



2021

State Finance Council



LAURA KELLY, Governor

AGENDA

STATE FINANCE COUNCIL

December 17, 2021

3:00 p.m.

by Webex

Approval of State Finance Council minutes of December 9, 2021

Items to be considered:

1. Request of the SPARK Executive Committee to Approve the Allocation of ARPA Money to Fund COVID Testing
2. Request of the SPARK Executive Committee to Approve the Allocation of ARPA Money to Fund the 24/7 Pay Plan
3. Request of the Department of Administration to Approve the Docking and KDHE Laboratory Projects

STATE FINANCE COUNCIL

MINUTES

December 9, 2021
1:30 p.m.

The Kansas State Finance Council was called to order by Governor Laura Kelly at 1:39 p.m. The following members were present:

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
Representative Troy Waymaster, House Appropriations Chair
Governor Laura Kelly

APPROVAL OF MINUTES

Representative Hawkins moved that the Minutes of the October 26, 2021, meeting be approved. President Masterson seconded the motion. Motion was adopted unanimously. Votes were as follows:

President Ty 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
Representative Troy Waymaster	Yes
Governor Laura Kelly	Yes

AGENDA ITEM 1

1. **Approval of the Request of the SPARK Executive Committee to Approve the Allocation of Coronavirus Relief Fund (CRF) Money to Fund Existing Testing Programs through December 31, 2021**

Lt. Governor David Toland provided an overview of the request. He stated that continuation of the KDHE programs for COVID-19 testing across the state is critical and that additional funds were needed for the continuation of existing, state-funded testing programs. As a result of the increase in testing due to the surge of the Delta variant from June through September, existing testing funds were depleted. Funds recouped from the CRF fund in the amount of \$14.9 are available to be allocated for testing through December 31, 2021.

President Masterson asked for clarification of the amount of the remaining funds shown in Table 1 in the materials provided. Table 1 indicates \$15.2 million is remaining and not \$14.9 million that is requested.

Myron Gunsalus, Director of KDHE Labs, stated that the remaining amount shown in Table 1 is from the original Epidemiology and Lab Capacity – enhanced detection budget and is unrelated to the recouped CRF funds.

Representative Hawkins inquired whether these funds would allow businesses to start testing again. He stated businesses were notified that KDHE would no longer perform the testing.

Lt. Governor Toland stated that these funds will allow businesses who were already part of the program to start testing again, but the funds do not allow for expansion of the testing program.

Senator Sykes asked whether community testing would continue to be offered and whether the charges assessed to citizens would be offset by this fund allocation.

Mr. Gunsalus stated that these funds will extend community testing that is currently being staffed by KDHE in order to maximize program cost savings.

Governor Kelly called for a motion to approve the request. President Masterson moved and Representative Hawkins seconded the motion. Motion was adopted unanimously. Votes were as follows:

President Ty 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
Representative Troy Waymaster	Yes
Governor Laura Kelly	Yes

RESOLUTION NO. 21-737:

The resolution authorizes the allocation of up to \$14.9 million in recouped CRF monies to fund existing testing programs through December 31, 2021.

ADJOURNMENT

Governor Kelly called for a motion to adjourn. Representative Hawkins moved for adjournment, and Representative Waymaster seconded the motion. The motion was unanimous by voice vote and the meeting adjourned at 1:49 p.m.

MEMORANDUM

TO: Governor Laura Kelly and State Finance Council
FROM: Adam Proffitt, Director of the Budget
DATE: December 16, 2021
SUBJECT: State Finance Council Meeting of December 17, 2021



An explanation of the items on the agenda for the State Finance Council meeting scheduled for December 17 are presented below.

1. Request of the SPARK Executive Committee to approve the allocation of the SFRF money to fund existing testing programs through March 31, 2022

The SPARK Executive Committee asks State Finance Council to approve the allocation of up to \$27.1M of the State Fiscal Recovery Fund (SFRF)—allocated to Kansas as part of the American Rescue Plan Act (ARPA) of March 2021—to fund existing testing programs through March 31, 2022, or until funds are depleted. The SFRF dollars will be used to extend funding for existing testing programs, including employer testing for businesses that are currently relying on university and contract labs, Kansas Department of Health and Environment (KDHE) testing efforts, and community testing programs, which include the operation of Kansas Health and Environmental Laboratories (KHEL)-operated mass testing sites, processing PCR tests for local health departments, and offering antigen tests at KDHE Community Testing Partners.

2. Request of the SPARK Executive Committee to approve the allocation of the SFRF money to fund the 24/7 Pay Plan

The SPARK Executive Committee asks State Finance Council to approve the allocation of up to \$30.3M of the SFRF—allocated to Kansas as part of the American Rescue Plan Act of March 2021—to fund the 24/7 Pay Plan. The Plan will include premium pay for hourly employees in 24/7 State facilities, base pay increases for all Kansas Department of Corrections-specific job classes and 24/7 nursing staff, and one-time hourly premium pay of up to \$3,500 for salaried staff at Kansas Department of Corrections, Kansas Department for Aging and Disability Services and Kansas Commission on Veterans' Affairs Office 24/7 facilities.

