperson of Working Group A (General Administration by DCF and Foster Care), thanked the working groups for their faithful service summarized the report’s recommendations.

Recommendation A1: Workforce

Susan Prochaska, Executive Board President, Kansas School Counselor Association, and representative of Working Group A, introduced Goal 1: Improve Morale and Tenure of Workforce

and recommendation A1, regarding workforce (Working Groups Report, p. 11-14). Ms. Heiligenstein noted Kansas' caseworker salaries are not competitive with other professions and cited a study in Texas showing salary increases for caseworkers had an immediate effect on turnover and recruitment. Ms. Fast provided written testimony in support of recommendation A1.

Recommendation A2: Data Infrastructure

Sarah Oberndorfer, attorney, foster parent, and representative of Working Group A, introduced Goal 2: Streamline and Improve Technology and Communication across the child welfare system and recommendation A2, regarding data infrastructure (Working Groups Report, p. 15-17). She said it is crucial to be able to track a child from entrance into the system, throughout receipt of services, until he or she exits the program. She noted pertinent and reliable information exists in silos and therefore has limited use. To fulfill Goal 2, she noted supporting strategy A2.4, requiring data sharing among all agencies involved in foster care child placement, with DCF responsible for monitoring the data sharing in collaboration with the Executive Branch Chief Information Technology Officer (CITO) and the Joint Committee on Information Technology (JCIT).

Lee Allen, Executive Branch CITO, Office of Information Technology Services, provided written-only testimony on the recommendation.

Secretary Meier-Hummel agreed with the recommendation and noted child welfare touches many different programs and services that receiving and sharing information is challenging, often caused by information silos, privacy restrictions, and other factors. In response to a comment about DCF's antiquated system, Secretary Meier-Hummel stated DCF is preparing to build a new system, and a feasibility study has been authorized. The Secretary said the new system will include interaction with local and state law enforcement entities.

Recommendation A5: Analysis of Service Delivery

Ms. Prochaska presented recommendation A5, regarding analysis of service delivery, which recommended a work group or task force be

established to conduct an analysis to determine the cost to adequately fund high-quality child welfare services; evaluate the benefits of privatization of child welfare services; and determine the best public/private collaboration to deliver child welfare services (Working Groups Report, p. 23-25). She reported all stakeholders are involved in evaluation of the system and its costs. Ms. Shah described the Nebraska hybrid system in which the City of Omaha relies on a solely private child welfare system and the remainder of the state provides service through a private/public partnership.

Dona Booe, President and Chief Executive Officer, Kansas Children's Service League (KCSL), commented on the value of private not-for-profit organizations in providing more effective services for children, the deleterious effects of "adverse childhood experiences," and the value of early start programs. She recommended more extensive use of evidence-based services, establishing a data review board, and including child care services in order to support parental involvement; the latter service provides a \$7 return for every dollar invested.

In response to Task Force members' questions, Ms. Booe noted tying TANF to community supports will eliminate gaps in service; the Home and Community Based Services waivers initiative is effective and could be a model for providing community-based services for families in need of community supports; and the delivery of child welfare services has improved recently.

Ms. Heiligenstein stated only Kansas and Florida have completely outsourced child welfare, and both states have more children under state care than any other state. However, Kansas is better than the national average regarding repeated maltreatment of a child. Among the issues she presented for consideration were the creation of clear policies for leaving the system and providing financial incentives for keeping a child out of foster care. She cited Tennessee's and Texas' approaches to child welfare as examples.

Recommendation A3: Access to Care

Ms. Oberndorfer presented recommendation A3, regarding access to care, a subset of Goal 3: Strengthen Contractor Oversight and Supervision

by DCF (Working Groups Report, p. 17-19). The recommendation would require youth in foster care be provided with access to high-quality and consistent medical and behavioral health care through Medicaid by MCO performance measures and oversight. She noted Texas was the first state (2008) to establish a Medicaid managed care program focusing on children in foster care.

Ms. Heiligenstein, commenting on the Texas system, said all the medical societies collaborated to provide statewide guidelines and to integrate all medical services for children in foster care in one statewide network, which resulted in a significant drop in the use of psychotropic drugs and eliminated duplicative services.

Recommendations A6: Outcomes Measures and A4: Child Advocate

Ms. Prochaska introduced recommendation A4, regarding the creation of and funding for an independent Office of the Child Advocate for Children's Protection and Services, and recommendation A6, regarding outcome measures (Working Groups Report, p. 19-22 and 25-26).

With regard to recommendation A4, Ms. Prochaska and Ms. Oberndorfer responded to Task Force members' questions that the Working Group decided an independent audit would be better than utilizing the services of the Legislative Division of Post Audit, and a need exists for both the Office of the Child Advocate and the DCF Ombudsman. Secretary Meier-Hummel commented she is developing a DCF advisory council that will provide feedback for her, obviating the need for an independent Office of the Child Advocate.

Recommendation A6 would require clear expectations and accountability for a set of desired outcomes, with required periodic evaluations to ensure contractors are achieving set outcomes and provide opportunities for ongoing collaboration and review, and require summary reports be provided to the Office of the Child Advocate quarterly and to the Legislature annually.

Presentation of Working Group B Report and Recommendations

Recommendation B1: Families First Act

Sarah Coats, social worker and representative of Working Group B, discussed a new federal funding source, the FFPSA, which allows states to receive open-ended entitlement funding for evidence-based prevention services. She introduced recommendation B1, to fund and institute FFPSA in Kansas and follow the federal guidelines (Working Groups Report, p. 31-32).

Ms. Heiligenstein further stated the FFPSA's purpose is to provide options for those at risk of going into foster care by addressing mental health issues, substance abuse, and parenting skills. She stated Kansas is eligible to receive these funds for foster care beginning October 1, 2018, and on October 1, 2019, Kansas will be eligible for a 50.0 percent match for the three prevention services. Secretary Meier-Hummel stated DCF is in a position to take advantage of these new funds.

Recommendation B2: Information Sharing

Ms. Coats commented on Goal 4: Strengthen Assessment of Risk and Safety and Eliminate Fatalities by Abuse and Neglect and presented recommendation B2, regarding a multi-disciplinary approach to information sharing across agencies and between stakeholders (Working Groups Report, p. 34-35).

Dr. James Anderst, child abuse pediatrician, stated, in 2016, there were 2,400 substantiated victims of child abuse and 10 child abuse fatalities. He commented reducing these numbers is challenging because of the limited knowledge of some medical professionals and county attorneys, and because not all children have access to Children's Advocacy Centers (CACs), the latter of which is the anchor for a functioning multi-disciplinary team. He offered several recommendations: expand the availability of CACs, require DCF investigators to receive forensic medical training, employ telemedicine, and establish a network of trained medical providers.

Don Hymer, Jr., Assistant District Attorney, Johnson County, and Juvenile Section Head,

Kansas County and District Attorneys Association, recommended the word “serious” be removed from the state statute that addresses determining child abuse because it can have wide interpretation. He also noted some law enforcement responsible for handling reports of abuse or neglect after 5:00 p.m. or on weekends are not trained to ascertain abuse or neglect. He recommended an amendment to statute so investigators know whether the individual, family, or home complaint they are investigating has any prior occurrences; and a central clearinghouse so all principals of a complaint have sufficient information.

Ms. Heiligenstein noted two-thirds of occurrences of child abuse are a result of neglect, not physical or sexual abuse. She offered models of collaboration and suggested policy be established for DCF to share all intakes with law enforcement, standards of evidence be used to assess risks, and Child Protective Services make staff available 24/7 to address calls from law enforcement and hospitals, as well as complaint calls. She stressed the importance of balancing protection and prosecution. Secretary Meier-Hummel stated DCF has a 24/7 hotline.

Lori Ross, FosterAdopt Connect, offered written testimony, which was later supplemented with verbal testimony.

Recommendation B7: Safety Net

Ms. Coats introduced Goal 6: Strengthen the Safety Net and Early Childhood Education and recommendation B7, regarding fully funding, strengthening, and expanding safety net and early childhood programs and reducing barriers for families needing to access government-funded, concrete supports (Working Groups Report, p. 46-49). She said when parents do not receive the appropriate services, child poverty increases.

Dr. Linda Bass, Vice President, KVC Kansas, stated half the families involved in child welfare services lack the resources to meet their basic needs, and living in poverty places children at greater risk for entering the child welfare system. If public and private agencies had more funding directed toward lowering the poverty rate, rather than relying on grant funding, agencies could offer a wider array of services, expand prevention

services, and provide options for child care and housing.

Ms. Booe offered written testimony on this recommendation and referenced her earlier verbal testimony.

Recommendation B6: Non-Abuse Neglect

Ms. Wallace, a representative of Working Group B, introduced recommendation B6, regarding prohibiting removal of children for solely non-abuse neglect (NAN) and instead making referrals to fully funded, evidence-based services (Working Groups Report, p. 42-45).

Christie Appelhanz, Children’s Alliance of Kansas, stated too many children are coming into the child welfare system for NAN when other options could be viable. She recommended additional funding from the Juvenile Justice lockbox, expanding service to mitigate children and parents from health-related risk factors, increasing funding for Kansas PRTFs, and using the FFPSA to address family poverty.

Mr. Hymer expressed concern regarding inclusion of the word “solely” in recommendation B6; he urged NAN cases differentiate between drug abuse that affects the child and a family’s history. He noted the parents may have a significant history of drug abuse, which should impinge on risk assessment. He praised DCF’s Family Preservation Services for efforts to keep a child in the home. He also expressed concern regarding juveniles whose repeat offenses are ignored with the present risk-scoring system and whose “criminogenic attitude” is not presently addressed with DCF services. He commented moving the jurisdiction of juvenile offenders from the Kansas Department of Corrections to DCF has been problematic for offering appropriate services. Mr. Hymer stated there are limited options in addressing repeat juvenile offenders, and Child in Need of Care services are not designed for such individuals. He suggested, for the short term, perhaps detention centers might help.

Sandra Dixon, Director of Behavioral Health Services, DCCCA, testified NAN cases require a differential response, depending on the circumstances. She presented information on one facet—substance abuse by parents. She stated

treatment options should be broad enough to encompass multiple drugs and current treatment funding is insufficient, especially Medicaid reimbursement rates. Ms. Dixon cited two treatment approaches, both of which are currently prohibitively expensive. A member commented all treatment option choices should be evidence-based.

