



2019 Douglas County Legislative Statement

Introduction

The 2019 Legislature faces some very big challenges this year. While state finances are much improved over recent years, there are still significant challenges as the Legislature seeks to fund education as required by state law. At the same time, local governments are forced to make very difficult decisions as a result of the budget lid limitations imposed by the 2015 legislative session.

Actions taken by the state legislature in recent years, including 2014 legislation eliminating the Mortgage Fee Law of 1925 and implementing a budget lid law, hamstringing the ability of Douglas County government to deliver essential public health and safety services to our residents. Eventually, over a number of years, these budget constraints will cause local governments in Kansas to experience the same financial challenges that the state is facing. Essential public health and infrastructure maintenance services will deteriorate. Dedicated competent public employees will seek employment elsewhere as wages gradually become less and less competitive. Critical infrastructure will deteriorate as projects are deferred, and borrowing costs will increase as bond ratings deteriorate. We encourage you to repeal the budget lid law, or at least amend it to provide reasonable exceptions to avoid these unintended consequences.

The voters of Douglas County rejected a sales tax increase to fund jail expansion on May 15, but the need for additional beds has grown more pressing. Our average daily population is now 235 and the Douglas County Jail has only 187 beds. To provide context, our average daily population is still one of the lowest in the state, according stats from the Vera Institute. We have inmates that are housed in laundry rooms, classrooms, and in county jails that are almost three hours away from Lawrence. On many days there are not enough beds in surrounding counties to accommodate our needs. Our nationally recognized jail transition programs are effectively on hold because most of our program spaces are now dedicated to bed space. The situation has become intolerable.

We are convinced that the key reason that the voters rejected the sales tax is a firm belief and desire that the criminal justice system is need of reform, and that we need to find better ways to deal with our citizens who have committed felonies than to lock them up for periods of time that are dictated by law.

While the county officials share that aspiration, and we are strongly committed to continue the process of improving the criminal justice system to provide more alternatives to incarceration, we will always need some alternatives that involve incarceration, and our citizens need to understand that neither the courts nor county officials have the option to ignore the legal framework of the criminal justice system that is established by state law.

We therefore ask our legislative delegation to ask the legislature to engage in a comprehensive initiative to review all aspects of sentencing guidelines, and consider all possible criminal justice reforms that might produce lower incarceration rates, and greater possibilities of reducing recidivism for those who are jailed and imprisoned. We



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are realistic enough to know that Douglas County will still need to expand our jail, and that there will always be a need for jails and prisons. But we also hope that our next proposal to expand our jail will be the last expansion needed.

In order for that hope to be a reality, the legislature, county commissions, the legal professionals on both sides of the courtroom and the courts must work together to improve the criminal justice system to assure that citizens are incarcerated only as a last resort when necessary to protect public safety, and the rule of law. The voters also need to recognize that with rare exceptions, each of the officials that are part of that criminal justice system are committed to due process and the public safety of our citizens, and that it is those very officials that are the key to making the system better, including our state legislators.

We appreciate your service to the residents of Douglas County and understand the difficult decisions with which you are faced. Our mutual responsibility to serve the residents of Douglas County is our shared highest priority and we look forward to working with you to meet their needs.

High Priority Issues

KanCare Expansion. We support expansion of the Kansas Medicaid program, KanCare, bringing more federal dollars to Kansas, and extending healthcare coverage to our lower income residents. The continued failure of the state to expand Medicaid places a greater fiscal burden, not only on our lower income residents, but also on the County's budget and the local property tax load.

Prison Sentencing Laws and related Mental Health Issues. The state must re-examine sentencing laws that contribute to increased incarceration rates in Kansas. The Douglas County incarceration rate, while lower than most counties in Kansas, has continued to increase over the last year. But our incarceration rate is not low when compared to incarceration rates in other states. This is partly because our district court judges are required to sentence convicted individuals according to Kansas state law that provides for mandatory sentencing with little flexibility, and it is partly because the state has chosen to understaff district courts in a way that increases the time that individuals stay in county jails awaiting their turn for trial. Neither of these causes can be fully addressed by the County. They must be addressed by the state legislature.

