



2022

State Finance Council



LAURA KELLY, Governor

State Finance Council

Closed, executive session to discuss matters relating to a proposed tort claim settlement under consideration pursuant to K.S.A. 75-6106.

I move that the open meeting of the State Finance Council, being held by Webex, be recessed for a closed, executive meeting pursuant to K.S.A. 75-4319(a), for consultation with the Attorney General and members of the staff of the Attorney General to discuss matters relating to a proposed tort claim settlement under consideration pursuant to K.S.A. 75-6106 under the justification listed in K.S.A. 75-4319(b)(2), because discussion of such matters in an open meeting would waive attorney-client privilege; that the State Finance Council resume the open meeting, being held by Webex, at _____; and that this motion, if adopted, be recorded in the minutes and be maintained as a part of the permanent records of the State Finance Council. The State Finance Council will use a Webex breakout room for the executive session, and the main meeting will have a placeholder message posted notifying attendees that the State Finance Council is in executive session.

Adopted at _____, January 10, 2022

AGENDA

STATE FINANCE COUNCIL

January 10, 2022
9:00 a.m.

by Webex

Approval of State Finance Council minutes of December 17, 2021

Items to be considered:

1. Request of the SPARK Executive Committee to approve Kansas Board of Regents expenditures from GEER II funds and allocation of SFRF funding for Economic Revitalization, Health and Education and Connectivity
2. Request of the Attorney General for approval of a Tort Claim settlement—*JF/KL v. TFI Systems, Inc. & DCF*

STATE FINANCE COUNCIL

MINUTES

December 17, 2021
3:00 p.m.

The Kansas State Finance Council was called to order by Governor Laura Kelly at 3:04 p.m. The following members were present via Webex:

PRESENT VIA WEBEX

Senator Ty Masterson, Senate President
Senator Larry Alley, Senate Majority Leader
Senator Dinah Sykes, Senate Minority Leader
Senator Rick Billinger, Senate Ways & Means Chair
Representative Ron Ryckman, Jr., Speaker of the House
Representative Dan Hawkins, House Majority Leader
Representative Tom Sawyer, House Minority Leader
Governor Laura Kelly

ABSENT

Representative Troy Waymaster, House Appropriations Chair

APPROVAL OF MINUTES

Representative Hawkins moved that the minutes of the December 9, 2021, meeting be approved. Representative Sawyer seconded the motion. Motion was adopted with five votes in favor plus the Governor. President Masterson and Senator Billinger joined the meeting after the vote and did not cast votes. Votes were as follows:

Senator Larry Alley	Yes
Senator Dinah Sykes	Yes
Speaker Ron Ryckman, Jr.	Yes
Representative Dan Hawkins	Yes
Representative Tom Sawyer	Yes
Governor Laura Kelly	Yes

AGENDA ITEM 1

1. Approval of the Request of the SPARK Executive Committee to Approve the Allocation of ARPA Money to Fund COVID Testing

Lt. Governor David Toland provided an overview of the request. He stated that on December 10, 2021, the SPARK Executive Committee unanimously approved the request to extend funding through the first quarter of 2022 for COVID testing. Lt. Governor Toland stated that even with

widespread vaccination and other mitigation efforts, it is expected COVID will continue to circulate in communities and testing is a vitally important tool to identify the virus and protect communities against its spread. Existing testing protocols are critical so that free COVID testing may continue to be available across the state. This request is for the allocation of up to \$27.1 million from ARPA funds to continue the testing programs through March 31, 2022.

Governor Kelly asked whether there were questions. Hearing no questions, Governor Kelly called for a motion to approve the resolution for the expenditure of up to \$27.1 million of ARPA funds to continue COVID testing. Senator Sykes moved and Representative Sawyer seconded the motion. Motion was adopted with five votes in favor plus the Governor. President Masterson and Senator Billinger joined the meeting after the vote and did not cast votes. Votes were as follows:

Senator Larry Alley	Yes
Senator Dinah Sykes	Yes
Speaker Ron Ryckman, Jr.	Yes
Representative Dan Hawkins	Yes
Representative Tom Sawyer	Yes
Governor Laura Kelly	Yes

RESOLUTION NO. 21-738:

The resolution authorizes the expenditure of up to \$27.1 million in ARPA – State Fiscal Recovery Funds for continuation of COVID testing through March 31, 2022.