Ms. Heiligenstein stated NAN is a complex issue that is difficult to define. She noted Kansas children are removed from the home at twice the national average. She listed ancillary factors that impinge on service to neglected children: juvenile offenders in the child welfare system are draining resources that could be used elsewhere, emotionally disturbed children require special treatment, and domestic abuse of a spouse affects children negatively. She recommended DCF develop clear policy definitions for NAN and align assignment and removal reasons.

Ms. Booe's previously offered written testimony also addressed these recommendations.

Recommendation B3: Immediate Response

Ms. Wallace introduced recommendation B3, regarding immediate response 24/7 to hotline calls and dedicated immediate response investigators available for dispatch when warranted (Working Groups Report, p. 36-37). She stated the current protection response line is not effective; the hotline requires 24/7 monitoring with the capacity to respond appropriately.

Brian Dempsey, Special Counsel to the Secretary for Children and Families, stated the Kansas Protection Reporting Center does well in responding to calls, but is not always available. The agency has 450 law enforcement contacts statewide, which provide backup when DCF is not available. He expressed concern about the waiting time in the calling queue and agreed expanding the hours of availability would better serve children and families. Secretary Meier-Hummel stated the evidence-based structured decision-making tool is on schedule to be implemented.

Ms. Ross reported on the response policies of the Missouri Task Force on Children's Justice; she related follow up on incidents includes both an internal review and, for critical cases, an external

review. She recommended a similar follow up for Kansas. Regarding the hotline, she said law enforcement officers are not trained to deal with child abuse cases. She recommended Kansas institute a 24/7 hotline using skilled staff trained in evidence-based risk assessment. She added thoroughly trained investigators are also critical to assure child safety.

Ms. Heiligenstein addressed the hotline issue by outlining the principles for hiring, training, and retaining hotline intake screeners. She noted the importance of hotline calls by citing statistics to show hotline calls dealing with a child younger than three are predictive of death for that child. She expressed concern for a long wait time in a queue (recommendation of no more than three minutes) and stressed the importance of highly trained intake workers, preferably case workers, to handle hotline calls. Responding to a question, she replied that a triage system is crucial for handling intake calls and an electronic distribution system is needed for timely response. Responding to another question, Secretary Meier-Hummel replied the hotline is answered 24/7, but staff are not always available for an immediate response.

Recommendation B5: Front-End Staffing

Ms. Wallace introduced recommendation B5, regarding the need for highly skilled and experienced front-end child welfare staff (Working Groups Report, p. 39-40).

Ms. Ross said, referencing her previous testimony, for effective service delivery, it is imperative to have experienced, well-trained, and adequately compensated staff.

Ms. Heiligenstein recommended using appropriate tools for triage and other decision-making procedures so staff are freed up for more face-time with clients.

DCF Responses to Working Group A and Working Group B Recommendations

Secretary Meier-Hummel reviewed the 2018 client services for DCF. She responded to the working groups' recommendations and provided a Protection and Prevention Services Contract Outcomes report. She stated many issues are being addressed or are in process. She noted the starting

salary for social workers (\$38,000) has limited recruitment; there are not enough social workers to do what needs to be done. However, DCF is reducing vacancies and focusing on making the agency a more friendly place to work. Secretary Meier-Hummel said an updated information system is an urgent need. Regarding the Child Advocate recommendation (A4), she stated, although she wants accountability, creating a new entity under the Department of Administration is unnecessarily duplicative; she noted the federal Inspector General's Office is available for DCF. She also noted the first ever federal Family First legislation (the Family First Prevention Services Act) will address prevention services. Regarding information sharing, she noted several initiatives across the state, and she has established a new position—Anti-Human Trafficking Coordinator—to interact with law enforcement. Responding to a question about long wait times on the hotline, she replied wait time in the queue has been reduced.

September 28, 2018, Meeting

The Chairperson announced Dr. Bass would be substituting for Lindsey Stephenson as the representative for KVC Kansas at this meeting.

Working Group Updates

Ms. Shah provided working group updates. Working Group A plans to meet once the child welfare compliance unit audit report is available to review the audit report and the 2018 Annie E. Casey Foundation Front End Assessment.

Working Group B met in September 2018 to discuss recommendation B6, regarding non-abuse neglect, and possible effects of 2016 SB 367, a juvenile justice reform bill, on the child welfare system. The working group created an additional supporting strategy, B6.7, to address these issues, which has been added to its portion of the Working Groups Report.

Ms. Shah stated the complete Working Groups Report, with the addition of the new Working Group B supporting strategy and Working Group C's recommendations and associated materials, is now available on the DCF website's Child Welfare System Task Force page. (The complete Working Groups Report is attached to this report as Appendix B.)

Presentation of Working Group C Report and Recommendations

Alicia Johnson-Turner, chairperson of Working Group C (Reintegration and Permanency Placement), thanked Ms. Shah and the working group members for their work on the report and recommendations to be presented.

Recommendation C5: Reintegration Support

Tim Gay, founder and Executive Director of Youthrive and a member of Working Group C, presented an overview of Goal 9: Increase Reunification Rates and Improve Times to Reintegration, and recommendation C5, regarding reintegration support (Working Groups Report, p. 66-69). He noted the working group heard testimony on this topic from individuals who stated reintegration did not always seem to be prioritized even though it was the stated goal. There was also testimony regarding logistical challenges and lack of support or communication, as well as foster parents not always being aligned with the goal of reunification. He also reviewed the state spotlights and supporting strategies identified by the working group for this recommendation.

Recommendations C6: Case Plans and C7: Physical Access

Mr. Gay next presented recommendation C6, regarding case plans, and its supporting strategies and state spotlight (Working Groups Report, p. 69-70). In response to a question, Mr. Gay stated the working group had not specifically reviewed the case planning form, but in his personal experience, the form was rarely looked at during case meetings. In response to a question regarding the state spotlight, the Signs of Safety program, Dr. Bass stated KVC Kansas had used the program in the past but switched to a similar evidence-based approach called Safe and Connected. DCF uses a similar program from Casey Family Programs.

Mr. Gay presented recommendation C7, regarding physical access, and reviewed the supporting strategies and state spotlight for this recommendation (Working Groups Report, p. 70-71).

Recommendation C2: Service Setting

Ms. Ross, member of Working Group C, presented an overview of Goal 8: Expand the Level of Access to Child Welfare Services to Support Reintegration and Permanency, and recommendation C2, regarding service setting (Working Groups Report, p. 62-63). Ms. Ross summarized the working group's discussion regarding barriers that exist in the community, including transportation adequacy, access to in-home therapy, lack of available foster home placements, sibling separation, and reimbursement for services. She reviewed the supporting strategies and state spotlight for this recommendation.

Zachary Lawrence, Assistant Director of Special Education for USD 353 (Wellington), provided testimony via Internet video conferencing and telephone, describing his experiences as a child removed at a young age and as a Kansas educator with 15 years experience working with students with disabilities, high levels of need, and challenging or uncertain home lives. For the issues he identified from his experiences, Mr. Lawrence proposed the following solutions: 1) DCF contractors need to greatly increase stable interim placement options for youth in the State's custody awaiting placement; 2) contractors need to work to ensure that children are placed in a stable educational program while awaiting placement; 3) DCF and contractors should investigate alternative educational programs, such as virtual schools and specialized community-based programs, that allow students to maintain flexible yet consistent educational placement; and 4) DCF and contractors should consider partnering with other community agencies to provide space and staff for educational programs designed to meet the unique needs of children in foster care without an adequate and stable placement.

Recommendations C3: Early Intervention and C4: Court Appointed Special Advocates

Ms. Ross presented recommendation C3, regarding early intervention (Working Groups Report, p. 64-65), and C4, regarding Court Appointed Special Advocates (CASAs) (Working Groups Report, p. 65), as well as a summary of the testimony heard by the working group and the working group discussion regarding these topics.

She reviewed the working group's supporting strategies and state spotlight for the early intervention topic. Mary Tye, foster parent organization representative and Task Force member, noted the high importance of early intervention programs and the difference therapists can make through these programs.

Recommendation C11: Adoption Process

Ms. Ross presented an overview of Goal 10: Increase the Rate of and Support for Adoptions to Improve Time to Permanency, and recommendation C11, regarding the adoption process, and summarized the testimony and discussion that occurred in the working group regarding this recommendation (Working Groups Report, p. 76-78). She also reviewed the supporting strategies and state spotlight.

Secretary Meier-Hummel stated under her administration, DCF has reviewed the adoption process internally and identified a number of issues. DCF eliminated or revised policies and practices that were causing some of these issues.

Representative Gallagher noted Representative Alford had also suggested an industrial or process engineer be obtained to review the entire child welfare system.

Vernon Helverson, a Kansas foster and adoptive parent, testified to the Task Force regarding his family's experience in the foster system and the adoption process. He identified several issues encountered by his family during the adoption process, including:

- Foster case management agency requirements that any adoption services be provided through that agency;
- Delays caused by numerous form changes and administrative lapses in process completion by DCF and the case management agency; and
- Case management agency and DCF claiming not to be interested parties in the adoption and thus not obligated to provide counsel for the adoption process.

Mr. Helverson recommended the structure for paperwork and case management stay consistent during an adoption case to avoid time lost due to form changes in the middle of the process. He noted the frustrations arising from poor case management led his family to stop working in the foster system.

Recommendation C12: Modifications to Code for Care of Children

Ms. Ross presented recommendation C12, regarding modifications to the CINC Code, and reviewed the supporting strategies and state spotlight identified by the working group for this recommendation (Working Groups Report, p. 79-80). She noted testimony received by the working group from attorneys regarding changes to the CINC Code to address issues regarding adoptive placements for children in state custody.

Recommendation C13: Post-Adoptive Support

Ms. Ross presented recommendation C13, regarding post-adoptive support, and reviewed the data, supporting strategies, and state spotlight identified by the working group for this recommendation (Working Groups Report, p. 81-83).

Gail Cozadd, Director for Children and Family Services at KCSL and Task Force member, provided testimony to the Task Force regarding the components of a model post-adoption service program and the current preventative supports KCSL provides for adoptive families through the Kansas Post Adoption Resource Center (K-PARC). These supports include peer-to-peer support, resource and referral, and ongoing training and education. Ms. Cozadd identified three opportunities for improvement in this area: therapeutic counseling, respite care, and crisis intervention and case management.