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

The 2021 Session Laws of Kansas, Chapter 116, Section 61 requires the State Finance Council to approve in a single resolution two capital improvement projects, the renovation of the Docking state office building, and construction or renovation of a building and to equip a Department of Health and Environment laboratory. The Docking state office building will be three floors of office space and meeting space, and the KDHE laboratory will be constructed on lot 4 of the Capitol Complex. The Director of the Budget, in consultation with the Secretary of Administration and the Secretary of Health and Environment shall determine the amount of federal monies available to be used on the projects.

To: State Finance Council
From: SPARK Executive Committee
Date: December 15, 2021
Re: KDHE Testing Program Extension via SFRF Funding

On December 10, 2021, the SPARK Executive Committee voted to approve for State Finance Council's consideration the expenditure of State Fiscal Recovery Fund (SFRF) dollars that are currently available and unallocated for general continuation of a set of existing, State-funded COVID-19 testing programs, with the qualification that any funds reimbursed by FEMA will be returned to SPARK for reallocation subject to federal and state requirements and guidelines on use of funds. The SPARK Executive Committee asks State Finance Council to approve the allocation of up to \$27.1M of the SFRF—allocated to Kansas as part of the American Rescue Plan Act (ARPA) of March 2021—to fund existing testing programs through March 31, 2022 or until funds are depleted. The SFRF dollars will be used to extend funding for existing testing programs, including employer testing for businesses that are currently relying on university and contract labs, Kansas Department of Health and Environment (KDHE) testing efforts, and community testing programs, which include the operation of Kansas Health and Environmental Laboratories (KHEL)-operated mass testing sites, processing PCR tests for local health departments, and offering antigen tests at KDHE Community Testing Partners.

Background on Testing Program Funding and Current Need

Previously, KDHE allocated \$141M of federal grant funding to make COVID-19 testing accessible for all Kansans, including support for commercial and university labs to help expand processing and sampling capacity. The surge of infections due to the Delta variant significantly depleted this budget. From June to September, the monthly cost of Kansas state-funded testing grew from \$4M to \$16M. The surge left KDHE with a balance of \$15M at the end of October, necessitating a change in approach. SPARK and State Finance Council previously approved the allocation and expenditure of up to \$14.9M of recouped, unallocated Coronavirus Relief Fund (CRF) dollars to extend the existing testing programs through December 31, 2021.

American Rescue Plan Act SFRF Funding

The federal government provided the state of Kansas approximately \$1.6B in SFRF funding, the use of which is overseen by the SPARK Executive Committee. The intended use of the discretionary SFRF dollars is to assist in Kansas's long-term recovery from the economic and public health impacts related to the COVID-19 pandemic. The SPARK Executive Committee is asking State Finance Council to approve the allocation of up to \$27.1 million of these funds to extend critical testing programs through the first quarter of 2022. Please see additional information in Attachment 1.

Other Funding Sources

KDHE is also dealing with changes in federal requirements and guidelines for FEMA reimbursement of testing costs. This funding will allow KDHE to maintain continuity of these programs while waiting to hear on FEMA reimbursement on a portion of state testing costs and to get a clearer view of testing finances into 2022. If FEMA grants reimbursement for testing program expenditures, the SPARK Executive Committee could reallocate the covered funds for other uses subject to federal and state requirements and guidelines on use of funds.

Proposal to Extend Funding for COVID-19 Testing Contracts through March 2022

<p>New or existing program(s)?</p>	<p>Existing programs</p>
<p>Description</p>	<p>Rates of COVID testing tend to be tied to the number of COVID cases (case rate); when cases go up, people are more likely to be tested. This is what happened this summer: The Delta variant created an unpredictable surge in demand for testing. As the virus continues to mutate (e.g., Omicron), our approach to testing will need to continue to flex with the evolution of the virus. Below is the proposal to extend funding for two testing programs.</p> <p>Extension through Q1 of the Kansas Department of Health and Environment (KDHE) employer testing program, which offers free PCR tests for employers that are currently receiving testing services through contract labs. As of October 2021, ~300 businesses utilize the program to keep their employees safe.</p> <p>Extension through Q1 of the KDHE Community Testing program, which offers free PCR and antigen tests across Kansas. KDHE-funded PCR tests are offered at KHEL-operated mass testing sites and Local Health Departments (LHDs). KDHE has also built a network of over 100 Community Testing Partners (CTPs) offering free testing in 80 counties.</p>
<p>Budget requested</p>	<p>Total: Up to \$27.1M (In addition to the ~\$14.9 CARES Act Coronavirus Relief Funds [CRF] allocated by SPARK in November 2021)</p> <ul style="list-style-type: none"> • KDHE employer testing program: ~\$18M (In addition to the ~\$6M CARES funding allocated by SPARK) <ul style="list-style-type: none"> ○ Funding required to fund employer testing from January 2022 to March 2022 to aid companies and allow a smoother transition toward ramp down of the program. The program will set a monthly “do not exceed” cap for contract labs based on historic testing volumes for employers. ○ Only employers currently seeking testing through the KDHE employer-based testing program would be eligible. No new employers would be able to sign up for the program.