AGENDA ITEM 2

2. Approval of the Request of the SPARK Executive Committee to Approve the Allocation of ARPA Money to Fund the 24/7 Pay Plan

Lt. Governor David Toland provided an overview of the request. He stated that on December 10, 2021, the SPARK Executive Committee unanimously approved the request for the expenditure of ARPA money to fund the 24/7 pay plan. This pay plan will address critical staffing shortages in 24/7 facilities which have been challenged by the pandemic. The shortages are posing safety risks for the staff and are undermining the state’s ability to care for vulnerable citizens. Affected agencies include the Department of Corrections, the Department for Aging and Disability Services state hospitals, and the Kansas Commission of Veterans Affairs Office veterans’ homes. A pay increase was implemented for Department of Corrections in 2019, but those efforts were insufficient to avoid frontline staffing shortages as a result of COVID. The new pay plan requests approval of up to \$30.3 million which will bring the state’s compensation closer to market rates, support the facilities’ efforts to prioritize public health and safety and ensure appropriate levels of care may be provided. The plan announced by Governor Kelly on November 23, 2021, is closely aligned with recent policy changes in other states, including Nebraska and Missouri. The plan provides long-term and temporary pay increases to ensure facilities are adequately staffed now and in the future.

Governor Kelly asked whether there were questions for Budget Director Adam Proffitt. Hearing no questions, Governor Kelly called for a motion to approve the resolution for the expenditure of up to \$30.3 million of ARPA money to fund the 24/7 pay plan. Representative Sawyer moved and Senator Sykes seconded the motion. Motion was adopted with seven votes in favor, plus the Governor. Votes were as follows:

President Masterson	Yes
Senator Larry Alley	Yes
Senator Dinah Sykes	Yes
Senator Rick Billinger	Yes
Speaker Ron Ryckman, Jr.	Yes
Representative Dan Hawkins	Yes
Representative Tom Sawyer	Yes
Governor Laura Kelly	Yes

RESOLUTION NO. 21-739:

The resolution authorizes the allocation of up to \$30.3 million in FY 2022 of APRA – State Fiscal Recovery Funds for 24/7 facilities’ staff pay increases.

AGENDA ITEM 3

3. Approval of the Request of the Department of Administration to Approve the Docking and KDHE Laboratory Projects

Secretary of Administration DeAngela Burns-Wallace provided an overview of the two projects. Pursuant to the appropriations bill for these two projects, it requires the approval of the State Finance Council in a single resolution prior to proceeding with the two projects. Secretary Burns-Wallace directs the Council’s attention to the report of the Joint Committee on State Building Construction (JCSBC) provided to the members, which is also a requirement of the appropriations bill. Discussions have been held for several years with legislators, stakeholders, state agencies, and local partners. Several sites for the construction of a new KDHE Laboratory were considered but proved to be unavailable. State Lot #4 has been chosen as the site for the future laboratory.

Governor Kelly asked whether there were questions for Secretary Burns-Wallace. Speaker Ryckman asked what the process for architectural review is for the Docking State Office Building (Docking) and who makes the final decision. Secretary Burns-Wallace stated that as part of the program, a set of architectural drawings were made with the proviso that some operations would remain in Docking, including the power plant, maintenance operations, and Capitol Police offices. Mockups of various options were prepared based upon the feedback received. Prior to the project moving forward, there will be a final set of architectural renderings prepared that designate the space allocations. A lot of the information was collected in the first analysis, but now that the structural analysis is complete, final drawings will be prepared that meet the guidelines of the programmable space.

Speaker Ryckman asked what the final approval step would be before construction begins. Secretary Burns-Wallace stated a full study of Docking was commissioned and the final report was prepared in January 2020 after a full assessment of the property at the time. Many state agencies, including the Capitol Police, Facilities and Property Management, Budget, and the Kansas State Historical Society, were consulted, as well as local partners. The report addresses programming space, as well as energy efficiency, other modernization, and historical preservation. A final report will be prepared now that the building parameters are determined. Secretary Burns-Wallace confirmed that this report does support the current model for the three-story building.

Senator Alley asked whether a final review and approval from the Joint Commission on State Building Construction would be held. Governor Kelly stated that the proviso was clear that it would go before the JCSBC, which it did, and that they have made their final recommendations. After that recommendation, the matter now comes before the State Finance Council for final approval. Senator Alley asked for clarification that this is the request for final approval and Governor Kelly confirmed this is the final vote.

Governor Kelly called for a motion to approve the resolution to approve the Docking State Office Building renovation and construction of the KDHE Laboratory. Speaker Ryckman moved and Senator Sykes seconded the motion. Motion was adopted with six votes in favor, plus the Governor, and one vote against. Votes were as follows:

President Masterson	Yes
Senator Larry Alley	Yes
Senator Dinah Sykes	Yes
Senator Rick Billinger	No
Speaker Ron Ryckman, Jr.	Yes
Representative Dan Hawkins	Yes
Representative Tom Sawyer	Yes
Governor Laura Kelly	Yes

RESOLUTION NO. 21-740:

The resolution approves two capital improvement projects: Docking State Office Building to be renovated to encompass three floors of office and meeting space, and for the KDHE Laboratory to be constructed on Lot 4 of the Capitol Complex.

