

MINUTES

STATEWIDE BROADBAND EXPANSION PLANNING TASK FORCE

December 17, 2019
Room 112-N—Statehouse

Members Present

Representative Joe Seiwert, Co-chairperson
Senator Ty Masterson, Co-chairperson
Senator Marci Francisco
Senator Mike Petersen
Representative Annie Kuether
Representative Mark Schreiber
Molly Kocour Boyle
Kurt David
Daniel Friesen
Patrick Fucik
Colin Hansen
John Idoux
Colleen Jamison
Catherine Moyer
Lon Pishny
Erik Sartorius
Doug Shepherd
Christine Aarnes (Ex Officio)
Jennifer Findley (Ex Officio)
Jim McNiece (Ex Officio)
Dan Strom (on behalf of Richard Felts) (Ex Officio)
Larry Thompson (Ex Officio)

Staff Present

Heather O'Hara, Kansas Legislative Research Department
James Fisher, Kansas Legislative Research Department
Steven Wu, Kansas Legislative Research Department
Nick Myers, Office of Revisor of Statutes
Charles Reimer, Office of Revisor of Statutes
Gary Deeter, Committee Assistant

Conferees

Shekinah Pepper, General Field Representative, Rural Development, Loan Origination, and Approval Division, Rural Utilities Service - Telecommunications Program, U.S. Department of Agriculture
Lynne Hinrichsen, State Director of Kansas, Rural Development, U.S. Department of Agriculture

J. Brent Legg, Vice President for Government Affairs, Connected Nation
Catherine Moyer, Chairperson, Subcommittee 1
John Idoux, Vice-chairperson, Subcommittee 1
Erik Sartorius, Chairperson, Subcommittee 2
Patrick Fucik, Vice-chairperson, Subcommittee 2
Kurt David, Chairperson, Subcommittee 3
Lon Pishny, Vice-chairperson, Subcommittee 3

Others Attending

[See Attached List](#)

Welcome and Introductions

Co-chairperson Seiwert welcomed Task Force members, conferees, and guests and cited the thorough work of the three subcommittees. He invited the Task Force members to introduce themselves.

Presentation on Rural Broadband Funding and Initiatives

Shekinah Pepper, General Field Representative, Rural Development, Loan Origination, and Approval Division, Rural Utilities Service–Telecommunications Program, U.S. Department of Agriculture (USDA), after showing a video of broadband services in Alaska’s Copper River Valley, reviewed the USDA’s initiatives and funding opportunities for rural broadband deployment. He stated the Copper River Valley initiative illustrates that even remote areas can prosper in education, healthcare, and economic development through strategic use of broadband. The Copper River Valley initiative provides a model for other rural communities—world-class educational opportunities, excellent healthcare services, and other value-added economic benefits.

Mr. Pepper compared the values of wireless and fiber broadband: wireless is more quickly deployed, but leaves some dead spots and must be updated every two to four years, and fiber infrastructure costs \$20,000 per mile in rural areas and \$5,000 per mile in cities and often is preceded by wireless. He outlined the federal programs for broadband deployment through the USDA’s ReConnect program, which provides grants, loans, and loan and grant-combinations for communities in rural areas. He explained market studies identify those rural areas eligible for broadband and provide a basis for broadband build-out that justifies the costs. He noted the Kansas Department of Commerce is a resource for communities or other entities in going forward with broadband expansion.

Lynne Hinrichsen, State Director of Kansas, Rural Development, USDA, explained how the USDA works with state agencies and local entities to better serve the rural areas of Kansas through broadband deployment. She gave an overview of the grant infrastructure to show how communities can qualify for loans and grants and noted an additional \$500.0 million is now available nationally to help match funds with proposed projects. She also noted that another opportunity for funding is available through the Disaster Relief Fund, which currently provides \$2.0 million for the 77 Kansas counties designated as disaster areas due to flooding and other natural disaster incidents. She concluded by saying the USDA is available to help Kansas communities find the appropriate partners for broadband deployment.

Mr. Pepper and Ms. Hinrichsen responded to Task Force members' questions:

- A successful application for a grant or loan sometimes requires expensive preparation and a creative knowledge of how to interpret the guidelines so the project qualifies;
- Grants have a multiplier effect that is especially helpful for small Kansas business ventures; and
- USDA Rural Development employees are available to help applicants prepare a successful application.

Mr. Pepper and Ms. Hinrichsen provided a USDA brochure to further illustrate rural broadband deployment opportunities ([Attachment 1](#)).