	<ul style="list-style-type: none"> ○ The program will be capped at ~\$6M dollars per month. Contract labs will be given monthly “do not exceed” cap for contract labs based on historic testing volumes for employers. <p>Note: this program is not a substitute for newly announced OSHA requirements when they take effect January 4, 2022. OSHA requires that more employees be tested, and more frequently, than under KDHE’s current program.</p> <ul style="list-style-type: none"> ● <u>KDHE Community Testing program</u> \$9.1M – (In addition to the ~\$8.9M CARES funding allocated by SPARK) <ul style="list-style-type: none"> ○ Funding required to meet seasonal volumes for KDHE’s Community Testing Program, Volunteer Testing Program, KHEL-operated mass testing and LHD testing from January 2022 to March 2022. ○ Assumes all community testing sites switch to antigen testing starting January 1, 2022. ○ Assumes all mass testing and LHD PCR tests are processed by the Kansas Health and Environment Laboratories (KHEL) to reduce costs starting December 1, 2021. ○ Note: Funding covers Q1 expected demand for diagnostic testing based on historic growth rates from previous waves. Capacity will be limited in the case of demand surges (e.g. vaccine/ testing mandates, variants) or supply chain constraints on antigen test supplies.
Proposed funding source	ARPA – State Fiscal Recovery Funds
Rationale	<p>KDHE allocated \$141M of federal grant funding to make COVID-19 testing accessible for all Kansans, including support for commercial and university labs to help expand processing and sampling capacity.</p> <p>The surge of infections due to the Delta variant significantly depleted this budget. From June to September, the monthly cost of Kansas state-funded testing grew from \$4M to \$16M. The surge left KDHE with a balance of \$15 million at the end of October, necessitating a change in approach. At the current weekly cost of \$3M per week, KDHE is expected to fully deplete funds by the end of 2021. Further, in the period since the contracts associated with the Unified Testing Strategy were enacted, lower cost models for testing and targeted federal support for some populations offer an</p>

	<p>opportunity to lower the unit cost of testing for the State, KDHE is also pursuing those changes in parallel.</p> <p>KDHE is also dealing with changes in federal requirements and guidelines for FEMA reimbursement of testing costs. This funding will allow KDHE to maintain continuity of these programs while waiting to hear on FEMA reimbursement on a portion of state testing costs and to get a clearer view of testing finances into 2022. KDHE is not expecting to receive confirmation of FEMA reimbursement until early 2022.</p> <p>An extension of the KDHE Employee Testing Program will give employers that are currently benefiting from state-funded testing through contract labs a longer ramp-down period to standup alternative testing programs as they prepare to meet OSHA regulations where required.</p> <p>An extension of the community testing program will ensure continued access to free PCR tests in LHD's and KHEL-operated mass testing sites and access to free antigen tests at Community Testing Partner and Volunteer Testing Partner sites through March 2022.</p>
Allowability	<p>Testing is explicitly identified as an allowable service to contain and mitigate the spread of COVID-19 under current U.S. Department of Treasury guidance</p>

To: State Finance Council
From: SPARK Executive Committee
Date: December 15, 2021
Re: SFRF Funding for FY22 24/7 Facility Staff Pay Plan

On December 10, 2021, the SPARK Executive Committee voted to approve for State Finance Council's consideration the expenditure of State Fiscal Recovery Fund (SFRF) dollars that are currently available and unallocated to fund new pay initiatives designed to address critical staffing shortages at several 24/7 State facilities, including Kansas Department of Corrections (KDOC) facilities, Kansas Department for Aging and Disability Services (KDADS) state hospitals, and the Kansas Commission of Veterans Affairs Office (KCVAO) veterans' homes. The SPARK Executive Committee asks State Finance Council to approve the allocation of up to \$30.3M of the SFRF—allocated to Kansas as part of the American Rescue Plan Act (ARPA) of March 2021—to fund shift differentials for hourly employees in 24/7 State facilities, base pay increases for all KDOC-specific job classes and 24/7 nursing staff, and one-time hourly differential pay of up to \$3,500 for salaried staff at KDOC, KDADS and KCVAO 24/7 facilities.

Background on Need

Staffing shortages in State 24/7 Facilities have been exacerbated by the COVID-19 pandemic. The State previously implemented a pay increase for corrections office in 2019, but the efforts have not been sufficient to avoid critical frontline staff shortages. The new 24/7 Facility Staff Pay Plan will bring the state's compensation closer to market rates, support facilities' efforts to prioritize public health and safety, and improve care for Kansas's most vulnerable populations.

American Rescue Plan Act SFRF Funding

The federal government provided the state of Kansas approximately \$1.6B in SFRF funding, the use of which is overseen by the SPARK Executive Committee. The intended use of the discretionary SFRF dollars is to assist in Kansas's long-term recovery from the economic and public health impacts related to the COVID-19 pandemic. The SPARK Executive Committee is asking State Finance Council to approve the allocation of up to \$30.3M of these funds to fund the shift differentials and pay increases through FY22, after which time other funding sources will be pursued to cover the plan's costs. Please see additional information, including a detailed breakdown of shift differential tiers for hourly staff and examples of how staff compensation is affected, in Attachment 2.