Recommendations C8: Foster Homes and C9: Maximizing Federal Funding

Mr. Gay presented recommendation C8, regarding foster home recruitment and retention, and reviewed the supporting strategies and state spotlight for this recommendation (Working Groups Report, p. 72-73).

Secretary Meier-Hummel stated foster home recruitment and retention is an issue DCF has heard much about. Through the new placement matching system, DCF will be drastically changing reimbursement rates and the support available through child placing agencies.

In response to a question concerning supporting strategy C8.5, regarding reimbursement to foster parents following behavior stabilization, Ms. Johnson-Turner stated when children come back into the home after behavior issues, their foster families need increased reimbursement due to critical issues and needs during the first few weeks following the child's return. Secretary Meier-Hummel noted the State will set all rates under the new grants and contracts, with options to increase based upon the needs of the child.

Mr. Gay presented recommendation C9, regarding maximizing federal funding, and reviewed the supporting strategies for this recommendation (Working Groups Report, p. 74).

Recommendation C10: Resources and Accountability

Mr. Gay presented recommendation C10, regarding resources and accountability, and reviewed the supporting strategies for this recommendation (Working Groups Report, p. 75).

Ms. Booe provided testimony to the Task Force regarding Kansas' public/private partnership in the child welfare system. She noted such partnerships work and Kansas' partnership over the past two decades has achieved outcomes that surpass many federal standards for a quality program. However, the partnership also faces challenges and success requires identifying the best intersections for using the public/private partnership strategy. She encouraged the Task Force and the Secretary for Children and Families to assess, identify, and strengthen the most successful intersections for such partnerships in the child welfare system while retaining the case management and decision-making functions for foster care and adoption within the statutorily mandated realm of government-delivered services.

In response to a question regarding whether there were any steps in the privatization process to make the system work better, Ms. Booe stated she

believed the decisions made at the time were well-intentioned and based upon the information available at the time, including the necessity of responding to the lawsuit. Some of the assumptions made in implementing the system, such as expected re-investment in community-based services and employee transfer from the public to the private sector, did not occur as anticipated, leading to some of the issues that were later encountered.

Recommendation C1: Foster Care Re-Entry and Transitional Services

Mr. Gay presented an overview of Goal 7: Improve Child Well-Being and Outcomes for Youth Aging Out of Care, and recommendation C1, regarding foster care re-entry and transitional services. He also summarized the testimony and discussion within the working group meetings on this topic, as well as the supporting strategies and state spotlights identified by the working group (Working Groups Report, p. 57-60).

In response to a question regarding relationships with community colleges, Secretary Meier-Hummel stated plans begin to be individualized at the age of 14, and DCF and the contractors will work with the children if they want to go to college. However, the majority want to leave the system at age 18. DCF and the contractors will help connect the older youth to job services and work programs. There are a number of funding streams at the state and federal levels for tuition assistance for foster youth. The Secretary and Ms. Lessor clarified, under statute, children can be released immediately at the age of 18 if they so desire, although the courts generally try to keep children in the system until they graduate from high school.

Catriese Johnson, formerly in foster care, testified to the Task Force *via* telephone regarding her experiences in foster placement as a youth beginning at three days old. Based on her experiences, she noted a significant lack of access to and awareness of tools available to youth aging out of care under unsuccessful reunification circumstances. In response to a question regarding what the system could have provided to make the transition to adulthood easier, Ms. Johnson stated that key elements include:

- Sympathy and understanding for the different challenges and situations faced by each person;
- Different tiers of care needed for different situations and understanding how to access this care;
- Deficits caught earlier so they can be addressed;
- Vigilance to signs of abuse and the difficulty children face in speaking to abuse with parents present; and
- Awareness of the behavioral issues that come from displacement.

KDADS Update

Ms. Fout provided the Task Force with an update on PRTF issues, which include medical necessity, readmission, out-of-state children, wait lists, and treatment versus placement.

Ms. Fout stated KDADS and KDHE staff are completing audits on medical necessity determinations and denials for PRTFs by the MCOs. She discussed a pilot program that ended in April that was intended to add more intensive outpatient services by community mental health centers to children on the PRTF wait list. She noted the pilot program had not achieved the expected results, so KDADS is evaluating whether changes can be made to achieve the desired results. She reported a national study on PRTFs is underway that will include a data and trend analysis on PRTF bed utilization and waiting lists and a review of policies and procedures related to the admission and placement process. Ms. Fout also provided information regarding a system of care grant that will feature mobile response and stabilization services.

In response to questions from the Task Force, Ms. Fout stated the clinical team conducting the PRTF audit are all registered nurses with PRTF experience and the issues around increasing PRTF beds are not limited to the physical space, but also include staffing issues.

DCF Update and Response to Recommendations

Secretary Meier-Hummel provided the Task Force with a set of written responses to Working Group C's recommendations, as well as a set of written responses to all working group recommendations and supporting strategies. She noted there were a number of changes DCF was already implementing related to various recommendations, and DCF was in the process of assessing the fiscal impact of the recommendations to provide to the Task Force and the Legislature. She also reviewed a document containing her priorities related to the recommendations: 1) comprehensive child welfare system information; 2) Family First Prevention Services Act; and 3) funding for additional child welfare staff.

The Secretary then turned to her DCF update, beginning with an explanation regarding a May incident in a KVC Kansas office that had recently become public due to the September arrest and charging of the alleged perpetrator. She stated, because the alleged perpetrator was still in DCF custody at the time of the incident and for some time following, current law prohibited DCF from revealing information until the incident became public through other means. She noted current law does allow for such information to be shared with a limited number of legislative committees in a closed setting and suggested these provisions could be modified or expanded if the Legislature desires additional disclosure.

The Secretary also noted the availability of the Annie E. Casey Foundation Front End Assessment and the changes DCF is implementing to address concerns in the assessment.

In response to questions, the Secretary stated the Governor's staff was informed about the KVC Kansas incident as soon as the Secretary was informed. DCF and contractors are still working to address the issue of one-night placements. Chad Anderson, president of KVC Kansas, provided details regarding how the need for one-night placements and overnight office stays had arisen and become a systemic issue, and the efforts DCF and the contractors are making to address it. The Secretary reported the process for the new grants and contracts had moved to the contract

negotiation and financial conversation stage. She discussed some of the changes that will be made with the new grants and contracts. DCF will own the new placement matching system and the contractors will have access to it. Dan Lewien, Chief Financial Officer, DCF, and director of the Office of Financial Management, responded to questions regarding the financial structure of the new grants and contracts. He explained the grant structure is intended to bring the system into compliance with federal requirements.

The Chairperson announced copies of the Annie E. Casey Foundation Front End Assessment and the DCF response to the assessment would be distributed to the Task Force.

Discussion and Prioritization of Task Force Recommendations: Framework and Initial Discussion

The Chairperson recognized Ms. Heiligenstein to facilitate a preliminary discussion of Task Force recommendations. After reviewing some questions for the Task Force to keep in mind during its consideration (including the vision for the system, available resources, and action required to implement recommendations), Ms. Heiligenstein walked the Task Force through a summary of the working group recommendations and requested an initial consensus from the Task Force for each recommendation regarding whether it could be accepted as presented or might need further discussion and changes. The recommendations initially categorized as "accept" included:

- A1, workforce;
- A2, data infrastructure;
- B1, Families First Act;
- B3, immediate response;
- B5, front-end staffing;
- C1, foster care re-entry and transitional services;
- C2, service setting;

- C5, reintegration support;
- C6, case plans;
- C8, foster homes;
- C9, maximizing federal funding; and
- C13, post-adoptive support.

The recommendations initially categorized as “accept with possible modifications” included:

- A3, access to care (remove MCO language and check Mental Health Task Force report for related language);
- A5, analysis of service delivery (remove or re-prioritize privatization evaluation);
- B4, serious injury review (consider state and federal confidentiality laws);
- B7, safety net (add early childhood programs);
- C3, early intervention (add to safety net recommendation and check Mental Health Task Force report for related language);
- C4, Court Appointed Special Advocates (consider alternatives to “shall” in this and other recommendations); and
- C7, physical access (consider adjusting language to “may” or “consider” due to parental responsibilities in reintegration).

The recommendations initially categorized as “pending or revisit” included:

- A4, child advocate (check status of related Judicial Council study);
- A6, outcome measures (may depend on child advocate recommendation);

- B2, information sharing (may depend on implementation of new system, may need additional definitions);
- B6, non-abuse neglect (possible referral to Judicial Council, may need definition of “non-abuse neglect”);
- C11, adoption process (may not want to specify process engineer); and
- C12, modifications to CINC Code (possible referral to Judicial Council).

October 22, 2018, Meeting

The Chairperson announced Dr. Bass would be substituting for Lindsey Stephenson as the representative of KVC Kansas for this meeting.

PRTF Update

Sandra Hashman, Executive Director of Behavioral Health, UnitedHealthcare (UHC), provided the Task Force with data regarding UHC’s PRTF admissions, discharges, and average length of stay. She also provided information regarding UHC’s PRTF utilization management and waiting list and care coordination. As of October 15, 2018, there were 44 youth on UHC’s waiting list, including 7 children in foster care. Ms. Hashman described a pilot program with KVC Kansas, which is providing additional evidence-based therapeutic services, family and peer support models, and high-risk youth incentive payments to address difficulties in finding appropriate foster families for youth upon discharge from PRTFs or acute psychiatric hospitals. UHC also is using intensive outpatient services to divert children from the PRTF waiting lists, when possible.

Stephanie Rasmussen, Vice President of Long Term Care, Sunflower Health Plan (Sunflower), provided the Task Force with data regarding Sunflower’s members in a PRTF, PRTF waiting list, and average length of stay. She noted a billing exception for KVC Wheatland and other billing practices caused Sunflower’s overall average-length-of-stay numbers to look significantly shorter than the other MCOs, but when the billing

practices are accounted for, the numbers appear comparable.

