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TO: Interim Joint Committee on Veterans, Military Affairs, and Public Protection

FROM: Commissioner Keith Jackson

DATE: November 19, 2020

SUBJECT: Report by Kentucky Department of Veterans Affairs (KDVA): Coronavirus Disease (COVID-19) Update and Legislative Agenda for 2021 Regular Session

1. Veterans Centers Update:

a. From March through July 2020, KDVA successfully avoided any COVID-19 outbreaks in its four State Veterans Homes. Two of the four State Veterans Homes have had no veterans test positive for COVID-19.

(1) The Paul E. Patton Eastern Kentucky Veterans Home in Hazard had 10 veterans test positive in August. One of those honored veterans passed away, having multiple co-morbidities. This facility has not has any veterans test positive since then.

(2) Thomson-Hood Veterans Center in Wilmore successfully avoided any outbreak among veterans for six months. However, on September 12th the facility had its first veteran test positive, but it was not until community infection rates began to rise in early October that the facility experienced its first outbreak among veteran residents. It started with three veterans and seven staff members, which quickly turned into a larger outbreak. On October 6th, KDVA requested assistance from the Veterans Health Administration, Office of Emergency Management, Disaster Emergency Medical Personnel System (DEMPS) to bring in a VA Strike Team composed of Registered Nurses and Medical Technicians to supplement existing staff. The DEMPS team arrived on October 11th and remained until November 10th. Their experience in responding to similar outbreaks in other states was invaluable in helping fight the spread. In addition, Thomson-Hood was visited by inspectors from Federal, State, and local health departments resulting in additional recommendations to combat additional spread, but no deficiencies were noted. To date, they have had five infection control focused surveys conducted by CHFS staff with no deficiencies. The outbreak appears to have hit its peak during the first three weeks of October. Since then, screening and testing protocols have resulted in positive cases, however they appear to be declining (see table 1 below). On October 22, the facility initiated daily rapid antigen testing for all nursing and housekeeping



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staff that work on the units in addition to twice a week Polymerase Chain Reaction (PCR) serum testing. As of November 17th, there have been a total of 87 veterans at this facility that have tested positive for COVID-19. Of those, 51 have recovered, 11 are active cases (7 in house and 4 in hospital). Sadly, 25 veterans have passed since the outbreak began.