Proposal to Fund FY22 24/7 Facility Staff Pay Plan

New or existing program(s)?	Existing program
Description	Gov. Laura Kelly recently announced new pay initiatives designed to address critical staffing shortages at several 24/7 State facilities, including Kansas Department of Corrections (KDOC) facilities, Kansas Department for Aging and Disability Services (KDADS) state hospitals and the Kansas Commission of Veterans Affairs Office (KCVAO) veterans’ homes. The plan, which is closely aligned with recent policy changes in other states such as Nebraska and Missouri , provides both long-term and temporary pay increases, including a permanent base pay increase and temporary pay differentials, with “differential pay” defined as extra compensation (premium pay) for employees during extraordinary times of staff shortages due to the COVID-19 pandemic.
Budget requested	<p>Total: Up to \$30.30M</p> <p><u>Hourly employees (Up to \$28.62M)</u></p> <ul style="list-style-type: none"> • Four tiers of differential pay (premium pay) as follow: <ul style="list-style-type: none"> ○ Differential #1 (\$8.36M): All 24/7 Facility staff ○ Differential #2 (\$4.96M): Uniformed KDOC security staff at 24/7 Facilities ○ Differential #3 (\$1.82M): Nursing staff at 24/7 Facilities ○ Differential #4 (\$7.04M): All staff working at 24/7 Facilities that are designated at “critical staffing levels” with 25% (or higher) vacancy rates • Base pay increases for all KDOC-specific job classes and 24/7 nursing staff (\$6.44M) <p><u>Salaried Employees</u></p> <ul style="list-style-type: none"> • One-time allocation of hourly premium pay up to \$3,500 for salaried staff at KDOC, KDADS and KCVAO 24/7 facilities (Up to \$1.60M)
Proposed funding source	ARPA – State Fiscal Recovery Funds
Rationale	Staffing shortages in State 24/7 Facilities have been exacerbated by the COVID-19 pandemic, and funding the pay plan is a necessary step to address the ongoing challenges brought on by the pandemic, prioritize public health and safety, and care for Kansas's most vulnerable populations.
Allowability	Current U.S. Department of Treasury guidance identifies premium pay for essential workers—which includes 24/7 Facility staff—as an allowable use.

State of Kansas: 24/7 Facility Staff Pay Plan

(Hourly Employees)

<p><u>Differential Four</u> 24/7 Facilities Designated as "Critical Staffing Levels"</p>	<p>Temporary <i>(as designated)</i></p>	<p>\$2.50 per Hour for all 24/7 Facility Staff with 25% Vacancy Rate (or Higher) Employees Impacted: 1,991*</p>	<p><u>Cost (FY22)</u> \$7.04M*</p>	<p><u>Cost (FY23)</u> \$14.07M*</p>
<p><u>Differential Three</u> All 24/7 Facility Nursing Staff</p>	<p>Temporary</p>	<p>\$4.50 per Hour for all 24/7 Nursing Staff Employees Impacted: 300*</p>	<p><u>Cost (FY22)</u> \$1.82M*</p>	<p><u>Cost (FY23)</u> \$3.64M*</p>
<p><u>Differential Two</u> All KDOC Uniformed Security Staff</p>	<p>Temporary</p>	<p>\$2.00 per Hour for all KDOC Uniformed Security Staff & Security Staff at LSH Employees Impacted: 1,703*</p>	<p><u>Cost (FY22)</u> \$4.96M*</p>	<p><u>Cost (FY23)</u> \$9.92M*</p>
<p><u>Differential One</u> All 24/7 Facility Staff</p>	<p>Temporary</p>	<p>\$1.50 per Hour for all 24/7 Facility Staff Employees Impacted: 3,904*</p>	<p><u>Cost (FY22)</u> \$8.36M*</p>	<p><u>Cost (FY23)</u> \$16.72M*</p>
<p>Base Pay Increase</p>	<p>Permanent</p>	<p>Base Pay Increases for ALL KDOC-specific Job Classes and 24/7 Nursing Staff Employees Impacted: 2,355*</p>	<p><u>Cost (FY22)</u> \$6.44M*</p>	<p><u>Cost (FY23)</u> \$11.96M*</p>

Premium Pay	Temporary <i>(one-time)</i>	\$3,500 Premium Payments for <u>ALL</u> Salaried Employees at 24/7 Facilities Employees Impacted: 327*	<u>Cost (FY22)</u> \$1.60M*	<u>Cost (FY23)</u> N/A
-------------	--------------------------------	---	--------------------------------	---------------------------

Note: Rather than providing hourly differentials for salaried employees, the State of Kansas has determined that premium pay—similar to a bonus—is the appropriate solution in order to avoid any potential issues with Treasury Guidance related to the source of funding and Federal Fair Labor Standards Act (FLSA) law. State law limits the value of bonuses that can be paid to an employee in a single Fiscal Year. Governor Kelly’s plan recommends the premium pay for salaried staff not exceed the equivalent bonus amount that is allowed under the current law.