In response to questions from the Task Force regarding the one-to-two month waiting list, Ms. Rasmussen stated Sunflower works with KidsTLC to provide intensive outpatient services. Sunflower also has a dedicated foster care team to provide outreach and resources across the state to try to provide community resources, as well as utilization management and discharge planning. Ms. Rasmussen stated the challenge in opening additional PRTF beds was not the additional beds themselves, but a struggle to hire caretakers, which has been a challenge across the continuum of care and not just with PRTFs.

Mark Sigmon, KidsTLC, provided additional information regarding the staffing difficulties. He stated salary levels affect the staffing difficulties, but they also arise due to the state of the economy and the acuity levels of the children being served. He noted his agency was out of space to add additional beds, but he believes other approaches should be attempted before additional PRTF beds are created.

Ms. Fout noted KDADS had provided requested information to the Task Force between the September and October 2018 meetings and had contracted with an outside entity, the Kansas Foundation for Medical Care (KFMC), to complete the PRTF audit.

DCF Update

Secretary Meier-Hummel provided the Task Force with a DCF update, including:

- Monthly data regarding children in one-night placements since April 2018;
- Steps taken to end the practice of children sleeping overnight in contractor offices;
- Data regarding the decrease in the child protection specialist vacancy rate over the past six months;
- Latest number of runaway youth (63 as of August 31, 2018) and youth in out-of-home care (7,530 in September 2018);

- Adoption finalization numbers since July 2017; and
- Updates regarding establishment of juvenile crisis intervention centers and the implementation of the new child welfare grants.

The Secretary also noted a number of attachments she and DCF had provided, including:

- An overview of the upcoming child welfare grants and contracts;
- A document detailing DCF opposition to certain recommendations and supporting strategies contained in the Working Groups Report;
- A document detailing DCF's concerns with mandatory language contained in the recommendations and supporting strategies contained in the Working Groups Report, with suggested remedied language; and
- A document containing DCF's complete responses to the recommendations and supporting strategies contained in the Working Groups Report, as well as information regarding the project fiscal impact, where applicable.

In response to a question regarding the status of the child welfare compliance unit audit report, the Secretary stated the report is currently with the contractors for their response and will be available to the public once the response period has ended.

In response to a question regarding whether the awarding of the new child welfare grants was done through a blind process, the Secretary stated this was the intent, although in the proposals, identities became clear due to the history of service.

Discussion of Task Force Recommendations

The Chairperson reviewed some "big picture" considerations for the Task Force in preparing its

final report and recommendations, including the intended audience, the communication plan for the report, and the focus of the report and high-priority recommendations. She noted that policy-oriented recommendation language would need to be finalized in time for staff to prepare a draft report for final approval at the December 4, 2018, meeting. The report will be prepared based upon the usual template for legislative interim committee reports. If the Task Force wants to include a narrative policy statement, it will need to give substantial guidance regarding the phrasing to staff. The tentative plan will be to include the Working Groups Report as an appendix to the Task Force report and to incorporate supporting strategies by reference, as much as possible, to avoid duplication. The Chairperson thanked Ms. Heiligenstein for her assistance in the process and recognized Ms. Heiligenstein to continue facilitating the Task Force's discussion.

Ms. Heiligenstein reviewed a grid she had prepared summarizing the Task Force's initial recommendation discussion at the September 28, 2018, meeting and suggested the Task Force consider working toward three prioritized tiers of recommendations. She noted the feedback DCF had provided regarding the working group recommendations and urged the Task Force to keep in mind which recommendations can be accomplished through agency policy, which can be accomplished through practice and procedure, and which will require statute or other legislative action to accomplish. She noted appropriations will also be a factor, but probably a factor that does not fall within the focus of the Task Force.

Ms. Heiligenstein reviewed the recommendations initially categorized as "accept" and asked if there were any further changes desired to those items. No changes were identified.

Ms. Heiligenstein next turned the Task Force's attention to further discussion regarding the recommendations initially categorized as "accept with possible modifications" (the result of the Task Force's discussion is noted with each recommendation):

- A3, access to care—accept proposed edits;

- A5, analysis of service delivery—possibly add date further out for privatization evaluation, to allow new contracts and changes to operate first; add language regarding outcome measures modified from A6 and require semi-annual reporting;
- B4, serious injury review—add language regarding state and federal confidentiality laws;
- B7, safety net—accept proposed edit and reference Mental Health Task Force recommendations;
- C3, early intervention—add to recommendation B7;
- C4, Court Appointed Special Advocates—due to concerns regarding potential reduction of funding, leave language as is and add language regarding not disrupting existing funding stream; and
- C7, physical access—due to similar concerns as previous recommendation, leave language as is.

The Task Force turned its attention to those recommendations initially categorized as "pending or revisit":

- A4, child advocate—Judicial Council study is complete but its report is pending; reword recommendation to include "Legislature evaluate the need for" and hold for further consideration in December;
- A6, outcome measures—language modified and incorporated into A5, analysis of service delivery;
- B2, information sharing—add language regarding state and federal confidentiality laws;

- B6, non-abuse neglect—reference Mental Health Task Force recommendations;
- C11, adoption process—replace with language from supporting strategy regarding diligent search for possible relative placements, beginning immediately upon removal, rather than require 80 relatives identified within a month; have DCF establish an outcome and targets and maintain data to help evaluate and adjust appropriate benchmarks; and
- C12, modifications to CINC Code—recommend Legislature request Judicial Council study the topic.

Ms. Heiligenstein turned the Task Force's attention to prioritization of recommendations. Following discussion, the Task Force consensus was to include the recommendations regarding workforce, data infrastructure, the Families First Act, and access to care in the top tier. Any other recommendations adopted from those identified by the working groups as high priority would be placed into the second tier, with the remaining recommendations making up the third tier.

The Chairperson announced staff would attempt to provide a draft report with recommendations based upon the Task Force's discussion in advance of the December 4 meeting so members could review and come prepared to finalize the recommendations. An assistant revisor cautioned Task Force members to avoid any discussions of the draft report before the December 4 meeting to stay clear of potential Kansas Open Meetings Act violations.

The Chairperson requested staff replace "shall" with "should" throughout the draft report, except for specific recommendations as noted, for the Task Force to consider in adopting the recommendations.

December 4, 2018, Meeting

Dr. Bass again substituted for Lindsey Stephenson as the representative of KVC Kansas for this meeting.

PRTF Update

Sarah Irsik-Good, KFMC, updated the Task Force on KFMC's external validation of KDHE and KDADS' PRTF admission reviews. Ms. Irsik-Good provided information to the Task Force regarding KFMC's history and credentials, as well as the credentials of the case review manager and three physician reviewers who conducted the validation. Ms. Irsik-Good explained KDHE and KDADS had audited 200 PRTF admission requests (including approvals and denials) and had determined 100.0 percent of those cases reviewed were appropriate based on established criteria for medical necessity. KFMC then validated a targeted sample consisting of 20.0 percent of the KDHE and KDADS reviews. Of the reviewed determinations, KFMC's review team determined 100.0 percent were appropriate.

Ms. Irsik-Good then explained that the certification of need for services is standardized, but to evaluate and approve or deny cases in accordance with the certification, each MCO uses a different criteria tool, which must be approved.

Responding to questions from Task Force members, Ms. Irsik-Good clarified the KFMC review was limited in scope only to review of the medical necessity determinations described previously. The review did not include topics such as the PRTF wait list, bed capacity, available community services, bureaucratic hurdles to authorization, appropriate discharge time frames, or the community impact when children are not placed in a PRTF.

Ms. Fout provided additional information in response to Task Force questions, including:

- Licensed PRTF bed count is currently at 282, with a census of 258;
- The PRTF wait list is at 140, which is not the highest it has been;
- Additional PRTF capacity is anticipated in 2019, and community mental health centers are trying to provide community services to those on the wait list;

- PRTF providers have discussed staffing issues and rate setting issues as impediments to increasing bed space;
- The National Research Institute is studying the wait list and number of beds needed, and in the meantime KDADS officials are meeting with Kansas Department of Corrections, KDHE, and DCF officials to try to brainstorm;
- There are 43 out-of-state children currently in Kansas PRTFs; and
- KDADS is seeing good outcomes from the System of Care grant, which is being implemented by four community mental health centers.

Secretary Meier-Hummel noted there is a facility in Atchison with the potential to become a PRTF and suggested the State might need to provide upfront money to help bring additional facilities online.

Task Force members expressed concerns regarding the rate of progress in addressing the PRTF space issue, noting many of the questions raised in early Task Force meetings appear to remain unaddressed.

In response to additional Task Force questions, Georgianna Correll, Budget Director, KDADS, stated the PRTF bed capacity issue was not addressed in the KDADS budget because the facilities are privately owned. KDADS' responsibility is to license the beds and fund the reimbursement for beds used by Medicaid recipients.

Secretary Meier-Hummel stated DCF is working to open juvenile crisis beds funded by the 2018 Legislature and suggested another facility and the Atchison facility might be used as PRTFs, potentially adding 40-60 beds within a shorter time frame.

Task Force members noted various issues they had been made aware of regarding PRTFs, including the payment system that requires

providers to front money for services, a need for fixed payment rates to ensure financial viability, paperwork burdens, and staffing recruitment and turnover issues.

DCF Update

Secretary Meier-Hummel provided the Task Force with a DCF update, including:

- A list and maps of the recently announced child welfare grantees for case management (four grantees in eight catchment areas) and family preservation (two grantees in four catchment areas);
- A summary of the grant award process and transition plans;
- Additional information regarding the placement matching system and the contract for the system;
- An adoption update;
- An update regarding efforts to locate missing and runaway youth (Operation Hope) and the latest numbers of runaway youth (55 as of November 29 and 60 as of December 3); and
- Updates regarding overall DCF numbers, the implementation of the comprehensive child welfare information system (CCWIS), and the Family First Prevention Services Act.

Secretary Meier-Hummel also provided the Task Force with an updated version of the DCF responses to the working group recommendations containing references to relevant DCF policies and additional fiscal impact information. She also noted the last time a child spent the night in a contractor's office was September 20, 2018.

In response to Task Force questions, the Secretary described DCF's efforts to respond to the PRTF bed space issue, including setting the rate in the new grants and allowing adjustment for specialized homes that can meet additional needs. She stated these efforts are intended to stabilize

placement options for children in state care when PRTF beds are unavailable. The Secretary stated DCF has been examining possible effects of TANF changes made in 2011 on the foster care population and has implemented risk-removal staffing and other efforts to address the needs of families encountering the system due to neglect.