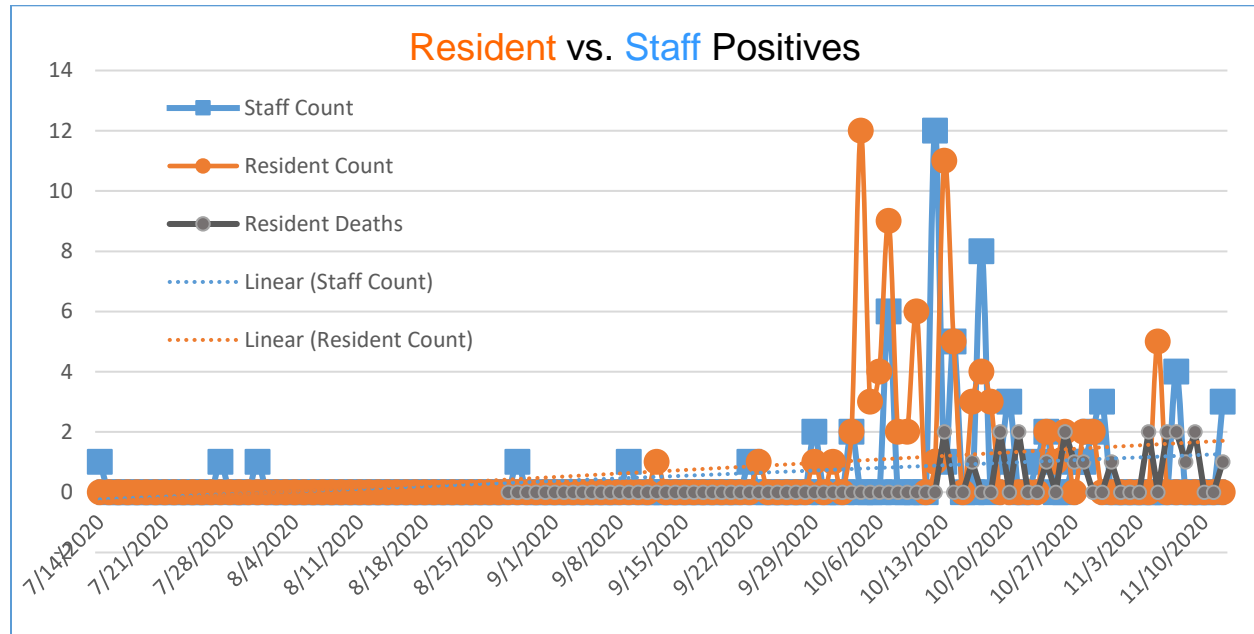


Table 1 – COVID-19 Testing Results as of September 14, 2020

b. Since the beginning of the pandemic, all four State Veterans Homes have followed the recommendations and guidelines of Centers for Disease Control (CDC), Centers for Medicare and Medicaid Services (CMS), state and local health departments; and are currently using the CDC guidelines on COVID zones, utilizing Green, Yellow, Orange and Red Zones for quarantine and the co-horting of our veterans. They have also conducted daily screening of all employees and veterans since March as well as immediate testing for anyone that is symptomatic.

c. One of the unfortunate by-products of this pandemic has been a restriction on visitation. However, each facility has found creative ways to help families keep in touch with their loved ones, understanding that this is such a critical part of their lives. The veteran centers use iPads, phones, and Plexiglas visitation stations constructed by our staff. KDVA is preparing for modified visitation based on each facility's community infection rate and stabilization.

d. Regarding access to our state veterans' homes, admissions were re-started on a limited basis at both the Eastern Kentucky Veterans Center and Western Kentucky Veterans Center. Admissions remain on hold at Thomson-Hood Veterans Center and the Carl M. Brashear Radcliff Veterans Center. Due to an abundance of caution, we are analyzing each facilities community positivity rate, updated guidelines from the state and local health department, staffing and Personal Protective Equipment (PPE) resources in order determine when a facility can admit new residents.

e. Overall KDVA's veteran's centers experienced a 20% decrease in census since February 2020, dropping from 77% to 57%. Individual facility census is provided below:

- **Eastern Kentucky Veterans Center in Hazard** – dropped from a census of 114 in February to 88 residents in November for a 73% occupancy rate.
- **Radcliff Veterans Center in Radcliff** – dropped from a census of 73 in February to 58 residents in November for a 48% occupancy rate.
- **Western Kentucky Veterans Center in Hanson** – dropped from a census of 90 in February to 73 residents in November for a 47% occupancy rate.
- **Thomson-Hood Veterans Center in Wilmore** – dropped from a census of 153 in February to 104 residents in November for a 36% occupancy rate.

f. As part of the U.S. Department of Veterans Affairs (USDVA's) response to the COVID-19 pandemic, they expanded telehealth opportunities and created easier pathways to obtain the required agreements for those services. Currently, three of KDVA's four State Veteran Homes have an agreement in place with their supporting VA Medical Center, using available services. The Western Kentucky Veterans Center in Hanson, is working with the VA Medical Center in Marion, IL on establishing an agreement. For the veteran population that we serve, that means – no need to travel, which can be very difficult for many veterans; increased safety and welfare during the pandemic; decreased cost, and; reduced staffing demands for drivers and nursing staff to accompany veterans to their appointments.

g. KDVA has been notified that the initial application has been approved for a construction grant for four storage buildings to house PPE and supplies to prevent and mitigate COVID-19 as well as other outbreaks and disasters. The total revised project cost is **\$1,533,620** for the four storage buildings. This grant will leverage a 65% federal match (\$996,853) and a state share of 35% (\$536,767).

h. Key Points:

- 1) Two facilities have had zero veterans test positive.
- 2) Shift-by-shift health screening started immediately for all employees back in March and has continued.
- 3) Visitation was restricted very early on and is still in effect, either due to the 14-day wait period recommended by the Cabinet for Health and Family Services (CHFS) following the latest staff positive test or local community positivity rates.
- 4) Staffing has remained relatively stable. Most lost days are due to aggressive testing and return to work policy for employees.