24/7 Facility Pay Plan Example: *Corrections Officer I (A)*

Pay Example: Corrections Officer I (A)

New Net Hourly Rate
Corrections Officer I (A)
 \$24.26 per hour
*(Increase to \$24.70 after 3 months &
 \$25.16 after 9 months)*

<u>Differential Four</u> 24/7 Facilities Designated as "Critical Staffing Levels"	Temporary <i>(as designated)</i>	\$2.50 per Hour for all 24/7 Facility Staff with 25% Vacancy Level (or Higher)
<u>Differential Three</u> All 24/7 Facility Nursing Staff	Temporary	\$4.50 per Hour for all 24/7 Nursing Staff
<u>Differential Two</u> All KDOC Uniformed Security Staff	Temporary	\$2.00 per Hour for all KDOC Uniformed Security Staff & Security Staff at LSH
<u>Differential One</u> All 24/7 Facility Staff	Temporary	\$1.50 per Hour for all 24/7 Facility Staff
Base Pay Increase	Permanent	Base Pay Increases for <u>ALL</u> KDOC-specific Job Classes and 24/7 Nursing Staff



Starting Salary
Corrections Officer I (A)
 \$18.26 per hour

Pay Example: Corrections Officer II

<u>Differential Four</u> 24/7 Facilities Designated as "Critical Staffing Levels"	Temporary <i>(as designated)</i>	\$2.50 per Hour for all 24/7 Facility Staff with 25% Vacancy Level (or Higher)
<u>Differential Three</u> All 24/7 Facility Nursing Staff	Temporary	\$4.50 per Hour for all 24/7 Nursing Staff
<u>Differential Two</u> All KDOC Uniformed Security Staff	Temporary	\$2.00 per Hour for all KDOC Uniformed Security Staff & Security Staff at LSH
<u>Differential One</u> All 24/7 Facility Staff	Temporary	\$1.50 per Hour for all 24/7 Facility Staff
Base Pay Increase	Permanent	Base Pay Increases for <u>ALL</u> KDOC-specific Job Classes and 24/7 Nursing Staff

New Net Hourly Rate
Corrections Officer II
\$27.13 per hour

\$2.50 per Hour

N/A

\$2.00 per Hour

\$1.50 per Hour

Starting Salary
Corrections Officer II
\$21.13 per hour

24/7 Facility Pay Plan Example: *Mental Health/Developmental Disability Technician (MHDDT)*

Pay Example: MHDDT

<u>Differential Four</u> 24/7 Facilities Designated as "Critical Staffing Levels"	Temporary <i>(as designated)</i>	\$2.50 per Hour for all 24/7 Facility Staff with 25% Vacancy Level (or Higher)
<u>Differential Three</u> All 24/7 Facility Nursing Staff	Temporary	\$4.50 per Hour for all 24/7 Nursing Staff
<u>Differential Two</u> All KDOC Uniformed Security Staff	Temporary	\$2.00 per Hour for all KDOC Uniformed Security Staff & Security Staff at LSH
<u>Differential One</u> All 24/7 Facility Staff	Temporary	\$1.50 per Hour for all 24/7 Facility Staff
Base Pay Increase	Permanent	Base Pay Increases for <u>ALL</u> KDOC-specific Job Classes and 24/7 Nursing Staff

New Net Hourly Rate
MHDDT
\$20.16 per hour

\$2.50 per Hour

N/A

N/A

\$1.50 per Hour

Starting Salary
MHDDT
\$16.16 per hour

24/7 Facility Pay Plan Example: Registered Nurse

Pay Example: Registered Nurse

Differential Four 24/7 Facilities Designated as "Critical Staffing Levels"	Temporary <i>(as designated)</i>	\$2.50 per Hour for all 24/7 Facility Staff with 25% Vacancy Level (or Higher)
Differential Three All 24/7 Facility Nursing Staff	Temporary	\$4.50 per Hour for all 24/7 Nursing Staff
Differential Two All 24/7 Uniformed Security Staff	Temporary	\$2.00 per Hour for all KDOC Uniformed Security Staff & Security Staff at LSH
Differential One All 24/7 Facility Staff	Temporary	\$1.50 per Hour for all 24/7 Facility Staff
Base Pay Increase	Permanent	Base Pay Increases for ALL KDOC-specific Job Classes and 24/7 Nursing Staff

New Net Hourly Rate
Registered Nurse
\$39.30 per hour

\$2.50 per Hour

\$4.50 per Hour

N/A

\$1.50 per Hour

Starting Salary
Registered Nurse
\$30.80 per hour

To: State Finance Council
From: Secretary DeAngela Burns-Wallace, Department of Administration
Date: December 16th, 2021
Re: Docking State Office Building and KDHE Laboratory

Please see the attached report from the Joint Committee on State Building Construction regarding construction of the Docking State Office Building and the Kansas Department of Health and Environment Laboratory.

The resolution for the State Finance Council contains the following details for each building:

- Docking State Office Building - three floors, usable for office space and meeting space.
- KDHE Laboratory - new construction on State Lot #4
 - While Kansas Neurological Institute (KNI) site was recommended, it should be noted that KNI site is currently being heavily considered for other state projects, making this site is less viable for location of the KDHE Lab. Lot 4 was the other viable state owned option that was discussed.

Report of the Joint Committee on State Building Construction to the State Finance Council

CHAIRPERSON: Representative Marty Long

VICE-CHAIRPERSON: Senator Rick Billinger

RANKING MINORITY MEMBER: Senator Marci Francisco

OTHER MEMBERS: Senators J.R. Claeys, Tom Hawk, and Gene Suellentrop; and Representatives John Alcalá, Michael Houser, Susan Humphries, and Jarrod Ousley

CHARGE

Review proposals to construct or renovate a building and to equip a Kansas Department of Health and Environment laboratory and make recommendations to the State Finance Council concerning this capital improvement project.

Joint Committee on State Building Construction

REPORT

Recommendations

The Committee recommends construction of a Kansas Department of Health and Environment laboratory at the Kansas Neurological Institute site and renovation or construction of a three-story event center at the Docking State Office Building site.