ADJOURNMENT

Governor Kelly called for a motion to adjourn. Senator Sykes moved for adjournment, and Speaker Ryckman seconded the motion. The motion was unanimous by voice vote and the meeting adjourned at 3:27 p.m.

MEMORANDUM

TO: Governor Laura Kelly and State Finance Council
FROM: Adam Proffitt, Director of the Budget
DATE: January 7, 2022
SUBJECT: State Finance Council Meeting of January 10, 2022



An explanation of the items on the agenda for the State Finance Council meeting scheduled for January 10 are presented below.

1. Request of the SPARK Executive Committee to approve Kansas Board of Regents expenditures from GEER II funds and allocation of SFRF funding for Economic Revitalization, Health and Education and Connectivity

The SPARK Executive Committee asks State Finance Council to approve expenditures by the Board of Regents of \$11,678,709 from GEER II funding to address opportunity gaps, improve student well-being, establish a postsecondary education plan, incentivize widespread adoption of open educational resources and administrative costs.

The SPARK Executive Committee also asks State Finance Council to approve the allocation of \$154.0 million of the State Fiscal Recovery Fund (SFRF)—allocated to Kansas as part of the American Rescue Plan Act (ARPA) of March 2021—to fund Economic Revitalization, Health and Education and Connectivity.

2. Request of the Attorney General for approval of a Tort Claim settlement—*JF/KL v. TFI Systems, Inc. & DCF*

Introduction

The Kansas Board of Regents has received approximately \$11.7 million of GEER II funding from the U.S. Department of Education. Governor Laura Kelly previously approved the Regents' spending priorities, and the Kansas Board of Regents requests the SPARK Executive Committee to approve their spending authority to use GEER II funds on the previously approved priorities.

Background on Prior GEER Funds

The Coronavirus Aid, Recovery, and Economic Security (CARES) Act of March 2020 established the Governor's Emergency Education Relief (GEER) Fund. The U.S. Department of Education awarded nearly \$3 billion in GEER grants to states to provide assistance to students and families through school districts, institutions of higher education, and other education-related organizations. Kansas received \$26,274,000 in GEER funding in 2020. Pursuant to provisions in the 2020 Special Session HB 2016, the Governor requested State Finance Council approval to allocate the entire \$26.3 million to the Kansas Board of Regents for distribution to state universities. State Finance Council approved the allocation on June 16, 2020.

GEER II

In December 2020, the Consolidated Appropriations Act of 2021 (HR 133) was signed into law and added an additional \$4.1 billion for the GEER Fund. Kansas received a second GEER allocation of \$11,678,709, referred to as the State's GEER II award. As a continuation of GEER I, the GEER II award was also allocated to the Kansas Board of Regents. The Board of Regents' spending priorities—outlined below in Appendix 1—were approved by the Governor.

Current Request

The Kansas Board of Regents is seeking spending authority from the SPARK Executive Committee for the GEER II funds in accordance with the priorities that were previously identified and approved.

Appendix 1: Kansas Board of Regents Priorities Approved by the Governor

Address Opportunity Gaps - \$5,000,000	
	Consulting services from the National Center for Student Success at Georgia State University
	Centralized professional academic advisors (one year of financial support)
	Support for Peer Tutors
Improve Student Well-Being - \$4,500,000	
	Recovery scholarships to attend public institutions of higher education
	Enhance the work study and internship programs to create more opportunities for students to gain work experience
	Expand mental health services for students
	Offer financial support for campus pantries to address students' food insecurity
Establish a Postsecondary Education Plan - \$2,000,000	
	Improve the rate of Kansas high school student FAFSA completion
	Improve the college going rate with greater postsecondary admission and recruitment of high school students impacted by COVID, with ACT or other similar preparation assistance, as needed
	Construct an online portal of college courses offered to any Kansas high school students (with college maintenance of the API source data)
Incentivize Widespread Adoption of Open Educational Resources (OER) - \$30,000	
	Pay faculty a stipend to review materials and encourage adoption; open educational resources are materials for teaching or learning that are either in the public domain or have been released under a license that allows them to be freely used, changed, or shared with others. Adoption of OER has benefit to students in reducing their cost of attendance.
Administrative Costs - \$148,709	
	The Board of Regents staff will incur costs to administer the grants identified above