- 5) PPE and supplies have been sufficient, but very difficult and expensive to secure. Each facility is purchasing enough PPE for a 90-day supply.
- 6) The Kentucky Health Department, the CHFS, the Office of Inspector General (OIG), local health departments and our USDVA partners have been a tremendous resource and support during this pandemic.
- 7) Norton Health Care's testing program conducted our global surveillance testing and proved to be an amazing team, professional, efficient and supportive. We currently use the PCR serum test and at Thomson-Hood Veterans Center the rapid antigen test.
- 8) Daycare service was provided for children of our nursing home staff at no cost to our employees during the mandated shutdown of daycare facilities, thus ensuring a more stable work force serving our veterans.
- 9) Each facility received at least one special Infection Control Survey by the OIG as well as audits by the CDC, which resulted in no deficiencies or citations.
- 10) Each facility has maintained its *5-star* rating throughout the pandemic.

2. Benefits Division Update:

a. COVID-19's most immediate impact was the elimination of face to face contact with veterans and family members since March. This necessitated a significant change in the way we communicate and gather evidence and prepare benefits claims. Since all our Benefits Representatives have the ability to operate remotely, it was an easy task to shift to operating from home, however this presented many challenges. The shift to having records and forms exchanged exclusively via email and fax-to-mail was simple for our younger and more tech-savvy veterans, but proved difficult for older veterans. Some have family members checking on them periodically that were able to lend a hand, some were able to use cell phones to photograph and text documents, and for the rest we had to revert to old fashioned snail mail via the U.S. Postal Service. This hurdle led to a reduction in the number of claims that we were able to submit per month. By April, the number of claims submitted to the USDVA each month declined by two-thirds of KDVA's normal claims output (refer to Table 2 below).

b. In May, the transfer of 13 Field Representatives and two Regional Administrators to the office of Unemployment Insurance (UI) had a profound impact on our ability to serve our veterans and generate claims. This was due to the reduced number of representatives available to prepare claims, the technical challenges in exchanging documents, and the sheer volume of telephone calls that the remaining staff of seven including the Branch Manager were called upon to return. All of the telephones for the 13 UI detailed field representatives were forwarded to teammates that stayed with KDVA. Five of our detailed Field Representatives were returned in mid-July, which accounts for the uptick in the number of claims submitted. Four additional field representatives were returned this week; however,

despite KDVA's efforts to have the rest of our employees returned to KDVA, four Field Representatives and one Regional Administrator remain detailed to the Labor cabinet to assist with UI claims and are not expected to be returned to KDVA until January 1, 2020.