BACKGROUND

Section 61 of enacted 2021 SB 159 directs the Kansas Department of Health and Environment (KDHE) to issue a request for proposals (RFP) in FY 2022 to construct or renovate a building and equip a KDHE laboratory located within an 8-mile radius of the Capital Complex in Topeka. The bill directs the Joint Committee on State Building Construction (Committee) to review these proposals and make recommendations to the State Finance Council concerning the laboratory.

Section 61 of 2021 SB 159 also authorizes the issuance of bonds for capital improvement projects, not to exceed \$65.0 million for the KDHE Laboratory and \$120.0 million for the Docking State Office Building (Docking Building). Prior to proceeding with these projects, the bill requires approval for both projects from the State Finance Council in a single resolution.

Prior to the issuance of bonds for these projects, the Director of the Budget, in consultation with the Secretary of Administration and the Secretary of Health and Environment, is required to determine whether COVID-19 federal relief funds provided for discretionary purposes are available for such capital improvement projects.

COMMITTEE ACTIVITY

At its meeting on September 7, 2021, representatives of KDHE presented the Committee with eight proposals for a KDHE Laboratory site, which included five proposals submitted as part of

a recent RFP process. Additionally, the Secretary of Administration provided the Committee with updated cost estimates regarding two options for the renovation of the Docking Building. At its October 11 meeting, the Committee made recommendations regarding both projects.

Kansas Department of Health and Environment Laboratory

On September 7, the Committee received a presentation from the Director of Kansas Health and Environmental Laboratories (KDHE laboratory) summarizing building site proposals for a KDHE laboratory. The KDHE laboratory provides more than one million clinical and environment tests annually, including tests of public water supplies, newborn screenings, and breath alcohol. Further, the laboratory maintains readiness to respond to chemical or biological attacks and infectious disease outbreaks.

Studies presented to the Committee in January 2020 concluded that the current laboratory structure, which is located in a 1950s-era former military hospital at Forbes Field in Topeka, is insufficient with unsafe and unrepairable structural components. To ensure employee safety, for recruitment and retention of qualified scientists, and to reduce operating costs, these studies recommended the construction of a new laboratory. Construction projects on three state-owned properties in Topeka were proposed, with a total project cost of \$64.3 million estimated in March 2021. These sites were:

- Lot 4 in Downtown Topeka, near the Docking Building;

- A site on the grounds of the Kansas Neurological Institute (KNI); or
- A site adjacent to the current KDHE laboratory at Forbes Field.

Pursuant to 2021 SB 159, the Department of Administration, in collaboration with KDHE, issued an RFP open from August 2, 2021, to August 31, 2021, seeking building sites within an 8-mile radius of the Capitol Complex capable of supporting a 100,000 gross-square-foot laboratory facility with suitable utilities services, vehicular access, and on-site parking. Land purchase and lease proposals were allowable, as well as options to renovate an existing building.

The Director of KDHE laboratories presented the proposals and agency evaluations determining viability for each. The proposals submitted included the following commercial properties:

- The former Payless Shoesource corporate headquarters at 3231 Southeast 6th Avenue, which did not include lease payment amounts due to the proposer's pending acquisition of the property via commercial sale and would likely necessitate the sharing of space with other tenants;
- Mostly vacant lots near downtown Topeka at 11th Street and Quincy Street, which would entail annual lease payments of \$65,000 for the site and \$20,000 for parking;
- Vacant lots in east Topeka between 21st Street and Cyprus Drive west of Cedarwood Drive, which would entail an annual lease payment of \$25,000;
- Partially vacant lots at the Kanza Business and Technology Park at Kanza Drive and MacVicar Avenue, which entails a land purchase of \$1.0 million, and
- An existing building in downtown Topeka at 220 Southeast 6th Street, which did not meet the minimum space requirements of the RFP and entails an annual lease payment of \$1.9 million.

The Director of KDHE laboratories stated that commercial lease agreements would necessitate contract negotiations and land purchases would require legislative action. Further, use of these commercial properties would require engineering and soil composition assessments, which could delay the start of construction. Due to this, KDHE recommended consideration of the three state-owned properties.

On October 11, the Committee received testimony from the Department of Administration stating that construction of a new KDHE laboratory was critical to the continued COVID-19 public health emergency response. A new laboratory would add capacity for COVID-19 testing to support public health agencies and private employers, allow for social distancing among laboratory employees, allow for appropriate ventilation to comply with public health guidance, and address negative economic conditions by facilitating the return to work of state employees. Because of this, the Department of Administration estimated that up to 50.0 percent of the total project cost could be eligible for moneys from the State Fiscal Recovery Fund provided through federal American Rescue Plan Act (ARPA) of 2021.

The Committee received written-only testimony from the City of Topeka in favor of constructing the laboratory on Lot 4 in downtown Topeka. Testimony generally supported the increased presence of state employees in downtown Topeka and noted that similar laboratories are located in densely populated areas.

The Committee discussion included the potential use of the KNI site for a state veterans home to accommodate provisions of enacted 2021 HB 2021, which authorizes the issuance of bonds for the construction of a state veterans home in northeast Kansas.

