

SESSION OF 2018

**SUPPLEMENTAL NOTE ON SENATE SUBSTITUTE FOR
HOUSE BILL NO. 2701**

As Amended by Senate Committee of the Whole

Brief*

Senate Sub. for HB 2701 would establish the Statewide Broadband Expansion Planning Task Force (Task Force).

Mission

The mission of the Task Force would be as follows:

- Work collaboratively to develop an approach that includes, but is not limited to, the development of criteria for the creation of a statewide map for defining and evaluating the broadband needs of Kansas citizens, business, industries, institutions, and organizations;
- Identify and document risks, issues, and constraints associated with a statewide broadband expansion project and to develop any corresponding risk mitigation strategies where appropriate;
- Consider any recent actions by the Federal Communications Commission (FCC) relating to broadband services including, but not limited to:
 - The 2018 Broadband Deployment Report;
 - Recommendations of the Broadband Deployment Advisory Committee; and

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

- Any actions to implement broadband initiatives using the Connect America Fund Phase II, the Mobility Fund II, or the Remote Areas Fund;
- Identify opportunities and potential funding sources to:
 - Expand broadband infrastructure and increase statewide access to broadband services;
 - Remove barriers that may hinder deployment of broadband infrastructure or access to broadband services; and
 - Consider options for the deployment of new advanced communication technologies;
- Develop criteria for prioritizing the expansion of broadband services across Kansas;
- Review current law and regulations concerning access to the public right-of-way for public utilities and make corresponding recommendations for any changes necessary to encourage broadband deployment; and
- Propose future activities and documentation required to complete the statewide broadband expansion plan, including an upgradeable, functional map of the state of available broadband service, and including which technologies should be deployed and the methods to finance broadband expansion.

The bill would also require the Task Force to submit an initial report to the House Committee on Energy, Utilities and Telecommunications and the Senate Committee on Utilities regarding its initial work and progress prior to January 15, 2019. Unless all work is completed and reported in the initial

report, the Task Force would be required to submit a final report outlining its recommendations to the Legislature prior to January 15, 2020.

Task Force Composition

The Task Force would be comprised of 19 voting members. The membership would be as follows:

- Two members of the House of Representatives, appointed by the Speaker of the House, with one appointee serving on the House Committee on Energy, Utilities and Telecommunications;
- One member of the House of Representatives, appointed by the House Minority Leader;
- Two members of the Senate, appointed by the Senate President, with one appointee serving on the Senate Committee on Utilities;
- One member of the Senate, appointed by the Senate Minority Leader;
- One member appointed by the Kansas Association of Counties (KAC);
- One member appointed by the Kansas League of Municipalities (LKM);
- One member appointed by the Kansas Rural Independent Telephone Coalition (KRITC);
- One member from the Kansas Cable Telecommunications Association (KCTA);
- One member appointed by the Cellular Telecommunications Industry Association (CTIA) representing a wireless carrier;

- One member representing an electing carrier;
- One member representing an incumbent local exchange carrier that is price-cap regulated and a recipient of Kansas Universal Service Fund moneys and serves a rural service area;
- One member appointed by the Kansas Electric Cooperatives (KEC);
- One member appointed by the State Independent Telephone Association (SITA);
- One member appointed by the Kansas Farm Bureau;
- One member appointed by the Wichita Aero Club;
- One member appointed by the Kansas Municipal Utilities (KMU); and
- One member appointed by the Kansas Independent Fiber Association.

In addition, the bill would require the Task Force to include the following six non-voting *ex officio* members:

- The Secretary of Transportation, or designee;
- The Commissioner of Education, or designee;
- The Chairperson of the Kansas Corporation Commission, or designee;
- One member appointed by the Kansas Hospital Association (KHA);
- One member appointed by the co-chairpersons of the Task Force, who represents a rural competitive local exchange carrier that does not receive

support from the Kansas Universal Service Fund;
and

- One member at-large, appointed by the Governor.

All members would be appointed no later than 45 days from the effective date of the bill and membership would consist of members representing the 4 congressional districts in Kansas. In addition, the bill would require members to reside or work in Kansas. Any vacancy on the Task Force would be filled by appointment in the same manner as the original appointment.

Legislative members of the Task Force attending authorized meetings would be paid amounts provided in continuing law. Non-legislative members could be reimbursed by their appointing authority.

Committee Structure and Meetings

The bill would stipulate one of the legislative members appointed by the Speaker of the House of Representatives and one member appointed by the President of the Senate would serve as co-chairpersons of the Task Force. The Task Force would meet in an open meeting at any time upon call of either co-chairperson. A majority of the voting members of the Task Force would constitute a quorum. In addition, any action taken by the Task Force would be by motion adopted by a majority of voting member present with a quorum.

Staff

The bill would require staff from the Division of Legislative Administrative Services (LAS), the Kansas Legislative Research Department, and the Office of Revisor of Statutes to provide assistance as requested by the Task Force.

Sunset

The Statewide Broadband Expansion Task Force would sunset on June 30, 2020.

Effective Date

The bill would be in effect upon publication in the *Kansas Register*.