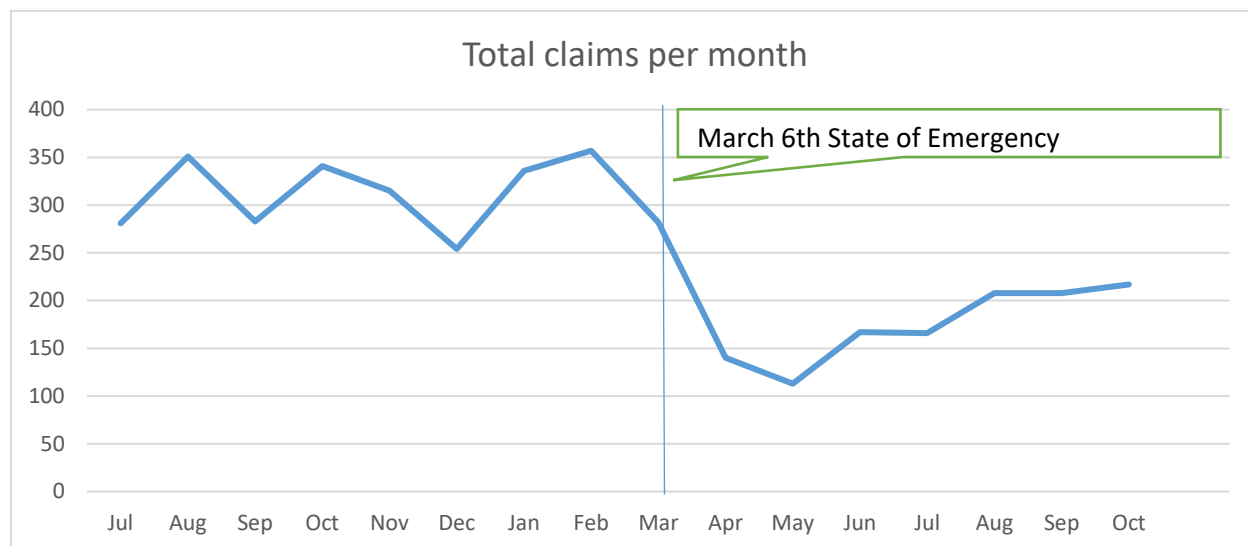


Table 2 - Total USDVA Claims Submitted per Month

c. In terms of financial impact on the Commonwealth, KDVA saw a dramatic drop in the rate of increase in the running awards to the veterans we represent. Money from the USDVA comes via four income streams, Service Connected Compensation, Non-service Connected Pension, Dependency and Indemnity Compensation and the Improved Death Pension. Of the \$33.22 million in current monthly income from the USDVA for the veterans KDVA represents, \$28.45 million comes from service connected compensation. Since May we have seen a \$110,000 drop in total monthly compensation awards. However, more significant is the lost opportunity for continued growth we normally see each month. We would have reasonably expected the total amount of compensation to continue to grow if we had been able to maintain our normal volume of claims submissions. Based upon the normal monthly increase we saw prior to COVID, we would have expected the monthly running awards for June, July and August to have been at least \$500,000 higher. This is federal money that did not reach veterans that we were unable to assist due to the reduced capacity to process these compensation claims.

d. Finally, the reduction in workforce has created delays and a backlog of fully developed claims being filed. Although a VA Form 21-0966 (Intent to File a Claim for Compensation and/or Pension, or Survivors Pension and/or DIC) is usually filed during the first veteran engagement with a Field Representative, a fully-developed claim can take hours or days of research and preparation. The intent-to-file process allows KDVA and the veteran additional time to collect all of the information needed to support their claim while protecting the earliest possible effective date for any award of benefits or increased benefits resulting from the claim. The date the Veterans Benefit Administration (VBA) receives the VA Form 21-0966 will be protected as their claim effective date as long as the application is completed and submitted

within 1 year. While the effective date of the claim is protected, the consequence of this waiting period is a delay in potential compensation being awarded to the veteran.

3. Cemetery Division Update:

a. On March 20, 2020, consistent with the Governors stay at home executive order and pending guidance from the National Cemeteries Administration, KDVA sent out a *Direct Interments Only Order* to all Kentucky State veterans Cemeteries. This directive temporarily halted committal services and the rendering of military funeral honors, whether by military personnel or volunteer organizations, until further notice and mirrored the same actions taken at VA national cemeteries. Immediate family members (limited to no more than 10 individuals) were allowed to witness the interment of their loved one from a safe distance if desired, but no services were performed. There is no service involved with witnessing a direct interment.

b. As the Commonwealth transitioned from 'Healthy at Home' to 'Healthy at Work', KDVA's cemeteries did the same beginning on June 1st with a phased transition plan to return to providing full interments, including memorial services, and military funeral honors. Working in coordination with funeral and memorial service providers, and Veteran Service Organizations all partners were required to follow Kentucky's *'Healthy at Work Minimum Requirements for all Entities'* guidelines and the industry specific guidance Funeral and Memorial Services. In addition, Cemetery staff are required to follow Personnel Protective Equipment guidelines. To ensure each veteran interred during the direct interment period between March 23rd and June 1st receives the military honors deserved, each of the veteran's next of kin has been contacted and offered the opportunity to have a military funeral honors ceremony for their veteran. As of November 10th, all five state veteran's cemeteries have completed those military honors services.

4. State Programs Division Update:

a. As part of the KDVA's response to the COVID-19 pandemic, our state-wide Veteran Program Administrators expanded their individual and collective missions to assist veterans and their families affected by the pandemic by streamlining processes to obtain services and resources offered by KDVA and other local, state and federal agencies.

- 1) The Kentucky Veterans Employment, Training, and Services (KyVETS) program administrator immediately established liaison with the CHFS, and later the Labor Cabinet in March, to assist with the most difficult UI issues affecting veterans and their spouses. Today, the KyVETS program administrator continues to support the Labor Cabinet with the most difficult UI issues affecting veterans and their spouses. Since the last report, KDVA had some great wins through the KyVETS program:
 - i. KDVA entered a partnership agreement with the United States Army Recruiting Command last week for its national Partnership for Youth Success initiative.
 - ii. Kentucky Law Enforcement Council's near completion of its Skill Bridge application for veterans to transition into law enforcement careers.