Docking State Office Building

On September 7, the Committee received updated cost estimates from the Secretary of Administration regarding two options for renovation of the Docking Building. These options were initially presented to the Committee in January 2020 pursuant to Section 141 of 2019 SB 25, which directed the Department of Administration to develop plans for the building.

The Secretary noted these updated costs estimates consider increasing construction costs related to the COVID-19 pandemic and integration of the design-build project delivery method, as provided in 2021 SB 159. Both options would utilize the existing energy center. The two options presented are these:

- Option A would reuse and rehabilitate all 14 floors of the building and include an event center on the first floor, food venue, exhibition space, shared conference space, Capitol Police offices, and 268,948 square feet for state agencies for a total project cost of \$127.3 million, with a construction completion date of April 2024; or
- Option B would remove the upper 11 floors of the building, reuse the lower three floors, and add three floors for a total of 6 floors. This option would include an event center on the top floor, food venue, exhibition space, Capitol Police offices, and 188,527 square feet for state agencies for a total project cost of \$112.6 million, with a construction completion date of April 2025.

The Secretary noted that both options would provide additional space allowing state agencies to maximize services and provide event space for large meetings, which is a critical need and does not currently exist in the Capitol Complex. However, Option B would provide more flexibility in the configuration of this event space. Due to this, the Department of Administration recommended Option B.

The Secretary referenced a previous proposal to house the KDHE laboratories inside a fully renovated Docking Building for total project cost of \$152.9 million estimated in January 2021. Full renovation of the Docking Building in conjunction with construction of a KDHE laboratory on Lot 4 would require a parking structure estimated to cost \$35.3 million.

On October 11, the Committee received testimony from the Department of Administration stating that renovation of the Docking Building

was key to the State's return-to-work strategy during the COVID-19 pandemic. The proposed options would facilitate social distancing, allow temporary housing of state agencies while public health modifications are made to other buildings, and provide enhanced virtual and teleworking capabilities. Because of this, the Department of Administration estimates that up to 50.0 percent of the total project cost may be eligible for moneys from the State Fiscal Recovery Fund provided through ARPA. However, eligibility for such funds would depend on the approved use of the building. Moneys from the State Fiscal Recovery Fund must be encumbered by December 2024 and expended by December 2026.

The Committee received written-only testimony in favor of Option A from the American Institute of Architecture, Kansas Preservation Alliance, Manhattan/Riley County Preservation Alliance, Shawnee County Historical Society, and three private citizens. Testimony generally advocated for maintaining the building's historic integrity and indicated the building's unique design offers energy efficiency potential.

The Committee received written-only testimony in favor of Option B from the City of Topeka, which generally indicated that full renovation of the Docking Building would adversely impact the commercial leasing of office space in downtown Topeka.

The Committee discussion topics included full demolition of the building and reconstruction of the energy center. Such demolition would first require construction of a new energy center to maintain continuity of services to the Capitol Complex, which could prolong efforts and impact availability of federal relief funds. Further, the Committee discussed an option for full renovation that would utilize only six floors, leaving remaining floors as a shell for future potential use.

CONCLUSIONS AND RECOMMENDATIONS

After discussion, the Committee recommends construction of a KDHE laboratory at the KNI site and renovation or construction of a three-story event center at the Docking Building site.

MINORITY REPORT
Docking State Office Building
October 19, 2021

We agree with the decision of the committee that the new laboratory for the Kansas Department of Health and Environment (KDHE) can be appropriately sited at the Kansas Neurological Institute.

We object to the proposal adopted by a vote of 6-4 by the committee to tear down a minimum of nine occupiable floors in the Docking State Office Building and to only provide meeting and event space. After more than two years of study and public meetings, the motion was the first to limit the scope in this way.

We object to the idea that the renovated building should only house event and meeting spaces.

The vision for the future of the Capitol Complex presented to the Joint Committee on State Building Construction (JCSBC) by the Department of Administration included the provision of modern, secure, and energy-efficient office space for state agencies. The program for the Docking Building developed by the planning team and presented to members of the JCSBC on January 27th, 2020 included a conference/training center along with office space, a “grab and go” food venue, interactive state exhibits, and outdoor event space. The vision statement noted that nearly one-third of state agencies are split between multiple physical locations within Topeka; cabinet agencies have an average of five separate locations.

There was no supporting evidence for the need for more meeting/event space than called for in the program; it was not clear on what basis the suggestion was made. Meeting and event space used by the legislature and our constituents would not be year-round. Space for new employee training would be far more convenient if it were located adjacent to a state agency’s office. It was not demonstrated that we have an abundance of office space. A spur-of-the-moment decision to change the programming of the Docking building without adequate data and vetting is likely to result in an expensive mistake.

No reference was made in the motion for housing the Capitol Police in the building.

We suggest that, if no additional state-owned office space is needed, the state should keep and maintain its most desirable and efficient office space and sell or demolish less efficient and less useful space.

The Docking State Office Building is the largest state office building in Topeka and is part of the Capitol Complex. It is the Department of Administration’s best opportunity to centralize and co-locate agencies.

Docking is a fully-concrete-encased steel building and is extremely robust. This building has been well-studied and its structure is shown to be in remarkably good condition. Studies done by HTK, McCownGordon Construction, and Clark|Huesemann all have slightly different details but they ALL support the feasibility of a full renovation.