Background

The bill was requested by Representative Seiwert, and introduced by the House Committee on Energy, Utilities and Telecommunications.

The House Committee received testimony in support of the bill from representatives of the KAC, KCTA, Kansas Department of Transportation (KDOT), KEC, KMU, and LKM. Written-only proponent testimony was provided by representatives of the American Association of Retired Persons (AARP), Kansas Association of School Boards (KASB), Kansas Cooperative Council, Kansas Farm Bureau (KFB), Kansas Legislative Policy Group, and National Federation of Independent Business. The proponents generally stated the need to expand broadband in unserved and underserved areas of the state, so citizens may better improve their quality of life and support economic development in these regions. The representatives of the KAC and LKM requested additional membership on the Task Force for representatives for urban and rural counties and municipalities, respectively. In addition, the representatives for the KEC, KDOT, and KMU requested representation on the Task Force for their respective organizations.

Representatives of Sprint and CenturyLink provided neutral testimony. Written-only neutral testimony was received from AT&T Kansas, KRITC, and SITA. The Sprint

representative noted the makeup of the Task Force is weighted toward providers other than wireless carriers. The representative also stated the member of the Task Force representing the CTIA should represent a wireless carrier and requested that CTIA be allowed to appoint two members. The CenturyLink representative stated the scope of the Task Force is overly broad and may not result in workable solutions.

No opponent testimony was provided.

The House Committee amended the bill to require Task Force members to reside or work in Kansas.

The House Committee of the Whole amended the bill to:

- Decrease the amount of voting members of the Task Force from 23 to 17;
- Increase the amount of non-voting members of the Task Force from 3 to 6;
- Remove the number of times the Task Force would be authorized to meet; and
- Change the effective date from publication in the statute book to upon publication in the *Kansas Register*.

The bill was referred separately to the Senate Committee on Commerce and the Senate Committee on Utilities.

In the Senate Committee on Commerce hearing, Senator Wagle and representatives of the KCTA, KEC, Wichita State University, and two independent fiber providers testified in support of the bill. Written-only proponent testimony was provided by representatives of the AARP, KAC, KASB, Kansas Cooperative Council, KDOT, KFB, and LKM.

Representatives of Pioneer Communications and Sprint provided neutral testimony. Written-only neutral testimony was provided by representatives of CenturyLink and the City of Overland Park.

No opponent testimony was provided.

The Senate Committee on Commerce amended the bill to:

- Decrease the number of voting members on the Task Force from 17 to 16 by:
 - Adding a member appointed by the Kansas Independent Fiber Association;
 - Deleting a member appointed by the Speaker; and
 - Deleting a member appointed by the House Minority Leader;
- Change the name of the Task Force; and
- Change the mission of the Task Force.

In the Senate Committee on Utilities hearing, proponent testimony was provided by representatives of CenturyLink, KCTA, KEC, Kansas Independent Fiber Association, KMU, and LKM. Written-only proponent testimony was provided by representatives of KAC, Kansas Cooperative Council, KFB, KHA, KDOT, LeadingAge Kansas, and Western Kansas Rural Economic Development Alliance. Proponents generally stated the need for improved access to high-speed Internet throughout the state to improve citizens' quality of life, increase economic development opportunities, and meet the needs of local businesses.

Neutral testimony was provided by representatives of the KRITC and SITA, and Sprint.

Opponent testimony was provided by a private citizen and written-only opponent testimony was provided by a private citizen.

The Senate Committee on Utilities recommended the following amendments, and placed the revised contents into a substitute bill:

- Increase the number of voting members on the Task Force from 16 to 19 by adding:
 - One member appointed by the KFB;
 - One member appointed by the Wichita Aero Club; and
 - One member appointed by the KMU;
- Correct a provision erroneously amended on the House floor related to wireless carrier representation on the Task Force;
- Add a reference to the Mobility Fund II in the Task Force's mission to consider recent actions by the FCC in using federal funds to implement broadband initiatives;
- Modify the language of the Task Force mission requirements to:
 - Consider options for the deployment of new advanced communication technologies;
 - Develop criteria for the creation of a statewide map for defining and evaluating the broadband needs of the state;
 - Review current law and regulations regarding access to public right-of-way for public utilities and make any appropriate recommendations necessary to encourage broadband deployment;

- Propose what technologies should be deployed and the methods to finance broadband expansion; and
- Provide for an initial report of the Task Force's progress and work be submitted to applicable House and Senate committees prior to January 2019 and a final report be submitted to the Legislature prior to January 2020; and
- Clarify a member representing an incumbent local exchange carrier must be one that is price-cap regulated.

The Senate Committee of the Whole amended the bill to change the requirement for the Task Force's initial report to be submitted to the legislative committees, as designated by the bill, from prior to January 31, 2019, to prior to January 15, 2019.

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, LAS states the bill would result in additional expenditures of \$31,131 from the State General Fund, of which \$27,261 would be for salaries, wages, subsistence, mileage, tolls, and travel time for eight legislators meeting six times. LAS also states the cost for a committee assistant would be \$3,870 for salaries and wages. Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2019 Governor's Budget Report*.