- iii. Expansion of KDVA's partnership with Veteran Treatment Courts which include connecting second-chance veterans to second-chance employers.
- 2) The Women Veterans Program was expanded to include Family Assistance and Suicide Prevention. To enhance these efforts, the Women Veterans Program Administrator established frequent and regular liaison with VA Medical Centers serving Kentucky's veterans and was certified in Question/Persuade/Respond (QPR) training for Veteran Suicide Prevention.
 - 3) The Homeless Veterans Program mission saw significant changes in the needs of Kentucky's veterans and their families starting in March 2020.
 - i. Food insecurity was identified as an early issue following business closures and stay-at-home mandates. As a result, KDVA's Veterans Program Administrators met with God's Pantry executives via videoconference in early March 2020 and collaborated on how to streamline assistance and share resources for veterans and their families with food insecurity in partnership the VA Federal Medical Centers and other organizations such as [FeedingKY.org](https://www.feedingky.org/). Requests for information and referral to food banks continues.
 - ii. KDVA's Homeless Veteran program expenditures decreased immediately following the suspension of evictions issued by the Governor on March 25, 2020. Pre-COVID-19 referrals from partners such as VA Medical Centers, Volunteers of America and other Support Services for Veterans and Families (SSVF) programs totaled 65% of claims paid from this program's fund. However, starting in April 2020, other federally funded resources became available and the amount of claims paid from the Homeless Veterans Trust Fund dropped by an average of 56% through August. In September and October Homeless Veterans Program spending increased to coincide with local decrease in available federal funds. See table 3 below.

February	March	April	May	June	July	August	September	October
\$10,493.92	\$10,132.38	\$3,670.00	\$4,360.21	\$3,220.09	\$4,752.46	\$2,976.70	\$7,376.62	\$5,706.99

Table 3 – Homeless Veterans Trust Fund expenditures per Month

- iii. On September 4th, the CDC issued a temporary halt on resident evictions to prevent the further spread of COVID-19. This order remains in effect until December 31, 2020 and requires renters to provide an executed copy of the mandatory declaration form to invoke the protection. Many callers for assistance for rent are not aware of this provision and its importance. Help is provided for those that are unaware and the long-term impacts of cumulating renter debt remains unclear.
- iv. On October 19th, the Kentucky Public Service Commission ended the moratorium on utility disconnects for nonpayment. Governor Beshear signed an executive order that designated \$15 million in federal COVID-19 relief funds for the Healthy at Home Utility Relief Fund, but this order allowed disconnects to resume on November 6th.

- v. The Homeless Veterans Program received a \$50,000 grant from the Veterans Program Trust Fund on September 30th and continues to receive private and corporate donations specifically for this program. As a result, this fund remains adequate to address current needs; however, the long-term impacts of cumulating renter and utility debt remains unclear. KDVA continues to assist veterans and their families to find adequate local, state, and federal resources to address this looming issue.

b. Today, now more than ever, the State Programs team continues to look for new or expanded resources and programs to assist Kentucky's veteran population in order to provide the full spectrum of *"Wrap Around"* services for every veteran or family member requesting assistance.

5. CARES Act Funds:

a. During the past seven months, KDVA received **\$3,938,405** from the federal government in three separate Medicare distributions from various Provider Relief Funds of the Coronavirus Aid, Relief, and Economic Security (CARES) Act. All funds are provided with specific instructions regarding their use to which KDVA is strictly adhering. Specifically, these funds are intended to boost payments for hospital, physician, nursing home, home health, and other care. The guiding principles regarding the use of all Provider Relief Funds are *"The recipient certifies that the Payment will only be used to prevent, prepare for, and respond to coronavirus, and that the payment shall reimburse the recipient only for health care related expenses or lost revenues that are attributable to coronavirus."*