Round 1 Proposal for SPARK

Through listening sessions across the state, input from state agency leaders, and an ongoing assessment of the most pressing needs facing Kansans, three opportunities—comprising a \$154M portfolio—have been identified as the highest priorities for Round 1 State Fiscal Recovery Fund (SFRF) allocation by the SPARK Executive Committee. The areas of investment include:

1. Economic Revitalization: Investments intended to address the negative economic impact of the pandemic and attract and retain businesses in Kansas
2. Health and Education: An investment in combatting learning loss among K-12 students in Kansas, whose educational experiences were disrupted by remote learning during the COVID-19 pandemic
3. Connectivity: Investments in matching funds for fiber infrastructure development for school districts

The SPARK Executive Committee previously agreed to allocate up to \$500M by December 31, 2021. If the Executive Committee approves this investment portfolio of three opportunities outlined here, it will bring the 2021 State Fiscal Recovery Fund allocations by SPARK to a total of \$261M by the end of the 2021 calendar year, including prior investments in the nurse retention program (\$50M), an extension of testing funding (\$27M), and the 24/7 pay plan (\$30M).

Please see a summary of investments below for more information, as well as Appendices 1-3 for a summary of investments, rationale, and allowability across each area.

Summary of Proposals for SPARK Consideration

	<i>Project Total</i>	<i>Category Total</i>
Economic Revitalization		\$100,000,000
Economic Development Infrastructure <i>Investments to support spec building development, modernization of business park facilities and other infrastructure development, and the attraction and retention of businesses in Kansas (subject to allowability)</i>	\$100,000,000	
Health and Education		\$50,000,000
Individual Education Learning Loss Grants <i>Direct grants of \$1,000 per child to families to purchase materials to offset learning loss. Purchases could include (e.g.) educational materials, computers, software, tutoring services, etc.</i>	\$50,000,000	
Connectivity		\$4,000,000
Kansas Connect and Learn Initiative <i>Matching funds for school districts to use alongside the FCC's E-rate program to invest in high-speed broadband buildout</i>	\$4,000,000	
Priorities Total		\$154,000,000

Appendix 1: Economic Revitalization Portfolio

New or existing programs?	New
Description	Economic Revitalization is a top concern among Kansans statewide. This initial investment aims to ensure Kansas remains competitive in business attraction and retention in critical sectors of the economy and supports industries negatively impacted by COVID-19.
Budget requested	Economic Development Infrastructure (\$100M): Investments to support spec building development, modernization of business park facilities and other infrastructure development, and the attraction and retention of businesses in Kansas (subject to allowability)
Proposed funding source	ARPA – State Fiscal Recovery Funds
Rationale	These investments help position Kansas for economic growth coming out of the COVID-19 pandemic. Specifically, aging business park infrastructure and a lack of ready-to-lease, modern speculative building space disadvantages Kansas compared to growth hubs and inhibits Kansas's ability to accommodate new businesses in critical sectors. Other states have seen strong ROI in economic development infrastructure investments.
Allowability	Economic Development Infrastructure programs are allowable under current U.S. Department of Treasury guidance if they target Qualified Census Tracts (QCTs) or disproportionately impacted communities.

Appendix 2: Health and Education Portfolio

New or existing program?	New
Description	Individual Learning Loss Grants would provide families \$1000 per child to purchase materials to offset learning loss. Purchases could include educational materials, computers, software, tutoring services, or other approved educational expenses. Exact program design could vary, but the states that enacted these grants operationalized them in a similar manner and only distributed funds to families to be used on an online marketplace with pre-approved vendors for education-related materials/services.
Budget requested	Individual Learning Loss Grants (\$50M): At a rate of \$1,000 per child, the Individual Learning Loss Grants would cover 50,000 children in Kansas, with a focus on those in low-income families or living in Qualified Census Tracts.
Proposed funding source	ARPA – State Fiscal Recovery Funds
Rationale	In a national study, more than half of public school K-12 teachers said the pandemic resulted in a “significant” learning loss for students. Individual Learning Loss Grants provide families the flexibility to choose the materials that best fit their child(ren)’s educational needs. Other states that have pursued Learning Loss Grants—including Oklahoma and Idaho—have seen high utilization and demand.
Allowability	Learning Loss Grants are allowable under current U.S. Department of Treasury guidance if they are focused on Qualified Census Tracts (QCTs) or disproportionately impacted communities.