The incarceration rates in county jails are also higher as a result of the failure by the state to provide adequate short-term and long-term mental health treatment services. In particular, restored funding to serve our uninsured and underinsured populations is a critical need. In addition, funding to support housing services and resources that are available to individuals suffering from mental illness is also a critical need to ensure that the continuum of care is in place for these vulnerable citizens who are often challenged in maintaining consistent, stable housing.



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Douglas County does not incarcerate individuals in the county jail because they are mentally ill, however; the failure to provide adequate mental health facilities often causes individuals in distress to take actions that lead to their arrest and incarceration. Today, when a law enforcement officer is called to a residence with a citizen experiencing a mental illness related crisis, more timely and appropriate crisis intervention therapeutic options are needed. Currently, those alternative options are limited.

The percentage of citizens booked into our county jail that have been diagnosed with serious mental illness is averaging about 9% and the county is currently working on an initiative to divert as many of these individuals as possible into proposed crisis intervention services, but it is beyond the capacity of the county to provide the long term services that the state no longer provides adequately. Our ability to prevent the escalation of behavioral health crisis and avoid unnecessary incarcerations and hospitalizations of individuals with mental illness and substance abuse disorders would be better served if behavioral health providers and facilities with the authority to keep individuals in crisis are able to do so for up to 72 hours of emergency operation and treatment, rather than the current 24-hour crisis observation period.

Fiscal Support of District Courts. We continue to urge the legislature to fully fund the state's district court obligations as set out by existing state law. Douglas County continues to pick up ever increasing portions of the district court budget as state funding has failed to keep pace with the fiscal needs of the court system.

Community Corrections. We support full funding for mandated community corrections programs and grants. Community correction services for adults reduce community risk and offender recidivism, which decreases taxpayer expense. In addition to serving non-violent, high-risk offenders, local community corrections also provide juvenile-offender supervision. The juvenile programs should include graduated sanctions, evidence-based practices, and prevention-funding to help reduce the number of juveniles from entering the correctional system. Additional funding produces a significant return on investment through reduced crime, incarceration, and recidivism

Injection Wells. We support a stronger open public process at the Kansas Corporation Commission that would hold industry accountable to landowners, neighbors, and the public at large. The current system is impossible for a citizen living close to a proposed injection well, or any other citizen, to access. There are no public hearings, and a person with reservations about the well is put in a position of hiring expensive subject matter experts and attorneys to even get through the door of the review process that is currently in place.

There are also documented instances where the Corporation Commission has ignored its own established procedures in approving injection wells that pose a risk to our state water resources and the water wells of individual citizens. The corporation commission is in need of major reform, away from being a facilitator for the oil and gas industry and back to a government agency that protects the water resources upon which we all depend.



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New Transportation Program. We support transportation investment, which is proven to increase economic prosperity, safety of our citizenry, quality of life, and pride in our state. With the current T-Works program ending, and the 2018 Joint Legislative Transportation Task Force scheduled to make transportation program recommendations to the governor in early 2019, we urge the Douglas County legislators to support development of a new transportation program for the state.

Expansion of the West Leg-SLT to four lanes. With the opening of the four-lane East Leg of the SLT in 2016, traffic volumes on the two-lane West Leg-SLT has approximately doubled. This additional traffic, without supporting infrastructure, has significantly hampered the ability of Douglas County and other Kansas motorists to access jobs, homes, and recreation, and has seriously compromised the safety of the traveling public. We urge our legislators to include in the next transportation program a project to expand the West Leg-SLT to four lanes.

Interim West Leg-SLT improvements. While we support the ultimate project to expand the West Leg-SLT to four lanes, we believe some portions of the project could be advanced on an accelerated schedule. Construction of the planned interchange at Wakarusa Drive would eliminate the serious safety concerns and capacity bottleneck at the existing at-grade intersection. Douglas County has already dedicated CIP funding for a project to connect to the planned interchange and extend Wakarusa Drive south across the Wakarusa River, completing an essential connection three miles west of US-59. While funding for the ultimate four-lane West Leg-SLT project should be a high priority, we encourage consideration of accelerated funding for initial phases to address the critical needs of the corridor as soon as possible.