In response to another Task Force question, Mr. Lewien stated the TANF reserve currently has about \$57.0 million. At the current rate of spending, the reserve is projected to be spent down in about seven years.

Discussion and Finalization of Task Force Recommendations and Report

The Chairperson directed the Task Force's attention to the draft report and recommendations and guided the Task Force through each recommendation separately for any discussion or changes. The Task Force had more extensive discussion or made changes to the following recommendations (numbers and titles listed are from the draft report, which may be found with the December Task Force minutes).

2. Data Infrastructure: "medical" typo correction; questions regarding implementation of the CCWIS; comment that implementing legislation should be more specific.

4. Access to Care: add "Medicaid-eligible" before "high-risk" and change "and" to "or" to clarify population and funding sources.

10. Safety Net, Early Childhood Programs, and Early Intervention: remove "government-funded" and list legislative consideration of restoration of TANF eligibility to pre-2011 levels as an "additional consideration" after the recommendations.

11. Information Sharing: add "irrespective of state borders" and remove "regarding confidentiality."

12. Non-Abuse Neglect: extensive discussion regarding the lack of definition of "non-abuse neglect" (NAN) in the CINC Code and need to examine the standard for removal findings and other aspects of the Code in light of the DCF

definition of NAN to address the NAN removal issue; remove the portions of the recommendation regarding NAN and create a new Tier 1 recommendation (Recommendation 5 in this report) recommending Judicial Council study of the CINC Code, especially the NAN issue and the best interests for permanency issue from draft report Recommendation 24; remove Recommendation 24 as a standalone recommendation; in remaining portion of Recommendation 12, also remove "high-risk" and "fully funded."

13. Adoption Process: review of October meeting discussion underlying revised draft language; change title to "Relative Search" to better reflect revised language.

15. Front-End Staffing: remove "only" to accommodate recent DCF staffing changes.

16. Case Plans: remove "and provide reimbursement to required participants" and allow that to be considered as part of the restructuring.

19. Resources and Accountability: request Ms. Shah submit language drawn from the supporting strategies for this recommendation to provide more specificity.

22. Physical Access: questions regarding current denial of physical access and possible fiscal impact; new placement management system, consensus caseload, and grant requirements account for any cost.

23. Child Advocate: following extensive discussion, the Task Force voted to remove this recommendation.

Once discussion was complete, the Chairperson requested the Task Force vote on the entire set of recommendations, as changed during its discussion, with leeway for the language to be submitted by Ms. Shah for the resources and accountability recommendation. The Task Force voted to approve the question as stated by the Chairperson.

CONCLUSIONS AND RECOMMENDATIONS

Working from the recommendations made by the working groups, the Task Force discussed, modified, and in some cases combined recommendations before finalizing 23 recommendations to adopt. The recommendations are listed below, along with references to the working group recommendation(s) from which each recommendation was drawn.

The Task Force organized its recommendations by priority into three tiers. (*Note:* The numbering of individual recommendations is for ease of reference only and does not reflect priority order.)

More information regarding the references to the report of the Mental Health Task Force may be found in the crosswalk attached to this report as Appendix A. The Task Force urges consideration of the recommendations of the Mental Health Task Force identified in the crosswalk.

Supporting strategies provided by the working groups for each recommendation are not repeated in this report, but the Task Force urges consideration of which supporting strategies may be appropriate to use in implementing its recommendations.

Tier One Recommendations

The Task Force adopted the following five recommendations as its highest priority recommendations:

1. *Workforce.* The State of Kansas should invest in the child welfare system workforce by increasing funding for recruitment, retention, and support to effectively attract and retain high-quality staff [Working Group (WG) Rec. A1];
2. *Data Infrastructure.* The State of Kansas should create a single, cross-system, web-based, integrated case management and data reporting system that can be used by the Kansas Department for Children and Families (DCF) and all relevant agencies and stakeholders to efficiently and effectively share information (*e.g.*,

education, dental, medical, behavioral) [WG Rec. A2];

3. *Families First Act.* The State of Kansas should fund and institute the Families First Prevention Services Act in Kansas and follow the federal guidelines [WG Rec. B1];
4. *Access to Care.* The State of Kansas should require access to high-quality and consistent medical and behavioral health care for Medicaid-eligible high-risk youth through the Medicaid state plan or other appropriate sources of funding [WG Rec. A3]; and
5. *Code for Care of Children.* The Judicial Council should review the Code for Care of Children (CINC Code), especially with regard to a) the way DCF's definition of "non abuse neglect" relates to cases under the CINC Code, and b) modifications to meet the child's ongoing best interests for permanency [WG Recs. B6 and C12].

Tier Two Recommendations

The Task Force adopted the following nine recommendations as high-priority recommendations:

6. *Foster Care Re-entry and Transitional Services.* The State of Kansas should provide young adults age 18-21 with the option to seamlessly re-enter the child welfare system, and ensure continuity in medical, behavioral health and support services for youth who have exited the custody of the Kansas Department for Children and Families [WG Rec. C1];
7. *Service Setting:* The State of Kansas should prioritize delivering services for children and youth in natural settings such as, but not limited to, homes, schools, and primary care offices in the child's community when possible. The needs of the child and family should be the most important factor when determining the settings where services are delivered [WG Rec. C2];

8. *Reintegration Support.* The State of Kansas should provide consistent, individualized, evidence-based support throughout reintegration for children in need of care and caregivers, including, but not limited to, parents and foster parents [WG Rec. C5];
9. *Foster Homes.* The State of Kansas should invest in foster home recruitment and retention by increasing funding for supplemental training and providing additional financial incentives that support older youth, high-needs children, and birth families, as well as modifying licensing requirements [WG Rec. C8];
10. *Analysis of Service Delivery.* The State of Kansas should establish a work group or task force to conduct an analysis to: 1) determine what it costs to adequately fund high-quality child welfare services; 2) by 2021, evaluate the benefits of privatizing child welfare services; and 3) determine the best public/private collaboration to deliver child welfare services. DCF shall determine appropriate outcome measures and periodic evaluations shall be conducted to ensure contractors are achieving set outcomes and provide opportunities for ongoing collaboration and review. Summary reports should be provided to the Legislature semi-annually [WG Recs. A5 and A6];
11. *Safety Net, Early Childhood Programs, and Early Intervention.* The State of Kansas should fully fund, strengthen, and expand safety net and early childhood programs through public services (DCF, mental health, substance abuse, and education) and community-based partner programs, and reduce barriers for families needing to access concrete supports. The State of Kansas should ensure availability and adequate access to early childhood behavioral health services statewide. The Task Force recommends consideration of related Mental Health Task Force recommendations 1.2 (Medicaid Expansion Models), 1.3 (Housing), 3.1 (Regional Model), and 6.4 (Early Intervention) [WG Recs. B7 and C3];
12. *Information Sharing.* The State of Kansas should establish a multi-disciplinary approach and share information across and among stakeholders, irrespective of state borders, in accordance with federal and state laws [WG Rec. B2];
13. *Non-Abuse Neglect.* The State of Kansas should provide differential responses for newborns and refer them to evidence-based services. The Task Force recommends consideration of related Mental Health Task Force recommendations 6.1 (Expand Service Options), 4.2 (Regional Model), and 6.4 (Early Intervention) [WG Rec. B6]; and
14. *Relative Search.* The State of Kansas should ensure that diligent search for relatives for possible placement begins immediately when a child is removed from the home. DCF should establish benchmarks for relative identification and shall monitor related outcomes, such as number of relatives identified within the first 30 days, number of children in relative placements and length of time for the child to reach that placement, and number of relatives contacted. DCF should regularly report on these benchmarks and outcomes to the Legislature [WG Rec. C11].

Tier Three Recommendations

The Task Force adopted the following nine recommendations as important recommendations:

15. *Immediate Response.* The State of Kansas should provide immediate response 24/7 to hotline calls and dedicated immediate response investigators to be dispatched, when warranted [WG Rec. B3];
16. *Front-End Staffing.* DCF should employ highly skilled and experienced front-end child welfare staff [WG Rec. B5];
17. *Case Plans.* The State of Kansas should restructure the case plan process to improve coordination of services among all stakeholders to strengthen collaboration in the case [WG Rec. C6];

18. *Post-Adoptive Support.* The State of Kansas should ensure both federal and state subsidies to adoptive families and implement best practices for post-adoptive support services [WG Rec. C13];
19. *Maximizing Federal Funding.* The State of Kansas should conduct an audit of potential funding streams by program area, to ensure the State is maximizing federal benefit [WG Rec. C9];
20. *Resources and Accountability.* The State of Kansas and DCF should provide services that are in the best interest of children in their care by supporting a system that is accountable and resourced well enough to provide the needed services. Considerations should include, but not be limited to, the awarding of funds based upon qualifications and not financial factors; improving workforce morale and tenure; and providing technology to improve efficiencies [WG Rec. C10];
21. *Serious Injury Review.* The State of Kansas, in accordance with federal and state confidentiality laws, should

formalize a Serious Injury Review Team to establish and conduct a review process both internally and externally for an immediate and necessary response when a child dies or suffers serious bodily injury after having previous contacts with DCF Protection and Prevention Services concerning prior abuse and neglect [WG Rec. B4];

22. *Court Appointed Special Advocates.* The Legislature shall fund Court Appointed Special Advocates (CASAs) to ensure the availability of CASA volunteers in all jurisdictions, without disrupting the current funding CASAs receive from the State of Kansas [WG Rec. C4]; and
23. *Physical Access.* The Legislature should fund increased physical access between children in need of care and their families, as well as ensure that families are supported in accessing services as required by the case plan [WG Rec. C7].

Additional Consideration

The Legislature should consider restoring Temporary Assistance for Needy Families (TANF) eligibility to its pre-2011 status.

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Appendix A

Child Welfare System Task Force – Working Groups Report

Background: The Child Welfare System Task Force (CWSTF) created three working groups: Working Group for the General Administration of Child Welfare by the Kansas Department for Children and Families (DCF) and Foster Care (WGA); Working Group for Protective Services and Family Preservation (WGB); and Working Group for Reintegration and Permanency Placement (WGC). Each working group developed priority recommendations as well as supporting strategies for the recommendation that should be considered in the development of an implementation plan.