Kansas Broadband Map and Federal Updates

J. Brent Legg, Vice President for Government Affairs, Connected Nation, commented on the recently developed Kansas broadband map and provided an update on relevant federal programs ([Attachment 2](#)). He cited new funding for broadband build-out: the Federal Communication Commission (FCC) Rural Digital Opportunity Fund (\$20.4 billion over ten years), the FCC's 5G Fund for Rural America (\$9.0 billion over ten years), and the USDA ReConnect Grant Program Round 2 (\$550.0 million). He outlined other promising legislation and federal initiatives: HR 4229 and S 1822, which will provide more granular data for broadband, and the FCC's "Digital Opportunity Data Collection Report," which offers a more serviceable data process for locating served, unserved, and underserved broadband areas. He noted the "census-block" approach (one service provider within a designated area) is inadequate in identifying unserved and underserved locations; the new "location fabric" approach will provide more nearly accurate data and, within two years, should offer a much improved broadband map. He explained the new role of the State will be data validation—challenging the federal data map to ensure comprehensive broadband coverage for Kansas. He replied to a question that agricultural land will be factored into the map. To another question, he responded the shift from a citizen receiving broadband to a location receiving broadband is a policy question; the goal and standards should be to ensure 100.0 percent broadband coverage.

Lunch

Following the reports of the three subcommittees, the Task Force recessed for lunch at 12:14 p.m. The meeting was resumed at 1:38 p.m.

Presentation of Subcommittee 1 Recommendations

Task Force Subcommittee 1 was assigned to develop criteria for a statewide map and identify funding sources ([Attachment 3](#)). Catherine Moyer, Chairperson of Subcommittee 1, reviewed the findings and recommendations of the subcommittee. She reported the subcommittee considered a funding recommendation of \$10.0 million, but decided not to offer an amount or a funding source. She referenced the seven conclusions of the subcommittee,

which include recommendations to create a broadband policy statement goal, establish a minimum broadband speed of 25 Mbps download and 3 Mbps upload, develop scoring criteria to prioritize broadband grant applications, and conduct a survey of Internet service providers (ISPs) as well as community anchors that will identify what other funding sources are available.

John Idoux, Vice-chairperson of Subcommittee 1, added the subcommittee decided a policy discussion was needed before any funding decisions were made.

Senator Francisco requested the phrase “precision agriculture” be added to the first recommendation so it reads, “Create a broadband policy statement goal that considers broadband as not only reliable Internet access, but as a tool for attracting and promoting economic development, public safety, education opportunities, health care, and precision agriculture.” The phrase was added by the consensus of the Task Force.

A motion was made by Senator Masterson and seconded by Senator Francisco to adopt Subcommittee 1 recommendations. The motion passed.

Presentation of Subcommittee 2 Recommendations

Subcommittee 2 was assigned to identify and document risks and constraints associated with a statewide broadband expansion and offer mitigating strategies, as well as review current laws and regulations related to public right-of-way issues ([Attachment 4](#)). Erik Sartorius, Chairperson of Subcommittee 2, reported on the findings and the four recommendations of the subcommittee. He offered the following highlights:

- A definition of broadband: “Broadband means 100 Mbps download/20 Mbps upload speeds, including providing latency that does not exceed 100 milliseconds round trip and providing minimum usage allowance of 150 GB per month”;
- Ensure every Kansan will have access to this broadband infrastructure by 2025;
- Remove barriers to enable the expedient deployment of broadband;
- Revise KSA 17-1902 to extend the statute’s authority to all county public rights-of-way in the state; and
- Consider adopting a modified version of Article 5, special provisions for railroad crossings of the Model Code for States.

Colleen Jamison, Member of Subcommittee 2, offered further information regarding Article 5 dealing with railroad crossings ([Attachment 5](#)). A member expressed concern the statute cited applies only to telephone service, not to broadband. Another member commented that if access to broadband is to be based on location rather than on a citizen (“ . . . every Kansan. . . ”), the language of the recommendations should reflect that.

A motion was made by Senator Masterson and seconded by Mr. Sartorius to adopt the recommendations of Subcommittee 2. The motion passed.

Presentation of Subcommittee 3 Recommendations

Subcommittee 3 was tasked with evaluating broadband mapping and funding ([Attachment 6](#)). Kurt David, Chairperson of Subcommittee 3, reported on the conclusions and recommendations of the subcommittee. Regarding mapping, he cited Connected Nation's mapping endeavor as the subcommittee's working document, but urged that the map should not be the guiding principle for funding and the Kansas Department of Commerce be designated as the agency in charge of mapping and funding. The subcommittee recommended the Legislature initially appropriate \$10.0 million, all from the State General Fund, for grant funding and the Kansas Corporation Commission be charged to fund broadband *via* the Kansas Universal Service Fund (KUSF). Mr. David suggested grant applications be modeled after Missouri legislation (2019 HB 1872) and prioritize awards for unserved and underserved locations. He noted even though the focus of the KUSF is telecommunications, specifically landline telephone services, the federal Universal Service Fund now includes broadband as part of telecommunications services that may be funded with its funding.

Lon Pishny, Vice-chairperson of Subcommittee 3, added broadband is the utility of the century and should be given the attention it deserves.