Spending and Taxing Lids. We continue to strenuously oppose any constitutional or statutory amendment to impose additional spending or taxing limitations on county government. Elected county commissioners should be responsible and accountable to make budget and spending decisions on behalf of constituents and local communities. Spending and taxing lids conflict with home rule powers and constitute an unnecessary infringement on local control.

This year, we would ask again that the legislature consider an additional exception to the budget lid law to cover operating costs related to providing community mental health services. The fact that the county has significantly increased budgetary commitments to the provision of mental health services at the local level, and is considering further increases, is a direct result of the state's decision to dramatically cut the level of mental health services and mental health beds over the last decade.



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Other Issues

Public Health and Safety

Oversight of Privatized Health Care. As the State of Kansas remains committed to privatized health care to provide traditional government services, in spite of obvious problems, we ask that legislators work to provide an appropriate level of government oversight to ensure adequate service and fiscal responsibility.

Funding of Local Health Departments. We support increased state funding of local health departments. Local health departments have many mandated but unfunded functions that compete for limited resources. Health department costs rise every year with flat state funding, and thus put more pressure on property tax levies.

Governmental Organization

Home Rule. We support constitutional home rule for counties and oppose any additional erosion of existing statutory home rule authority. We support counties using their current home rule powers when applicable rather than seeking specific legislative remedies.

Open Meetings. We believe that openness in county government is essential to building public confidence. However, we believe there are times when privacy or other legitimate reasons require executive sessions.

Open Records. We support retention of current exemptions to the Kansas Open Records Act.

Revisions to Vehicle Tag Fund. Douglas County supports Kansas County Treasures Association's pursuit of additional funding of motor vehicle operations.

Environment, Energy, and Land Use

The nature of agriculture has changed dramatically since the first industry-protective Right to Farm Acts were passed, but the way we regulate its environmental consequences has not. The environmental and health impacts of what are often industrial-scale operations disproportionately affect the neighbors and communities where these operations are located, yet these very residents and communities have little say in how such facilities are regulated. The right to private property has never included the right to use property in a way that devalues the properties of one's neighbors or diminishes the overall quality of life in the community. All private property owners have a right to the peaceful enjoyment of their property and no one has a right to use their property in a way that deprives their neighbors of that right.



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Priority Environmental Issues

Water Pollution. We oppose any and all measures that cause water pollution to surface water such as nearby streams and drainage ways and our valuable groundwater caused by excessive application or nutrient runoff of nitrogen and phosphorus. The capacity of land to absorb phosphorus is limited. We oppose any development that has a history of federal and state water pollution violations. We support buffer areas between land application fields and the control of land application rates.

Conservation Easements. We oppose any legislative initiative to repeal conservation easements. Conservation easements are an important legal instrument for both landowners and public entities to conserve prime farmland, forests, prairies, wetlands, historic areas, wildlife habitat, and scenic views for the benefit of future generations.

Natural resources. We support any legislative initiative to conserve prime farmland, forests, prairies, wetlands, historic areas, wildlife habitat, and scenic views for the benefit of future generations.

Priority Land Use Issues

Local Regulations. We support local authority to regulate large commercial feed operations to a more restrictive degree than current state law permits, allowing local authority to address any undue burden on the existing transportation and service facilities, compatibility to other land uses in surrounding areas of the county, allowing neighboring landowners to address concerns such as disturbing odors, sights, and traffic patterns, as well as addressing a cumulative result of nuisance complaints and decreased property values.

Priority Community Development and Labor Force Issues

Development. We support development that provides a relative gain to the public's health, safety and general welfare to our communities.

Housing. We support counties' home rule authority to address affordable housing needs, which are now at a crisis level, through all available methods, including inclusionary zoning. This includes a repeal of the prohibition in state law that removes this option for local governments.