The renovated building would be energy efficient. The *DOCKING BUILDING STUDY UPDATE 2021 09 01* notes that “The upgrades to the building infrastructure significantly improve energy performance, capitalizing on the existing central plant, and saving energy and operational costs into the future. The renovated building’s energy performance would rank within the top 3% of similar buildings that are located within the Topeka area (p1 of the Executive Summary).

In a 2011 article published in *Kansas Preservation*, architect Dave Griffin states that Docking “was an important building, at the time, and the quality of materials exemplifies this importance.” These materials

included Vermont Greenstone, a metamorphic rock harder than marble, cut limestone, and polished marble, with these materials being “handsome, durable, and easily maintained”.

Before demolishing the office floors in Docking, comparisons should be made with the office space in the other 23 state-owned buildings in Topeka.

The building is an investment that was made by the taxpayers of Kansas.

Over two million dollars were wasted on the ill-conceived proposal to replace the power plant systems in 2016. Why add to that waste by ignoring all the studies that have been done to date? Why begin again to come up with plans and a feasibility study for something we are not sure that we even need?

The Docking State Office Building has been one of the most efficient state-owned buildings, providing over sixty years of quality service to Kansas. The cost comparisons made it clear that a fully-renovated building would cost less per square foot than the alternative to remove nine of the floors and build back three. There are NO cost estimates for the additional demolition.

Federal funds may be available for renovation, and perhaps more likely to be obtained for office rather than event space. If they are not granted, keeping four floors as “shell space” and eliminating the pedestrian bridge to the parking lot would bring the cost estimates below the \$120 million identified for bonding.

The Docking State Office Building is treasured as an example of mid-century modern architecture. It is considered to be historic and was nominated by the Topeka Landmarks Commission to be placed on the National Register of Historic Places.

Let’s not send nine stories of sound building materials to the landfill. Let’s work to conserve, not waste, additional tax-payer dollars.


Senator Marc Francisco


Representative Jarrod Ousley

Electronic Attachments:

[Testimony from the Dept. of Administration to the Joint Committee on State Building Construction](#)

[Statement of the Program from DOCKING BUILDING STUDY UPDATE 2021 09 01 \(p 28, 29\)](#)

[The Docking State Office Building, Revisiting the Energy Performance of a Modern Glass Tower](#)

[Nomination of the Docking State Office Building to the National Register of Historic Places](#)

[Testimony in support of Option A](#)

STATE OF KANSAS

State Finance Council Resolution

Date: December 17, 2021

Resolution No. 21-____

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 Governor's Office distribute up to \$27.1 million in ARPA – State Fiscal Recovery Funds to the Kansas Department of Health and Environment for continuation of the existing COVID testing program; 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 up to \$27.1 million in ARPA – State Fiscal Recovery Funds for continuation of COVID testing as presented to the Council, effective immediately.

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

STATE OF KANSAS

State Finance Council Resolution

Date: December 17, 2021

Resolution No. 21-___

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 Governor's Office distribute up to \$30.30 million in ARPA – State Fiscal Recovery Funds to the Kansas Commission on Veterans Affairs, the Kansas Department for Aging and Disability Services and the state hospitals, and the Kansas Department of Corrections and the state correctional facilities as provided in Attachment A for facility staff pay plan increases to include base pay increases and temporary pay differentials; 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 up to \$30.30 in FY 2022 in ARPA – State Fiscal Recovery Funds for staff pay increases as presented to the Council, effective with the beginning of the pay period starting November 28, 2021 for the base pay increase and December 26, 2021 for the pay differentials.

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

Attachment A

24/7 & Nursing Pay Plan

<u>Agency Name</u>	<u>Fund Name</u>	<u>Amount</u>
Commission on Veterans Affairs	American Rescue Plan State Relief Fund	2,121,359
Department for Aging & Disability Services	American Rescue Plan State Relief Fund	9,645,690
Department of Corrections	American Rescue Plan State Relief Fund	18,305,030
		\$ 30,072,079

STATE OF KANSAS

State Finance Council Resolution

Date: December 17, 2021

Resolution No. 21-__

WHEREAS, pursuant to the 2021 Session Laws of Kansas, Ch. 116, Sec. 61, page 1941, two capital improvement projects have been proposed, the renovation of building No. 3, Docking state office building, and construction or renovation of a building and to equip a department of health and environment laboratory; and

WHEREAS, subsection (c) of L. 2021, Ch. 116, Sec. 61, indicates that prior to proceeding with these capital improvement projects, such projects shall be approved in a single resolution by the state finance council; and

WHEREAS, subsection (c) of L. 2021, Ch. 116, Sec. 61, further characterizes this approval as a matter of legislative delegation and subject to the guidelines prescribed in K.S.A. 75-3711c(c); and

WHEREAS, the finance council has considered the recommendations made by the joint committee on state building construction for both projects and approves both projects on the condition that the Docking state office building will be three floors of office space/meeting space, and the KDHE laboratory will be constructed on lot 4 of the Capitol Complex; and

WHEREAS, pursuant to subsection (d) of L. 2021, Ch. 116, Sec. 61, the director of the budget, in consultation with the secretary of administration and the secretary of health and environment shall determine the amount of federal monies available to be used on the projects; 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 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 two capital improvement projects mentioned above, subject to the conditions herein.

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