- 1) The first General disbursement of **\$1,008,455** for healthcare facilities occurred in April and was based on **2% of KDVA's 2018 filed Medicare cost** report.
- 2) The second disbursement of **\$1,902,500**, occurred in May. Specifically intended for Skilled Nursing Facilities, this funding was based on a flat rate of **\$50,000** per facility and **\$2,500** per certified bed. These funds were provided to healthcare providers to ensure adequate medical care to the most at risk population in America against COVID-19 and to help **offset lost revenues** that are attributable to the disease.
- 3) The latest disbursement of **\$1,027,450**, occurred in August intended specifically for nursing homes to support increased testing, staffing, and PPE needs and Infection Control. Disbursements from this fund may *only be used to reimburse the recipient for costs associated with administering COVID-19 testing; reporting COVID-19 test results to local, state, or federal governments; hiring staff responsible for infection control activities – whether employees or independent contractors – to provide patient care or administrative support; expenses incurred to improve infection control, including activities such as implementing infection control "mentorship" programs with subject matter experts or changes made to physical facilities; providing additional services to residents, such as technology that permits residents to connect with their families if the families are not able to visit in person; and for the purchase of technology to mitigate social isolation* (the formula for this award is \$10,000 per building plus the product of the number of beds multiplied by \$1,450).

b. The U.S. Department of Health & Human Services plans to distribute another \$2 billion to nursing homes this fall based on certain performance indicators that will be shared in the future.

c. Through October 31st, KDVA has expended **\$1,879,941.25** of these federal funds for reimbursement of COVID-related expenses, loss of revenue, and infection control; and obligated the remaining **\$2,058,463.75** for similar COVID-related expenses.

d. These CARES Act federal funds have been instrumental to support Kentucky's four Veterans Nursing Homes by providing economic assistance through the Provider Relief Fund, Skilled Nursing Facilities Relief Fund, and Infection Control Fund helping us to furnish needed care to affected patients.

6. FY20 and FY21 Fiscal Impacts:

a. In response to the Governor's FY20 Budget Reduction request in April, the Department of Veterans Affairs put in place several fiscal policies and returned General Funds in the amount of **\$262,641**. Overall, the fiscal impact of the FY20 budget reduction actions did not diminish services KDVA provides.

b. Earlier this month, KDVA was notified that there would be no mid-year budget reductions and would instead be fully supported at the agencies budgeted amounts for FY21. Therefore, we do not anticipate any disruption to existing programs or services.

7. Legislative Agenda for 2021 Regular Session:

a. TITLE: AN Act relating to Reorganization

SUMMARY: Amend existing sections of KRS Chapter 40 and create a new section of KRS Chapter 40 to confirm Executive Reorganization Order 2020-823, issued September 28, 2020.

DISCUSSION: This reorganization implements more effective management of the Kentucky Department of Veterans Affairs (KDVA) resulting in greater efficiency, economy and improved administration. The current KDVA organizational chart is not only obsolete, it was never correct. In an effort to more accurately reflect current operations, an organization plan was approved and implemented on October 1, 2020 by EO 2020-823. Additionally, the plan updates and improves KDVA's organizational structure by adding the Office of Kentucky Veterans Services (OKVS) and the Office of Veteran Legal Services (OVLS). The plan also adds a new State Programs Division and the Bowling Green Veterans Center Division in anticipation of building this new veterans center. The plan creates three new positions, Executive Director of the Office of Kentucky Veterans Services, Assistant Director of State Programs Division, and a Development Coordinator. None of these positions will be filled immediately. As budget permits, they will be filled in the future. Other than creating a more accurate "foot print" of KDVA's structure, Service to the veterans living in the Commonwealth of Kentucky will be enhanced by increased development of the State Programs Division, which includes: Homeless Veterans Program; Women Veterans Program; and the Kentucky Veterans Employment, Training, and Support Program (Employment Services). The division also includes a Development Branch, which will focus on grant applications and other fund raising efforts to enhance services to veterans. Ten

employees will be transferred from one organization unit to others. The current Commissioner's Office will be reduced to only the Commissioner, Deputy Commissioner and the Executive Assistant (Chief of Staff). The other employees in that office will be disbursed to the OVLS, OKVS, OKVS HR Branch, OKVS Budget Branch, State Programs Branch, Cemeteries Division and the Benefits Division. Additionally, the current Office of Kentucky Veterans Centers (OKVC) will be reduced to the Executive Director, Deputy Director and two Nurse Administrators. Other employees will be disbursed to the OKVC Budget Branch and the Medical Division.