Appendix 3: Connectivity Portfolio

New or existing program?	Existing
Description	The Federal Communications Commission's E-rate program makes telecommunications and information services more affordable for schools and libraries with discounts for telecommunications, Internet access, and internal connections, and managed internal broadband services. The Kansas Connect and Learn Initiative is a State match for the E-rate program for school districts across the State. If a state provides eligible schools and libraries with funding for special construction charges for high-speed broadband that meets the FCC's long-term connectivity targets, the E-rate program will increase an applicant's discount rate for these charges up to an additional 10% to match the state funding on a one-to-one dollar basis.
Budget requested	Kansas Connect and Learn Initiative (\$4M): Provides state matching funds to the Kansas Department of Education (KSDE) for distribution to school districts across the state; the program was previously funded through KSDE's budget but was removed for FY22.
Proposed funding source	ARPA – State Fiscal Recovery Funds
Rationale	Building out high-speed broadband requires upfront, non-recurring construction costs for the deploying of new fiber or upgraded network facilities to eligible entities. Investing in the Kansas Connect and Learn Initiative will help address Kansas's broadband needs by maximizing federal contributions and dollar-for-dollar match for one-time construction and fiber buildout expenses.
Allowability	Investments in broadband infrastructure are an explicitly allowable use under current U.S. Department of Treasury guidance .

STATE OF KANSAS

State Finance Council Resolution

Date: January 10, 2022

Resolution No. 22-____

WHEREAS, K.S.A. 75-3711a(a) authorizes any state agency, not otherwise specifically authorized by law, with the approval of the State Finance Council, to receive grants of money and funds appropriated under any federal act or from any other source; and

WHEREAS, K.S.A. 75-3711c(a)(2) indicates grants of approval pursuant to K.S.A. 75-3711a, above, are characterized as legislative delegations; and

WHEREAS, pursuant to the 2021 Session Laws of Kansas, Ch. 116, Sec. 63, p. 1945, the Strengthening People and Revitalizing Kansas (SPARK) Executive Committee has met and is recommending that the Kansas Board of Regents be authorized to expend \$11,678,709 in GEER II funds, and that the Governor distribute \$154,000,000 in ARPA - State Fiscal Recovery Funds for Economic Revitalization, Health and Education and Connectivity in accordance with the attached materials; and

WHEREAS, the requested action is the result of an unforeseeable occurrence, and delay until the next legislative session would be contrary to the best interest of the State; and

WHEREAS, the requested action was not rejected by the 2021 Legislature and is not contrary to known legislative policy; and

WHEREAS, the requested action will assist the State of Kansas in attaining an objective or goal which bears a valid relationship to the powers and duties of the State; and

WHEREAS, the program proposed will benefit the health or welfare of the people of Kansas;

THEREFORE, BE IT RESOLVED THAT the State Finance Council, by the Governor and a majority vote of its legislative members thereof, makes the above findings and approves the expenditure of \$11,678,709 in GEER II funds by the Kansas Board of Regents, and of \$154,000,000 in ARPA – State Fiscal Recovery Funds for Economic Revitalization, Health and Education and Connectivity as presented to the Council, effective immediately.

By: _____
DeAngela Burns-Wallace, Secretary
State Finance Council

STATE OF KANSAS

State Finance Council Resolution

Date: January 10, 2022

Resolution No. 22- ____

WHEREAS, the action of approving settlements and compromises under the Kansas Tort Claims Act, K.S.A. 75-6101, *et seq.*, by the State Finance Council is characterized as a matter of legislative delegation by K.S.A. 75-6106 and amendments thereto; and

WHEREAS, the Attorney General has recommended payment of \$ _____ from the Kansas Tort Claims Fund as settlement and compromise in the claim of JF/KL v. TFI Systems, Inc. & DCF, Case No. 19-CV-21, Neosho County District Court; and

WHEREAS, the delay of the requested action may invalidate all settlement options available to the Attorney General; and

WHEREAS, the requested action is the result of an unforeseeable occurrence; and

WHEREAS, the recommended settlement is not one that has been rejected by the 2021 Legislature and it is not contrary to known legislative policy in that the settlement of claims is expressly provided for in the Kansas Tort Claims Act, K.S.A. 75-6101, *et seq.*; and

WHEREAS, the action will assist the Attorney General in attaining an objective which bears a valid relationship to the powers and functions of his office;

THEREFORE, BE IT RESOLVED THAT the State Finance Council, by the Governor and a majority of the legislative members thereof, makes the above findings and approves expenditures from the Tort Claims Fund administered by the Attorney General in the total amount of \$ _____ to be paid as a settlement and compromise in the above-described matter, effective immediately.

By: _____
DeAngela Burns-Wallace, Secretary
State Finance Council