View full report:

http://www.dcf.ks.gov/Agency/CWSTF/Documents/CWSTF%20Docs/CWSTF_Report_2018.08.01.pdf

Figure 1. CWSTF Recommendations Related to MHTF Regionalization Recommendations

MHTF Recommendation	Related CWSTF Recommendation
2.2: Access to Effective Practices and Support. Deliver crisis and prevention services for children and youth in natural settings (e.g., homes, school, and primary care offices) in the community.	C2: Service Setting. The State of Kansas shall prioritize delivering services for children and youth in natural settings such as, but not limited to, homes, schools and primary care offices in the child's community when possible. The needs of the child and family should be the most important factor when determining the settings where services are delivered

Figure 1. CWSTF Recommendations Related to MHTF Regionalization Recommendations (cont.)

MHTF Recommendation	Related CWSTF Recommendation
<p>6.1: Expand Service Options. Create additional options such as therapeutic foster care and home-based family therapy, among others, in regions across the state.</p>	<p>B6.3. The State of Kansas shall identify and support community partners and services which include naturally occurring resources to better identify and enhance families' protective abilities. The State of Kansas shall fund these services to ensure that they are adequately staffed so that workers may become aware of safety situations before they become acute and communicate such concerns in a timely manner.</p>
	<p>C2.1 The State of Kansas shall provide intensive, in-home, one-on-one services, following the Behavioral Interventionist Program™ (BI) or similar model, statewide to children who struggle with behavioral and emotional management to the degree that the behaviors threaten the stability of their current placement, to reduce hospitalization and/or congregate care and maintain their current placement.</p>
	<p>C2.3 The State of Kansas shall expand and ensure availability and access to home-based family therapy services in communities statewide and ensure adequate reimbursement to providers for time, travel and other related expenses.</p>

Figure 2. **CWSTF Recommendations Related to MHTF Recommendations**

MHTF Recommendation	Related CWSTF Recommendation
<p>1.2: Medicaid Expansion Models. Adopt one or more models of Medicaid expansion to pursue solutions for serving the uninsured and underinsured. Such model(s) should improve access to behavioral health services.</p>	<p>B7.5. The State of Kansas and the Legislature shall fund and expand KanCare.</p>
<p>1.3: Housing. Instruct the Kansas Department for Aging and Disability Services (KDADS) to convene key agencies and the entities that currently provide housing programs, facilitate community collaborations, and prepare for federal funding opportunities.</p>	<p>B7.2. The State of Kansas shall strengthen and provide matching financial support for community collaborations, including family resource centers that coordinate, facilitate and offer services that build resilience in families and communities. The State of Kansas shall encourage such funding to improve community resources and safety net areas such as child care.</p>
<p>3.1: Regional Model. Implement a regional hospitalization model for provision of additional acute care and treatment to meet bed goals and geographic dispersion.</p>	<p>B7.1. The State of Kansas shall ensure availability and access to community services in rural and urban areas of the state such as, but not limited to, helping with child care, mental health, or transportation.</p>

Figure 2. **CWSTF Recommendations Related to MHTF Recommendations (cont.)**

MHTF Recommendation	Related CWSTF Recommendation
<p>4.2: Regional Model. In lieu of a single RFP, the Task Force recommends a regional model that would supplement the traditional state hospital setting with regionalized facilities accepting both voluntary and involuntary admissions for persons in acute psychiatric crisis. The state hospital setting must continue to provide both acute services as well as longer-term/tertiary specialized care.</p>	<p>B6.5. The State of Kansas shall fund services equally with consideration to the availability and accessibility of services to rural, frontier, isolated and socioeconomically challenged areas.</p>
<p>5.2: Presumptive Approval of Medicaid. Coordinate with the Kansas Department of Health and Environment (KDHE) and determine if a policy could be developed that allows presumptive approval upon discharge for anyone leaving an IMD environment, including NFMHs.</p>	<p>A3.1. The State of Kansas shall coordinate an automatic enrollment process to ensure no enrollment requirements are placed on the youth and young adults under age 26 years.</p>
<p>6.3: Quality of Care. MCO contracts should incentivize reduced PRTF readmissions instead of reduced lengths of stay.</p>	<p>A3.3. The State of Kansas shall explore revisions to the current level of care guidelines and consistent interpretation of criteria for admission, continued stay and discharge (PRTF and Acute Inpatient) to create a more detailed statewide criterion that will ensure foster care children receive appropriate discharge planning.</p>

Figure 2. **CWSTF Recommendations Related to MHTF Recommendations (cont.)**

MHTF Recommendation	Related CWSTF Recommendation
<p>6.4: Early Intervention. Increase access to early childhood mental health services by including language in state Medicaid behavioral health plans to explicitly cover early childhood mental health screening, assessment, and treatment. Ensure children and caregivers are screened and assessed at regular intervals in early childhood programs. Based on the screening results, work in collaboration with partners to address Adverse Childhood Experiences (ACEs) and sources of toxic stress.</p>	<p>A3.5. The State of Kansas shall increase access to early childhood mental health services by including language in state Medicaid behavioral health plans to explicitly cover early childhood mental health screening, assessment and treatment.</p>
<p>6.4: Early Intervention. Increase access to early childhood mental health services by including language in state Medicaid behavioral health plans to explicitly cover early childhood mental health screening, assessment, and treatment. Ensure children and caregivers are screened and assessed at regular intervals in early childhood programs. Based on the screening results, work in collaboration with partners to address Adverse Childhood Experiences (ACEs) and sources of toxic stress.</p>	<p>B6.1. The Kansas Legislature shall enact a policy for universal screening of risk for abuse or neglect to all Kansas newborns and a referral system to evidence-based programs for all high-risk newborns before leaving the hospital.</p>

Figure 2. **CWSTF Recommendations Related to MHTF Recommendations (cont.)**

MHTF Recommendation	Related CWSTF Recommendation
<p>6.4. Early Intervention. Increase access to early childhood mental health services by including language in state Medicaid behavioral health plans to explicitly cover early childhood mental health screening, assessment, and treatment. Ensure children and caregivers are screened and assessed at regular intervals in early childhood programs. Based on the screening results, work in collaboration with partners to address Adverse Childhood Experiences (ACEs) and sources of toxic stress.</p>	<p>C3: Early Intervention. The State of Kansas shall ensure availability and adequate access to early childhood behavioral health services statewide.</p>

Appendix B

The working groups finalized a total of 26 recommendations, including 12 designated as high priority, which were provided to the Task Force in August and September 2018 through the working groups' "Child Welfare System Working Groups: Report to the Child Welfare System Task Force." The report also includes supporting strategies, summaries of testimony received by the working groups, and summaries of the working groups' discussions. This 84-page report can be found online at http://kslegislature.org/li_2018/b2017_18/committees/ctte_tf_child_welfare_system_1/documents/testimony/20180928_02.pdf.

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Report of the Health Care Stabilization Fund Oversight Committee to the 2019 Kansas Legislature

CHAIRPERSON: Gary Hayzlett

LEGISLATIVE MEMBERS: Senators Anthony Hensley (substitute), Laura Kelly, and Vicki Schmidt; and Representatives Eber Phelps, Richard Proehl, and Jim Ward (substitute)

NON-LEGISLATIVE MEMBERS: Darrell Conrade; Dennis Cooley, MD; Dennis George; Jimmie Gleason, MD; James Rider, DO; and Jerry Slaughter

CHARGE

The Committee annually receives a report on the status of the Health Care Stabilization Fund 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 this committee should continue its work and whether a second, independent analysis of the Health Care Stabilization Fund (HCSF or the 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 did not request the independent review.

The Committee considered information presented by the Board of Governors' representatives, including its required statutory report, the Board of Governors' actuary, and health care provider and insurance company representatives. The Committee agreed on the following recommendations and comments:

- **Actuarial report and status of the HCSF; compliance with 2018 law.** The Committee notes the report provided by the Board of Governors' actuary reviewed the financial performance of the HCSF and outlined relative stability in rates and improved internal equity in the Fund. The Committee notes the fiscal year 2019 surcharge rate decision by the Board of Governors to further lessen the difference in rates by Years of Compliance (YOC) in the Fund.

The Committee also notes compliance with the requirements of SB 217 (the HCSF Board of Governors is required to submit its annual report to this committee; in turn, the Committee includes review of the statutory report for consideration by the Legislative Coordinating Council (LCC) and the Legislature).

- **Contemporary issues and continued oversight.** The Committee notes the need for monitoring of the issue of claims-based versus occurrence-based coverage, as well as the status of the professional liability insurance marketplace.
 - The Committee requests the HCSF Board of Governors prepare a progress report regarding the issue of itinerant practitioners and the problems it creates with coverage and update the Committee at its next meeting.
- **Health Care Provider Insurance Availability Act (HCPIAA).** The Committee notes no amendments to this act were submitted for its consideration.
- **Fund to be held in trust.** The Committee recommends the following language to the LCC, the 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 health care 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. Furthermore, as set forth in the HCPIAA, the HCSF is required to be “held in trust in the state treasury and accounted for separately from other state funds”; and
- Further, the 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 Fund 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 and insurance, as well as to the appropriate budget and subcommittees of the standing committees on appropriations.

Finally, the Committee concurs with representatives of the health care provider and insurance industry and recognizes the faithful stewardship and service of Charles “Chip” Wheelen, Executive Director of the Health Care Stabilization Fund Board of Governors. The Committee notes Mr. Wheelen’s testimony and comment to the Legislature on many occasions, always noting the success of the public-private partnership of the HCPIAA and the relationship between health care providers, the insurance industry, the public, and the Legislature. The Committee congratulates Mr. Wheelen on his retirement.

Proposed Legislation: None

BACKGROUND

The Committee was created by the 1989 Legislature and is described in KSA 2018 Supp. 40-3403b. The 11-member Committee consists of 4 legislators; 4 health care providers; 1 insurance industry representative; 1 person from the general public at large, with no affiliation with health care providers or with 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 (LCC) and to make recommendations to the Legislature regarding the Health Care Stabilization Fund (HCSF or the Fund). The reports of the Committee are on file in the Kansas Legislative Research Department.

The Committee met November 16, 2018.