After discussion, a motion was made by Senator Masterson and seconded by Patrick Fucik to adopt the recommendations of Subcommittee 3. The motion passed.

Discussions and Recommendations

Co-Chairperson Masterson, commenting on previous motions, stated the Task Force is not authorized to introduce legislation, but will compile the subcommittee reports into a report to the 2020 Kansas Legislature. Nick Myers, Office of Revisor of Statutes, further clarified that any proposed legislation from the Task Force report will be drafted into bill form by the Office of Revisor of Statutes.

Ms. Jamison, referencing Subcommittee 2's first recommendation, which states KSA 66-2001 should be amended, stated the intention of the subcommittee was not to amend the statute, but to create a separate statute as a declaration of public policy. *Ms. Jamison moved to remove the word "amended" from the recommendation, which was seconded by Senator Petersen. The motion passed.*

Senator Francisco, addressing Subcommittee 2's recommendation to "(a) Ensure that every Kansan will have access to a first-class broadband infrastructure that provides excellent service at an affordable price, with 100 megabits per second (Mbps) download/20 Mbps upload speeds by 2025," made a motion to strike the words "every Kansan" and insert the words "every location" and to insert between "with" and "100" the words "the goal of."

Following discussion, Senator Francisco agreed to return to the wording "every Kansan," which was seconded by Representative Kuether. The motion passed.

Senator Francisco, commenting on Subcommittee 2's recommendation (c), questioned the meaning of the wording "at reduced rates". A member commented that competition among carriers would lead to reduced rates. *Senator Francisco moved to remove the words "at reduced rates." The motion failed for lack of a second.*

Senator Francisco questioned the definition of broadband on page 3 of Subcommittee 2's report. She commented that the definition may limit future expansion of broadband. *A motion was made by Molly Kocour Boyle to recommend an update of the definition of broadband, which was seconded by Senator Francisco. The motion passed.*

Senator Francisco, referencing Subcommittee 3 recommendations under the title "Kansas Department of Commerce," moved to remove the word "would" and insert the word "should" to read as follows: "The Department should be given authority for creating rules. . . ." The motion was seconded by Senator Petersen. The motion passed.

Senator Francisco, referencing Subcommittee 3 recommendations, questioned funding from the KUSF. *Senator Francisco made a motion to end the sentence after "State General Fund" so that the sentence would read "The source of the funding could include any existing funds, including but not limited to, the State General Fund." The motion was seconded by Representative Kuether. The motion failed.*

The Committee discussed the following recommendation: "The Legislature should charge the Kansas Corporation Commission to find an appropriate manner to fund broadband via the Kansas Universal Service Fund." *Senator Francisco moved, and it was seconded by Representative Kuether, to remove the word "find" and insert the word "recommend" and remove the words "via the KUSF" and insert the words "in unserved and underserved areas." A member commented that the source of funding needed to be identified.*

A substitute motion was made by Ms. Kocour Boyle, seconded by Senator Francisco, as follows: "The Legislature should charge the Kansas Corporation Commission to explore in an appropriate manner to fund broadband via the KUSF and provide a report back to the Kansas Legislature." Discussion followed and a member suggested a method of contributing to the KUSF be identified. The motion failed.

After further discussion and suggestions from members, *Senator Francisco moved, and it was seconded by Ms. Moyer, to adopt the following recommendation: "The Legislature should charge the Kansas Corporation Commission to recommend in an appropriate manner funding for broadband via the KUSF that includes an assessment of the contribution impact on subscribers and the disbursement of such funds; the KCC will report such findings to the Kansas Legislature." The motion failed.*

Kurt David moved, and it was seconded by Lon Pishny, to return to Senator Francisco's original motion: "The Legislature should charge the Kansas Corporation Commission to recommend an appropriate manner to fund broadband in unserved and underserved areas." The motion passed.

After commenting on the value of creating a single goal to express the intent of the Task Force, *Senator Francisco made a motion as follows: "The State's goal is to ensure that all locations in Kansas have access to first-class broadband infrastructure that not only provides reliable broadband access but also promotes economic development, public safety, educational opportunities, health-care services, and agricultural applications." After further discussion, the motion was withdrawn.*

Referencing Subcommittee 2 recommendations, *Daniel Friesen made a motion to remove the word "county" on page 4 so the recommendation reads, "The Subcommittee recommends revising K.S.A. 17-1902 . . . by having the statute extend to all public rights-of-way*

in the state.” After further discussion, Mr. Friesen moved and Ms. Jamison seconded to remove the words “telecommunications service providers” and insert “broadband providers” and to define broadband providers. The motion failed.

Mr. Friesen moved the original motion to remove the word “county,” which was seconded by Mr. Pishny. The motion failed.

Adjourn

The Task Force meeting was adjourned at 3:11 p.m. No further meeting was scheduled.

Prepared by Gary Deeter

Edited by Heather O’Hara

Approved by the Committee on:

February 21, 2020

(Date)