Local Food System Support. We support the recommendations of the State's Local Food and Farm Task force to create a statewide Local Food and Farm Plan with policy and funding recommendations to increase production of locally-grown foods. Specifically, we support their recommendation to continue budget support for KSU Research and Extension positions to support specialty crop growers and local food system support.



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Renewable Energy & Property Assessed Clean Energy (PACE) Legislation Support. We support public and private incentives to encourage investment in renewable energy sources. The County supports the goal of having a 20% renewable portfolio for regulated utilities by 2020. We encourage the State to work with communities to pursue manufacturing facilities for wind, biomass, solar and other energy related industries in Kansas. The County also supports legislation that would allow for the assessment of clean and energy efficient improvements to properties, to be assessed on a parcel's property taxes over a period of years. Twenty-four states have adopted such PACE legislation. The proposed bill would allow for the creation of local programs that would have no impact on the State budget while increasing energy efficiency.

Taxation and Finance

Alternative Taxing Authority. There is great stress on the property tax as a means of financing county services. There is also tremendous diversity among counties' economic bases, which makes a uniform approach to funding local services difficult. As such, we support legislation to provide a statutory menu of taxing and revenue options to finance county services which could be exercised by boards of county commissioners on a county by county basis. This issue has become more pressing as the state moves toward elimination of the income tax, placing more mandates on counties.

Streamlined Sales Tax. We support federal legislation requiring retailers in other states to collect sales and use taxes on remote sales. We also oppose regulations that hinder implementation of the Streamlined Sales and Use Tax Agreement.

Assessed Valuation Limitation. We oppose any constitutional or statutory amendment limiting the change in assessed valuation for a parcel from one appraisal year to the next. This would create unnecessary inequities among parcels and would unnecessarily shift the property tax burden to older, mature properties.

Tax Base Exemptions. We oppose any further exemptions to the ad valorem property tax base or the state/local sales tax base. Exemptions only shift the burden of financing vital services to an increasingly narrow tax base.

Fee Sweeps. We oppose any legislation that sweeps fees intended for distribution to local government into the state general fund for use by the state.

KPERS and KPF. We oppose actions that would undermine the fiscal integrity of KPERS or KPF including privatization or transfer of pension funds to prop up the state general fund. Counties are now required in our audits to report our share of the unfunded portions of the growing liabilities, even though we are not permitted by state law to fund this liability. Deferring this cost to future generations is irresponsible and it desperately needs to be addressed by the legislature.



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Infrastructure and Public Works

Right of Way Management. We vigorously oppose restrictions to counties' ability to manage their rights of way or to recover public costs incurred when such property is necessarily used by regulated and non-regulated utilities or service providers. The management of public rights-of-way is a fiduciary responsibility of county government.

Transportation Network. The need for a functional, safe and well-maintained highway system is vital to the economic health of Douglas County and the State of Kansas, which requires a strong and appropriately funded Kansas Department of Transportation (KDOT). Restoration of funding that has been diverted to other state needs is strongly encouraged. Further, Douglas County favors legislation that produces safe and reliable infrastructure, and opposes legislation that speeds the decline of our roads and bridges, e.g. legislation increasing legal load limits for trucks.

The following transportation projects are strongly supported as well:

- **South Lawrence Trafficway.** With the opening of the east leg of the SLT (K-10), it is apparent (as expected) that the west leg of the SLT from I-70 to US-59 highway needs to be expanded to four lanes. All efforts should be made to move this project forward as swiftly as possible.
- **Route 438 Connection** – The County supports a connection to Douglas County Route 438 from the planned interchange at K-10 & I-70 (Kansas Turnpike).
- **Interchange at K-10 & Wakarusa Drive.** The County supports construction of an interchange as soon as possible near K-10 (SLT) & Wakarusa Drive. This could be constructed before expansion of the west leg of the SLT to four lanes. Douglas County stands ready to partner in a project to extend Wakarusa Drive from the new interchange to Route 458. Construction of this interchange would allow removal of the at-grade intersection on K-10 at Wakarusa Drive.