SPONSOR: TBD

STATUS: Not yet filed.

b. TITLE: AN Act relating to Scholarships for Veterans and Their Families

SUMMARY: Amend KRS 164.507 and 164.515 to more closely align Kentucky's education benefits with the U.S. Department of Veterans Affairs.

DISCUSSION: Many recipients of the tuition waiver began their path to a degree at a junior college with the intent to transfer to a four year College or University. The junior colleges are geared towards awarding the Associates Degree and do not advise the student that accepting such a degree will terminate their tuition waiver and frustrate their plans to obtain a Bachelor's degree. There are also programs that have subordinate certificates as part of the degree program, such as a Certified Nursing Assistant (CAN) certificate as part of a nursing program. Accepting the CNA will allow the student to work in their field while continuing their studies, but terminates continued eligibility for the tuition waiver for pursuit of a nursing Associate or Bachelor's degree. We also frequently see dependents that become eligible for the tuition waiver when they are already well into their degree programs. If they have already paid for three years of tuition for example, they will only be able to utilize a fraction of the allotted 45 months unless they continue to pay for their current degree and utilize the waiver for a graduate degree. The Federal VA does not place a degree limit on Chapter 35 Dependents Educational Assistance. KDVA believes we should align our regulations more closely with theirs. (In both programs children age out of the benefit at age 26.) Last year the Federal VA decreased the number of months of Chapter 35 eligibility from 45 months to 36 months while increasing the amount of the monthly stipend. Some may argue that Kentucky should correspondingly decrease our eligibility to 36 months. We would concur that such a decrease would be a reasonable adjustment, so long as the language terminating tuition waiver eligibility upon completion of a degree or certificate of completion is removed.

SPONSOR: TBD

STATUS: Not yet filed.

c. TITLE: **AN Act related to Veterans Suicide Prevention**

SUMMARY: Create a new section of KRS Chapter 40 to establish a Veteran Suicide Prevention Program within the Kentucky Department of Veterans Affairs.

DISCUSSION: This legislation would establish the Kentucky Veteran Suicide Prevention Program within in the KDVA and shall be attached to the Office of the Commissioner for administrative purposes. The purpose of the program shall be to prevent death by suicide within the population of Kentucky veterans. The program shall develop a statewide network of partners in and out of state government dedicated to this mission. All program managers within KDVA shall be active participants in this mission. This includes the Office of Kentucky Veterans Centers, the Office of Kentucky Veteran Services, Office of Veteran Legal Services, the Women Veterans Program, the Homeless Veterans Program, and the statewide network of field benefit representatives. Components of the Veteran Suicide Prevention Program shall include:

- Increasing awareness within the general public of the problem of veteran suicide;
- Removing the stigma associated with talking about the suicide problem and about veterans at suicidal risk;
- Training KDVA employees how to identify veterans at suicidal risk;
- Instilling in KDVA employees the importance of lethal means safety that reduces the chance that a veteran at suicidal risk can obtain a gun, a knife, drugs, or any other lethal means;
- Teaching KDVA employees how to engage veterans at suicidal risk in ways that reduce the possibility of death by suicide;
- Authorization to accept and expend moneys as may be appropriated from time to time by the General Assembly, and any moneys that may be received from any source including donations and grants.

SPONSOR: TBD

STATUS: Not yet filed.

d. **TITLE:** **AN Act relating to Women Veterans Appreciation Day**

SUMMARY: Creates a new section of KRS Chapter 2 to designate June 12 as Women Veterans' Appreciation Day in the Commonwealth.

DISCUSSION: June 12th marks the anniversary of the Women's Armed Services Integration Act, signed into law by President Harry S. Truman. It acknowledges the great contributions made by women in the military and the strides made since then to allow them to serve in all branches and career fields of the United States Armed Forces and Reserves, and recognizes the service and sacrifices of women veterans who have served valiantly on behalf of the Commonwealth and United States. Several states currently recognize June 12th as Women Veterans Appreciation Day.

SPONSOR: Rep. Patty Minter

STATUS: Bill Request 68 was prefiled on June 4, 2020.