COMMITTEE ACTIVITIES

Report of Willis Towers Watson

The Willis Towers Watson actuarial report serves as an addendum to the report to the HCSF Board of Governors dated March 5, 2018, provided to the Board of Governors based on HCSF data as of December 31, 2017. The actuary addressed forecasts of the HCSF’s position at June 30, 2018, and June 30, 2019, based on the company’s annual review, along with the prior estimate for June 2018. The HCSF’s position at June 30, 2018, was as follows: the HCSF held assets of \$292.1 million and liabilities of \$244.2 million, with \$47.9 million in reserve. The projection for June 30, 2019, is as follows: assets

of \$296.9 million and liabilities of \$249.3 million, with \$47.7 million in reserve. The actuary noted, based on the analysis provided to the Board of Governors, the HCSF would need to raise its surcharge rates by 2.0 percent for calendar year (CY) 2019 in order to maintain its unassigned reserves at the expected year-end CY 2018 level. The actuary explained the forecasts of unassigned reserves assume an estimate of surcharge revenue in fiscal year (FY) 2019 (\$28.4 million), a 2.0 percent interest rate for estimating the tail liabilities on a present value basis, a 3.05 percent yield on HCSF assets for estimating investment income, full reimbursement for University of Kansas (KU) and Wichita Center for Graduate Medical Education (WCGME) claims, and no change in current Kansas tort law or HCSF law. Based on these conclusions, it was suggested the Board of Governors consider a modest increase in rates for CY 2019, perhaps by continuing to lessen the differences in rates by Year of Compliance (YOC) and making adjustments by specialty.

The actuary reviewed the HCSF's liabilities at June 30, 2018. The liabilities highlighted included claims made against active providers as \$75.2 million; associated defense costs as \$13.1 million; claims against inactive providers, as known on June 30, 2018, as \$8.8 million; tail liability of inactive providers as \$136.0 million; future payments as \$11.0 million; claims handling as \$8.6 million; and other, described as mainly plaintiff verdicts on appeals, as \$1.1 million. Total gross liabilities were \$253.8 million (the HCSF is reimbursed \$9.6 million for the KU/WCGME programs, which equates to a net liability of \$244.2 million).

The actuary also reviewed the HCSF's (surcharge) rate level indications for CY 2019, noting the indications assume a break-even target. The actuary highlighted payments, with settlements and defense costs of \$30.8 million; change in liabilities of \$4.9 million; administrative expenses of \$1.8 million; and transfers to the Availability Plan and the Kansas Department of Health and Environment assumed to be \$200,000 (assumes no Availability Plan transfer). In total, the cost for the HCSF to "break even" is \$37.7 million. The actuary stated the HCSF has two sources of revenue: investment income assumption of \$8.8 million based on a 3.05 percent yield on those assets and surcharge payments from

providers of \$28.2 million. The actuary explained the Board of Governors would need to collect \$28.8 million in surcharge revenue to meet the break-even scenario and indicated his company's advice to the Board of Governors was, in order to maintain the same level of unassigned reserves, the HCSF should raise rates by 2.2 percent.

The actuary discussed trends in the HCSF's loss experience and investment income, highlighting the key component to the HCSF's favorable financial performance—the spread of investment yield relation to inflation. The actuary explained the current assumption is a 205 basis point spread (assumes an investment yield of 3.05 percent; inflation of 1.00 percent) and commented as long as the spread is in that neighborhood or better, it is believed the HCSF's rates will be able to stay at or near its current level for a few years with possible modest increases. If that spread narrows significantly either due to increased inflation or a decline in the investment yield, the actuary commented, there will be more pressure on the HCSF's income statement. The actuary also reported on trends in the HCSF's experience for active and inactive providers by program year from 2005 through 2018, noting over the long term, it looks pretty close to 0 percent inflation rate in the cost to insure active providers. The actuary indicated inactive providers have shown some positive inflation, stating this may be due to the legislative change where the inactive providers do not have to buy additional coverage upon leaving the HCSF (2014 law). The actuary also reported on the HCSF's investment yield over the last eight years, indicating it continues to have a gradual decline and his company lowered its assumed future yield rate from 3.10 percent in the 2017 study to 3.05 percent in its 2018 review.

The actuary provided an overview on the rating by YOC. With the passage of 2014 HB 2516, the HCSF provides tail coverage at no additional cost to all providers upon becoming inactive; this law, the actuary commented, made rating by YOC unnecessary. The actuary indicated the advice to the Board of Governors was to narrow that spread and condense the table (the Board of Governors adopted this policy). The actuary provided an example of this policy, noting, in CY 2019, a provider who has participated in the HCSF for three years used to receive a 19.0 percent discount, but now pays the full rate, and a

provider who is in the HCSF for the first year is now up to 35.0 percent instead of 20.0 percent. The actuary indicated the Board of Governors decided with CY 2019 to further compress the table and adjust the first-year rate up to 50.0 percent; the actuary noted his company is pleased with these decisions (e.g., lessening the difference in rates by YOC) from an internal equity standpoint.

The actuary provided an overview regarding indications by provider class. The actuary explained every year his company evaluates the internal equity of these rates in order to minimize subsidization from one class to another and this analysis of experience by HCSF class continues to show differences in relative loss experience among classes. The actuary highlighted Class 11 (neurosurgeons) and indicated it was gratifying to see Class 11 finally move from the right-hand column (indicating a need to increase rates by greater than 15 percent) to the middle column where, in theory, his company would like all participating health care providers (no subsidization). Classes with decreases or increases greater than 15 percent are noted below:

- Decrease greater than 15 percent [first class listed had the greatest decrease]: Class 8 (surgery – general, plastic, ER with major); Class 3 (physicians, minor surgery); Class 13 (registered nurse anesthetists); Class 18 (mental health centers); Class 20 (residency training program); Class 21 (physician assistants); and Class 24 (nursing facilities); and
- Increase greater than 15 percent [last class listed had the greatest decrease]: Class 22 (nurse midwives); Class 1 (physicians, no surgery – dermatology, pathology, psychiatry); Class 9 (surgery specialty – cardiovascular, orthopedic, traumatic); and Class 15 (Availability Plan insureds).

The actuary provided a history of surcharge rate changes since 2007, noting there has been a fair amount of stability in these rates, which indicates the low inflation or no inflation in some cases has helped. The actuary also provided an overview of the three options for CY 2019 surcharge rates that were provided to the Board of

Governors and highlighted the Board of Governors' decision, stating the Board chose to raise the YOC factor for Group 1 from 35.0 percent to 50.0 percent, and for Group 2 from 70.0 percent to 90.0 percent. The actuary indicated the estimated overall impact of these changes to equate to a 2.4 percent increase in surcharge revenue. The actuary concluded by stating his company will be updating this analysis and reporting to the Board of Governors in March 2019 with further recommendations for the 2020 rates.

Committee discussion topics included the rate level indication for the Availability Plan insureds (the report suggested a 50.0 percent increase is indicated to get to a rate-neutral situation and the Board of Governors decided to leave rates unchanged); the rate level indication for nursing facilities (sufficient experience in the HCSF is needed to determine if the present percentage rate should be changed); and the historical changes in active provider experience (none were sustained).

[*Note:* Numbers presented in this committee report may be rounded to provide consistent data; exact figures, when provided, are included in the Committee's November minutes.]

Comments

In addition to the report from the HCSF Board of Governors' actuary, the Committee received information from Committee staff detailing resource materials provided for its consideration, including a memorandum from the Kansas Legislative Research Department (KLRD) outlining recent changes to law and legislation considered during the 2018 Session that was relevant to the HCSF Board of Governors or to health care providers in general (the KLRD analyst noted SB 217 includes clarification that the Board of Governors provide its statutory report to this committee, and in turn the Committee has a responsibility to report to the LCC and the members of the Legislature at large on this Committee's activities); information from the KLRD *FY 2019 Appropriations Report* detailing the actual and approved Board of Governors' expenditures, including the related subcommittee reports; and the Committee's conclusions and recommendations contained in its most recent annual report.

Chief Counsel's Update

The Deputy Director and Chief Counsel for the Board of Governors addressed the FY 2018 medical professional liability experience (based on all claims resolved in FY 2018, including judgments and settlements). Of the 12 cases involving 19 Kansas health care providers tried to juries during FY 2018, 10 were tried in Kansas courts and 2 cases were tried in Missouri courts. The trials were held in the following jurisdictions: Johnson County (3); Sedgwick County (2); Cowley County (1); Douglas County (1); Lyon County (1); Riley County (1); Saline County (1); Clay County, Missouri (1); and Jackson County, Missouri (1). Of the 12 cases tried, 9 resulted in complete defense verdicts and 3 cases resulted in a verdict for the plaintiff. The HCSF became liable for the entire amount of the first jury verdict of \$260,000 because it involved an inactive health care provider with tail coverage from the HCSF. The second case was \$920,370; the primary coverage paid the first \$200,000 and the HCSF's responsibility was \$720,370. The third case was \$174,145, all paid by the primary coverage.

The Chief Counsel noted this year's 12 jury trials set a new record as the fewest cases ever tried in the history of the 42 years of the HCSF and highlighted the possible reasons for the decrease in the number of cases that are going to trial, including fewer claims being made and economic issues (e.g., medical expenses, cost of future care).

The Chief Counsel highlighted the claims settled by the HCSF, noting in FY 2018, 73 claims in 58 cases were settled involving HCSF moneys and describing FY 2018 as an "average year." Settlement amounts incurred by the HCSF totaled \$24.2 million (these figures do not include settlement contributions by primary or excess insurance carriers). The Chief Counsel noted this fiscal year data represents nine more settlements than the previous year, incurring a \$2.5 million increase, but the settlement average was a decrease of about \$7,000; overall, FY 2018 in regard to the number of claims and settlements was very similar to 2017. The Chief Counsel indicated the Board of Governors has noticed an increased severity of cases especially because of medical costs, in terms of both large past medical bills and the anticipated future cost of care, and also cited 2014 law that

increased the cap on non-economic damages from \$250,000 to \$300,000 on July 1, 2014; this past July 1, the cap increased to \$325,000, increasing potential severity. Of the 73 claims involving HCSF moneys, the primary insurance carriers contributed \$12.8 million to these claims. In addition, excess insurance carriers provided coverage for two of these claims for an estimated \$2.9 million. For these 73 claims involving the HCSF, the total settlement amount was \$39.9 million. Further testimony also indicated, in addition to the settlements involving HCSF contributions, the HCSF was notified primary insurance carriers settled an additional 110 claims in 97 cases. The total amount of these reported settlements was \$10.5 million. The testimony also included a historical report of HCSF total settlements and verdicts, FY 1977 to FY 2018. For FY 2018, the 73 settlements and 2 jury verdict awards (where the HCSF was liable) added together for a total amount incurred by the HCSF of \$25.2 million.

The Chief Counsel also reported 300 new cases during FY 2018 and cited 2014 law, which added 5 categories of new health care providers to the HCSF effective January 1, 2015: physician assistants, nurse midwives, nursing facilities, assisted living facilities, and residential care facilities. The Chief Counsel stated in FY 2017, there was an increase of 28 claims, but there were 27 claims against new health care providers, so there really was not an increase in the number of claims against the traditional health care providers. The Chief Counsel continued, commenting the same holds true for FY 2018 that there was an increase of 52 claims; however, 53 claims were against the new health care providers. The Chief Counsel noted there had been two cases that went to trial in Missouri this past fiscal year and further explained a previous prediction that there would be more claims filed in Missouri because there are more Kansas health care providers rendering services on the Missouri side has not yet come true. (Generally, it was noted, 15.0 percent of cases are filed on the Missouri side.)

In response to a Committee question, the Chief Counsel indicated in regard to the 73 cases involving HCSF moneys, there has not been any type of claim or a practice that is leading to more claims than others that would indicate a trend or an issue. In response to a question regarding

whether electronic health records have been helping in the defense of claims, noting there were nine defense verdicts versus three plaintiff verdicts in FY 2018, the Chief Counsel indicated it has helped and cited fewer discovery issues.

The Chief Counsel next addressed the self-insurance programs and reimbursement for the KU Foundations and Faculty and residents. She stated the FY 2018 KU Foundations and Faculty program incurred \$1.6 million in attorney fees, expenses, and settlements; \$500,000 came from the Private Practice Reserve Fund and \$1.1 million came from the State General Fund (SGF). The Chief Counsel indicated the program incurred about \$1.0 million less than in FY 2017 due to the number of settlements and noted in the previous year there were ten settlements involving KU full-time faculty members and, in FY 2018, there were four. The Chief Counsel's report included additional information, requested during the prior year's Committee meeting, which detailed the number of settlements and the number of pending claims at the end of the fiscal year.

In regard to the self-insurance programs for the KU and WCGME resident programs (includes the Smoky Hill residents in Salina), there was an increase of \$1.0 million (settlement costs). The Chief Counsel noted over the past few years there have not been any settlements against residents; however, this year, there have been three settlements against residents—two from Wichita and one from Kansas City. The Chief Counsel further explained defense costs went up and noted there were 30 claims at the end of FY 2017. A big reason for the large increase in defense costs was due to a case that went to trial in Wichita, as it was a seven-week trial with seven defendants involving three residents. The Chief Counsel indicated it was a compete verdict for all the defendants, including the residents, but it was a very expensive case to try. The Chief Counsel stated the report also lists the historical expenditures by fiscal year for the KU Foundations and Faculty and the residents in training. She indicated the ten-year average for the faculty self-insurance program is about \$1.7 million; this past fiscal year, it was about \$1.6 million, which is slightly below average. For the residency program, the ten-year average is about \$800,000, which was greatly exceeded. The Chief Counsel noted the report also includes the total

number of faculty and the total number of residents to illustrate how the program has grown over the last almost 30 years. The Chief Counsel also provided information about moneys paid by the HCSF as an excess carrier, stating there was a claim against a resident involving \$8.8 million and four claims against faculty members involving \$1.2 million. These amounts were paid by the HCSF out of its excess coverage and that amount is not reimbursed.

Committee discussion included the increase in faculty members educating future physicians and the expansion of medical training and KU facilities statewide. The Chief Counsel commented she believed there are six physicians employed by KU/St. Francis in Topeka who are full-time faculty members, with no full-time faculty members at either the Great Bend or Hays' facilities. She further explained when there is a new physician from KU coming into compliance with the HCSF as full-time faculty with self-insurance, the physician has to provide confirmation of three items before they are put into compliance: a full-time faculty appointment; employment by the University of Kansas Medical Center; and membership in the University of Kansas Physicians Foundation.

Medical Malpractice Insurance Marketplace; Update on Availability Plan

The President and CEO for the Kansas Medical Mutual Insurance Company (KaMMCO) described the current medical professional liability insurance marketplace as a soft-market cycle, meaning there are a lot of companies writing malpractice insurance in Kansas. He explained this means the marketplace is very active, very competitive, and rates are somewhat at an all-time low, which is good for health care providers. The conferee highlighted the types of providers in the Availability Plan and reasons providers may need to be in the Availability Plan, noting this business moves in cycles and the population of the Availability Plan has a tendency to change over time as well.

The conferee also provided an outlook for the industry, indicating KaMMCO is starting to see an increased frequency of severe claims and stating those are usually pre-cursors to some instability in

the marketplace and claims environment. He noted, with this less favorable environment, A.M. Best has indicated the medical professional liability line of insurance has a negative outlook. The conferee also described some of the things that have an impact on the industry and the HCSF, including accident year and calendar year results and inflation, and highlighted some other factors that could also have an impact on the industry, including the federal Affordable Care Act, federal MACRA (the Medicare Access and CHIP Reauthorization Act), and MIPS (Merit-Based Incentive Payment System) changes in Kansas, such as hospital acquisitions and closings, and the opioid crisis. The conferee indicated there is a lot of pressure on the provider community right now as it relates to a variety of substantive changes at present, which places pressure on providers from both a health care delivery and a professional liability standpoint.

Committee discussion included the role telemedicine could play in the professional liability insurance marketplace, particularly whether its growing use will increase, decrease, or have little effect on liability and whether telemedicine providers should have a unique provider class (surcharge rating). The KaMMCO conferee's response indicated his company is considering how to underwrite the telemedicine risks (e.g., when, where, and how service is being provided) and whether such analysis would likely include the laws governing medical professional liability and tort law generally in the states where telemedicine is being practiced. The conferee considered the question regarding provider class and treatment of the health care practitioner's liability under the Fund and explained rather than a provider class of telemedicine doctors, it might be similar to how orthopedics is now with different rates for orthopedics—no spine versus orthopedics—with spine (e.g., radiology—no telemedicine or radiology—with telemedicine, or pathology—no telemedicine or pathology—with telemedicine). The conferee further spoke to insurer's consideration of risk—would a pricing differential be in place for telemedicine providers (similar to that of the HCSF's Missouri modification factor) because there is an additional risk component to that provider's practice? The Committee and conferee also discussed the status of the reinsurance industry, both globally and the

risk assigned to medical professional liability reinsurance lines.

Comments from Health Care Provider Representatives

The Director of Government Affairs for the Kansas Medical Society (KMS) commented the HCPIAA and the HCSF is performing exactly as it was intended; there is market stability and the adequate *quid pro quo* referenced in the *Miller v. Johnson* decision. The KMS conferee urged the continuation of the Committee and also stated there is no need for an additional independent actuarial analysis of the HCSF.

Board of Governors' Statutory Report

The Executive Director provided a brief history of the HCPIAA and its three principal features that remain intact: 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 "Health Care Provider Insurance 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 reinsurer of the Availability Plan.

The Executive Director provided the Board of Governors' statutory report (as required by KSA 2018 Supp. 40-3403(b)(1)(C)). These were among the items detailed in the FY 2018 report:

- Net premium surcharge revenue collections amounted to \$27,708,987. The lowest surcharge rate for a health care professional was \$100 (for a first-year provider, opting for the lowest coverage option) and the highest surcharge rate was \$17,336 for a neurosurgeon with three or more years of HCSF liability exposure (selecting the highest coverage option). Application of the Missouri modification factor for this Kansas resident neurosurgeon (if licensed in Missouri) would result in a total premium surcharge of \$22,537 for this health care practitioner. (It was noted, if the same Kansas

neurosurgeon obtained basic professional liability insurance *via* the Availability Plan, the surcharge would have been \$25,615, and if also licensed to practice in Missouri, the surcharge would have been \$33,299.);

- The average compensation per settlement (58 cases involving 73 claims were settled) was \$332,040. These amounts are in addition to compensation paid by primary insurers (typically \$200,000 per claim). The report states amounts reported for verdicts and settlements were not necessarily paid during FY 2018 and total claims paid during the fiscal year amounted to \$27,385,897; and
- The balance sheet, as of June 30, 2018, indicated total assets of \$290,884,992 and total liabilities of \$246,840,942.

Oral testimony also included FY 2008 data for comparative purposes.

The Executive Director addressed the Availability Plan, noting this plan only insures a primary layer of coverage (\$200,000 per claim subject to \$600,000 annual aggregate coverage). Individual health care providers insured by the Availability Plan pay about 33.0 percent more premium for basic coverage than those providers would if they were insured by a commercial insurance company. These providers also pay a higher HCSF surcharge rate than they otherwise would, which compounds the difference. In Kansas, the Executive Director noted, the HCSF reinsures the Availability Plan. When the Availability Plan experiences a surplus at the end of the fiscal year, the surplus is transferred to the HCSF; in those years when losses exceed income, the HCSF transfers that difference to the Availability Plan. At the conclusion of FY 2018, \$551,504 was transferred from the HCSF to the Availability Plan; the Executive Director noted over the most recent ten fiscal years, transfers from the Availability Plan to the HCSF have exceeded transfers from the HCSF to the Availability Plan. The net result has been \$4,883,640 of additional income to the HCSF.

The Executive Director reviewed 2018 law and cited a technical bill (SB 217) updating statutory references, noting future technical updates to the HCPIAA may be needed (*e.g.*, reconciling the term “healthcare”). He indicated at this time, the Board of Governors does not have any recommendations for legislation, and discussed some issues regarding the interstate practice of medicine and telemedicine that may require some updates to the HCPIAA in the future. The Executive Director concluded the Board of Governors believes this is something it needs to study thoroughly before asking the Legislature to make any changes.

HCPIAA Amendments

No amendments were brought before the Committee.

CONCLUSIONS AND RECOMMENDATIONS

The Committee considered two items central to its statutory charge: whether this 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 did not request the independent review.

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